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# *Senate*

The Senate met at 1 p.m. and was called to order by the Honorable HARRY REID, a Senator from the State of Nevada.

## PRAYER

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

Everloving God, we thank You for the rest and renewal of the weekend, for the promise that comes with this new week, and the hope we feel. We ask you to implant the eyes of our minds with trifocal lenses so that we may behold Your signature in the natural world around us, see the needs of people so we can care for them with sensitivity, and visualize the work that we must do. With minds alert and hearts full of gratitude, we honor You as our Sovereign. Thank You for meeting all the needs of our bodies, souls, and spirits so that we can serve You with renewed dedication. Now, as You hover around us as we pray, grant us wisdom throughout this day. In the name of Him who is our amazing grace. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable HARRY REID led the Pledge of Allegiance, as follows:

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

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER (Mr. AKAKA). The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD.)

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, April 22, 2002.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

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

## RESERVATION OF LEADER TIME

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

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business not to extend beyond the hour of 2 p.m., with Senators permitted to speak for up to 10 minutes each, with the time to be equally divided between the two leaders or their designees.

## RECOGNITION OF THE ACTING MAJORITY LEADER

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

## SCHEDULE

Mr. REID. As the Chair announced, we will be in a period of business until 2 p.m. At 2 p.m., we will resume consideration of the energy reform bill. There will be no rollcall votes today. Cloture was filed on the Daschle-Bingaman substitute amendment to the energy reform bill. The Senate will vote on cloture on the substitute amendment tomorrow morning. All first-degree amendments to the energy bill must be filed by 1:30 p.m. today.

## EARTH DAY

Mr. REID. Mr. President, Earth Day is today. Most of the celebrations took place this weekend. People are interested in this program all over the country. Gaylord Nelson, a Senator from Wisconsin, came up with this idea. It has caught fire. People are more concerned about the environment than ever.

I indicated the other day the reason we have the Clean Water Act is that for example, the Cuyahoga River in Ohio kept catching fire. Yes, they had to put out the fire on the river on a number of occasions because it was so polluted. It was determined at that time that 80 percent of our rivers and streams in the United States were polluted; only 20 percent were not.

As a result of that river catching fire, Congress, and then President Nixon, decided something had to be done. The Clean Water Act was passed. It was imperfect legislation, but it has made great strides toward improving the waterways of this country. Some say the numbers have reversed, that now only 20 percent of the rivers and streams are polluted. That is probably inaccurate—it is probably more than that—but progress has been made.

Fish are returning to rivers that were once so polluted they could not survive in the water. There are rivers and streams now where people can catch fish and actually eat them; they are not toxic to eat.

People realize Earth Day should apply not only to places in the mountains where it is greener but more fragile habitat such as the desert, from where I come. The Mojave Desert is the driest and most unforgiving region in North America. Yet to most it is also one of the most beautiful, awe-inspiring places in America. It is fragile because of the extreme climate. It is not unusual to see extremes of 40 degrees from morning to night.

I have learned the Earth heals very slowly from the impact of people. I didn't realize that as a boy. I don't think a lot of people realized how fragile the desert was. I mentioned the

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

other day that I have seen the tracks made 50 years ago or more where Patton and his troops did war exercises in the desert. I was in that part of the desert a couple weeks ago. It was amazing to still see those tank tracks in the desert. They will be there probably for another 50 years, if not more.

More people each year understand how important it is to conserve our land and its rich resources. While this administration's environmental rollbacks are getting too numerous to count, they started with, of course, the infamous problem of arsenic in the water—saying there was no problem, regardless of how much arsenic was in the water.

While this administration's environmental rollbacks are too numerous to count, the one that stands out the most in my mind is the transportation of nuclear waste. The reason this has been so difficult for me to accept is the President came to Nevada on one occasion. He came to northern Nevada, the Lake Tahoe area, and would not take questions from the press during his campaign. He was afraid people would ask questions about nuclear waste. His position had been contrary to the interests of residents of Nevada. As the campaign rolled on and it was determined that Nevada electoral votes might become very important in the Presidential race, he sent people to Nevada on his behalf and explained: President Bush thinks nuclear waste is an important issue and he will not allow nuclear waste to come to Nevada unless there is sound science. Vice President CHENEY came when he was campaigning. President Bush issued a statement to that effect, unequivocally saying nuclear waste would not come to Nevada unless there was sound science. He came to Nevada only on one occasion during the campaign. But, since he came to Nevada, that science has gone downhill from the perspective of the nuclear power industry. In fact, there are 292 scientific investigative reports, according to the General Accounting Office, that have not been completed. In addition to that, the Nuclear Waste Technical Review Board has stated that the science is poor. In addition to that, the Winston & Strawn law firm, which was giving legal advice to the Secretary of Energy for the sum of millions of dollars, was also getting millions of dollars from the Nuclear Energy Institute. If there were ever a direct conflict of interest, that was it, and the inspector general from the Department of Energy said so in written form.

So we have the General Accounting Office, inspector general of the Department of Energy, and the Nuclear Waste Technical Review Board saying: Secretary Abraham, don't make this recommendation now. You don't have the facts at your disposal to show there is good science. In spite of that, Secretary Abraham went ahead and did this anyway, and it was confirmed 1 day later by President Bush.

The people of Nevada are extremely disappointed in how President Bush handled this issue. So this is only one indication of how the President has handled the environment.

We have to work together to protect our environment from threats for our children and for their children. All future generations deserve clean water to drink, safe air to breathe, and communities free of dangerous chemicals. That is for certain.

In Nevada, we have taken important steps to protect our Nation's threatened and endangered species, even though, I repeat, Nevada is a desert, mostly. We have been either third or fourth, sometimes fifth, among the States that have listings in that regard. But we have made progress.

Construction came to a halt in Las Vegas because of the desert tortoise, and we have had problems in some of our rivers because of threatened and endangered species, but we have met those challenges. We have met them, especially in the southern Nevada area, a rapidly growing Las Vegas area, in a very inventive—I would say not only inventive way, but a way that will be used in future endangered species actions.

This was difficult to obtain, but we were able to get this with Secretary Babbitt, and I am convinced Secretary Norton will follow the same routine that Secretary Babbitt established as relates to endangered species in the southern Nevada area.

We have done some things that are extremely important to preserve areas around Las Vegas, including the Red Rock National Recreation area. We have been able to do some good things for Lake Tahoe and Pyramid Lake. We have done things with the Lake Mead area.

So we have a lot to celebrate in Nevada about our environmental accomplishments. But they are not secure. We believe there are other actions that need to be taken. One of the things we have been able to do—and this Congress really needs to talk positively about—is the brownfields legislation. That was legislation I authored. We were able to report that out of the Environment and Public Works Committee where I served during my entire time in the Senate.

I have been chairman of that committee on two separate occasions. During the time I have been there, we have had the opportunity to help improve many of our bedrock environmental laws, including the Clean Water Act, the Clean Air Act, Food Quality Protection Act, the Endangered Species Act, and the Safe Drinking Water Act. But the Brownfields Revitalization and Environmental Restoration Act of 2001, to clean up contaminated sites in rural areas and inner cities, has been very important. It will create hundreds of thousands of jobs and create millions and millions in revenues—actually over $2 billion in revenue—for local government.

This took a piece of the Superfund legislation and improved upon that. We could not totally rework the Superfund legislation as needed, but we were able to take a small piece of it and do things of which all cities in America were supportive. It was supported by the National League of Cities and the National Council of Mayors. As a result, we were able to pass this legislation.

It took a while to get it out of the House, but we were finally able to get it out. It took almost a year to get it out of the House.

We have made progress, in addition to that, toward reducing air pollution. That is what some of these general laws have done in years past. As I have indicated, with drinking water threats such as arsenic and others, we need to do better.

We have worked to protect our Nation's threatened and endangered species, bringing back American symbols such as the bald eagle. I was able to go to the west front of the Capitol about a month ago. We had a bald eagle fly in. We were able to see that beautiful bird. I had never been that close to an eagle—really this close—with those piercing eyes. Those eyes can see a fish in the water a mile away, I am told.

Mr. President, I know this administration has taken steps to erode some of these accomplishments about which I have spoken, and on nearly every front. On this Earth Day, I think we should recognize this administration has denied the reality of global warming by walking away from the international negotiating table on climate change. This administration has threatened to undermine a Clean Air Act program which would clean up pollution from our powerplants. This administration has proposed to cut funding for enforcement of our landmark environmental laws. This administration has opposed efforts to develop renewable energy and to make our vehicles more efficient. This administration has tried to exploit the National Wildlife Refuge at the request of the big oil companies.

Today the President is in the Adirondack Mountains or someplace in New York—I think that is where I heard in the news that he was—to celebrate Earth Day. I am glad the administration recognizes the importance of Earth Day. But I think we should look at some of the basic laws that are being underfunded and undermined by the policies of this administration.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming, Mr. THOMAS, is recognized.

## THE SENATE AGENDA

Mr. THOMAS. Mr. President, I will speak in morning business. There are a couple of issues before us. First of all, I urge that we move back as soon as possible—I understand we will at 2 o'clock—to our energy bill. Certainly, there is nothing more important before

us now than the completion of that bill and being able to send it on to the President. Certainly, it is not going to have everything in it that everybody wanted. That is not a new idea. This is a bill that has been on the floor for 5 weeks. But it does have some good things in it. It has some basic energy policy materials that we have not had for a very long time. It has some of the things the President and Vice President had put forth. Unfortunately, some of those it does not.

I was and am a supporter of ANWR. I think that could be done as a multiple-use project. I certainly agree with protecting the environment, as the Senator from Nevada was talking about, but I am also a great promoter of multiple use. Since 50 percent of my State belongs to the Federal Government, we have to be very certain that we have a chance to use it. So I hope we move forward with that.

Upon its completion, I hope we take a look at trade promotion authority. There is probably nothing more important to us in terms of our economy and us being part of world trade. Billions of dollars move around this world every day. Yet for a number of years we have not authorized the President to go ahead with negotiations and to bring those negotiations back to the Congress, which is what this trade authority bill provides.

We had a meeting this morning, and a press conference, talking about the agricultural aspect of foreign trade. Some are concerned about certain crops. But the bottom line is about more than a third, nearly 40 percent, of our agricultural production goes overseas. Our market here only consumes about 60 percent of what we produce, and that leaves 40 percent that has to go somewhere else, to new markets. To do that, we need a trade bill. That is where I think we really ought to go.

## TAX DAY

Mr. THOMAS. Mr. President, recently we had a day called Tax Day. I think most of us thought a lot about taxes. We talked a lot about the process of filling in our tax forms and paying our taxes. I do not know about everyone else, but I came out of that with the renewed notion that we certainly need to take a look at making taxes more simple and that we need to simplify the Tax Code. The problem is, of course, that we are moving just exactly in the opposite way. We spent 7 or 8 years talking about simplification of the Tax Code, and every year it becomes less so. I hope we can address making the Tax Code simpler. The purpose of the Tax Code is to raise money in a fair way.

The definition of a tax is a charge of money imposed by authority upon persons or property for public purposes. You have to have taxes. No one argues with that. But it is not a voluntary act. It is an imposition of authority upon people, and the imposition—in many cases, because of the process—is unreasonable.

I am persuaded that the current Tax Code remains overly complicated, burdensome, and frustrating to the American taxpayer. I believe we find ourselves often more in the business of trying to manage behavior through taxes than we are of fairly raising money. If we have something we want done, and if someone wants to wear a red shirt and part their hair in the middle, we say: We will give you a tax deduction for doing that. All of that makes it much more complicated than in the past. It is now inefficient. It is inefficient in the allocation of financial resources for communities. Certainly, we are not able to supervise it and audit it very easily because it is so complicated.

I am proud to have supported President Bush's tax relief bill last year. We made some effort to reduce the burden of taxes. Certainly, that doesn't help in terms of the complication that goes into filling out tax forms.

One hundred and four million individuals and families will receive a tax reduction of about $1,000 from that action. That is good. Nearly 43 million married couples will receive an average deduction of $1,700. That is very good. Thirty-eight million filers with children will receive an average deduction of about $1,460.

However, we certainly have not finished our work. Obviously, there needs to be an effort made to make permanent the inheritance tax, or the death tax. That has to be done. I think we need to simplify the Tax Code. We need to continue to do that. I know that is easy to say and much more difficult to do. We need incentives to make that happen.

But the other side of that is that taxpayers spend, according to a report, over 6 billion hours filling out IRS forms. The estimated cost of compliance is close to $200 billion annually. That is a drain on resources. That should not happen.

I hope we can take a basic look at where we want to be in terms of this issue. It is too complicated, it is too expensive, and it is hopeless to figure out how much we owe. That shouldn't have to be the case. We have worked on it and talked about it at least for a number of years, but we have not done much.

Another important area in which we need to make substantive changes is health care. We talk about cost and who is going to pay for it. We need to give more thought to how to make substantive changes. The same is true with taxes. We ought to go back to the basics: Here is the amount of money that has to be raised. What is the fair way to do it? We need to do it in a simple way, and we need to sit down in a reasonable time and do it.

Some have said Paul O'Neill, Secretary of the Treasury, said the tax laws are abominably full of absurdities. He is exactly right about that. We have about 17,000 pages in the code. Most of it, of course, comes from the Congress. Each day practically, we try to do something more with taxes to affect behavior.

I think it is time we take a clean look at that and say the purpose of Tax Day is to support the necessary functions of government. It should be simpler for people to comply, and we ought to start with that premise and do it.

I hope we can move forward to do that. I appreciate the opportunity to speak.

I yield the floor.

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

## INTERVIEW WITH DENNIS ROSS

Mrs. FEINSTEIN. Mr. President, in reviewing my press clips this morning, I saw an interview between Brit Hume on ''FOX News Sunday'' and Dennis Ross, President Clinton's Middle East envoy. Many of us have followed closely the negotiations at Camp David, and also at Taba, but never before have we really heard Dennis Ross comment on these negotiations.

For the first time this past Sunday, we did. I was really quite surprised by these comments. I thought they were of such significance that I ask unanimous consent to have the entire interview printed in the RECORD.

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

TRANSCRIPT: DENNIS ROSS, FORMER U.S. SPECIAL ENVOY TO THE MIDDLE EAST

Following is a transcripted excerpt from FOX News Sunday, April 21, 2002.

BRIT HUME (host). Former Middle East envoy Dennis Ross has worked to achieve Middle East peace throughout President Clinton's final days in office. In the months following Clinton's failed peace summit at Camp David, U.S. negotiators continued behind-the-scenes peace talks with the Palestinians and Israelis up until January 2001, and that followed Clinton's presentation of ideas at the end of December 2000.

Dennis Ross joins us now with more details on all that, and Fred Barnes joins the questioning.

So, Dennis, talk to us a little bit, if you can—I might note that we're proud to able to say that you're a Fox News contributing analyst.

DENNIS ROSS (Fmr. U.S. special envoy to the Middle East). Thank you.

HUME. Talk to us about the sequence of events. The Camp David talks, there was an offer. That was rejected. Talks continued. You come now to December, and the president has a new set of ideas. What unfolded?

ROSS. Let me give you the sequence, because I think it puts all this in perspective.

Number one, at Camp David we did not put a comprehensive set of ideas on the table. We put ideas on the table that would have affected the borders and would have affected Jerusalem.

Arafat could not accept any of that. In fact, during the 15 days there, he never himself raised a single idea. His negotiators did, to be fair to them, but he didn't. The only new idea he raised at Camp David was that the temple didn't exist in Jerusalem, it existed in Nablus.

HUME. This is the temple where Ariel Sharon paid a visit, which was used as a kind of pre-text for the beginning of the new intifada, correct?

ROSS. This is the core of the Jewish faith.

HUME. Right.

ROSS. So he was denying the core of the Jewish faith there. After the summit, he immediately came back to us and he said, ''We need to have another summit,'' to which we said, ''We just shot our wad. We got a no from you. You're prepared actually to do a deal before we go back to something like that.''

He agreed to set up a private channel between his people and the Israelis, which I joined at the end of August. And there were serious discussions that went on, and we were poised to present out ideas the end of September, which is when the intifada erupted. He knew we were poised to present the ideas. His own people were telling him they looked good. And we asked him to intervene to ensure there wouldn't be violence after the Sharon visit, the day after. He said he would. He didn't lift a finger.

Now, eventually we were able to get back to a point where private channels between the two sides led each of them to again ask us to present the ideas. This was in early December. We brought the negotiators here.

HUME. Now, this was a request to the Clinton administration——

ROSS. Yes.

HUME [continuing]. To formulate a plan. Both sides wanted this?

ROSS. Absolutely.

HUME. All right.

ROSS. Both sides asked us to present these ideas.

HUME. All right. And they were?

ROSS. The ideas were presented on December 23 by the president, and they basically said the following: On borders, there would be about a 5 percent annexation in the West Bank for the Israelis and a 2 percent swap. So there would be a net 97 percent of the territory that would go to the Palestinians.

On Jerusalem, the Arab neighborhoods of East Jerusalem would become the capitol of the Palestinian state.

On the issue of refuges, there would be a right of return for the refugees to their own state, not to Israel, but there would also be a fund of $30 billion internationally that would be put together for either compensation or to cover repatriation, resettlement, rehabilitation costs.

And when it came to security, there would be a international presence, in place of the Israelis, in the Jordan Valley.

These were ideas that were comprehensive, unprecedented, stretched very far, represented a culmination of an effort in our best judgment as to what each side could accept after thousands of hours of debate, discussion with each side.

BARNES. Now, Palestinian officials say to this day that Arafat said yes.

ROSS. Arafat came to the White House on January 2. Met with the president, and I was there in the Oval Office. He said yes, and then he added reservations that basically meant he rejected every single one of the things he was supposed to give.

HUME. What was he supposed to give?

ROSS. He was supposed to give, on Jerusalem, the idea that there would be for the Israelis sovereignty over the Western Wall, which would cover the areas that are of religious significance to Israel. He rejected that.

HUME. He rejected their being able to have that?

ROSS. He rejected that.

He rejected the idea on the refugees. He said we need a whole new formula, as if what we had presented was non-existent.

He rejected the basic ideas on security. He wouldn't even countenance the idea that the Israelis would be able to operate in Palestinian airspace.

You know when you fly into Israel today you go to Ben Gurion. You fly in over the West Bank because you can't—there's no space through otherwise. He rejected that.

So every single one of the ideas that was asked of him he rejected.

HUME. Now, let's take a look at the map. Now, this is what—how the Israelis had created a map based on the president's ideas. And——

ROSS. Right.

HUME. [continuing]. What can we—that situation shows that the territory at least is contiguous. What about Gaza on that map?

ROSS. The Israelis would have gotten completely out of Gaza. And what you see also in this line, they show an area of temporary Israelis control along the border.

HUME. Right.

ROSS. Now, that was an Israeli desire. That was not what we presented. But we presented something that did point out that it would take six years before the Israelis would be totally out of the Jordan Valley.

So that map there that you see, which shows a very narrow green space along the border, would become part of the orange. So the Palestinians would have in the West Bank an area that was contiguous. Those who say there were cantons, completely untrue. It was contiguous.

HUME. Cantons being ghettos, in effect——

ROSS. Right.

HUME [continuing]. That would be cut off from other parts of the Palestinian state.

ROSS. Completely untrue.

And to connect Gaza with the West Bank, there would have been an elevated highway, an elevated railroad, to ensure that there would be not just safe passage for the Palestinians, but free passage.

BARNES. I have two other questions. One, the Palestinians point out that this was never put on paper, this offer. Why not?

ROSS. We presented this to them so that they could record it. When the president presented it, he went over it at dictation speed. He then left the cabinet room. I stayed behind. I sat with them to be sure, and checked to be sure that every single word.

The reason we did it this way was to be sure they had it and they could record it. But we told the Palestinians and Israelis, if you cannot accept these ideas, this is the culmination of the effort, we withdraw them. We did not want to formalize it. We wanted them to understand we meant what we said. You don't accept it, it's not for negotiation, this is the end of it, we withdraw it.

So that's why they have it themselves recorded. And to this day, the Palestinians have not presented to their own people what was available.

BARNES. In other words, Arafat might use it as a basis for further negotiations so he'd get more?

ROSS. Well, exactly.

HUME. Which is what, in fact, he tried to do, according to your account.

ROSS. We treated it as not only a culmination. We wanted to be sure it couldn't be a floor for negotiations.

HUME. Right.

ROSS. It couldn't be a ceiling. It was the roof.

HUME. This was a final offer?

ROSS. Exactly. Exactly right.

HUME. This was the solution.

BARNES. Was Arafat alone in rejecting it? I mean, what about his negotiators?

ROSS. It's very clear to me that his negotiators understood this was the best they were ever going to get. They wanted him to accept it. He was not prepared to accept it.

HUME. Now, it is often said that this whole sequence of talks here sort of fell apart or ended or broke down or whatever because of the intervention of the Israeli elections. What about that?

ROSS. The real issue you have to understand was not the Israeli elections. It was the end of the Clinton administration. The reason we would come with what was a culminating offer was because we were out of time.

They asked us to present the ideas, both sides. We were governed by the fact that the Clinton administration was going to end, and both sides said we understand this is the point of decision.

HUME. What, in your view, was the reason that Arafat, in effect, said no?

ROSS. Because fundamentally I do not believe he can end the conflict. We had one critical clause in this agreement, and that clause was, this is the end of the conflict.

Arafat's whole life has been governed by struggle and a cause. Everything he has done as leader of the Palestinians is to always leave his options open, never close a door. He was being asked here, you've got to close the door. For him to end the conflict is to end himself.

HUME. Might it not also have been true, though, Dennis, that, because the intifada had already begun—so you had the Camp David offer rejected, the violence begins anew, a new offer from the Clinton administration comes along, the Israelis agree to it, Barak agrees to it——

ROSS. Yes.

HUME [continuing]. Might he not have concluded that the violence was working?

ROSS. It is possible he concluded that. It is possible he thought he could do and get more with the violence. There's no doubt in my mind that he thought the violence would create pressure on the Israelis and on us and maybe the rest of the world.

And I think there's one other factor. You have to understand that Barak was able to reposition Israel internationally. Israel was seen as having demonstrated unmistakably it wanted peace, and the reason it wasn't available, achievable was because Arafat wouldn't accept it.

Arafat needed to re-establish the Palestinians as a victim, and unfortunately they are a victim, and we see it now in a terrible way.

HUME. Dennis Ross, thank you so much.

Mrs. FEINSTEIN. Mr. President, on Camp David, let me quote Dennis Ross, President Clinton's Middle East envoy and a person who literally carried out thousands of hours of negotiation. He said:

Let me give you the sequence [of events], because I think it puts all this in perspective. Number one, at Camp David we did not put a comprehensive set of ideas on the table. We put ideas on the table that would have affected borders and would have affected Jerusalem.

Arafat could not accept any of that. In fact, during the 15 days there he never himself raised a single idea. His negotiators did, to be fair to them, but he didn't. The only new ideas he raised at Camp David was that the temple didn't exist in Jerusalem, it existed in Nablus . . . So he was denying the core of the Jewish faith there.

On the eruption of the Intifada:

After the summit, he immediately came back to us and he said, ''We need to have another summit,'' to which we said, ''We just shot our wad. We got a no from you. You're prepared actually to do a deal before we go back to something like that.''

He agreed to set up a private channel between his people and the Israelis, which I joined at the end of August. And there were serious discussions that went on, and we

were poised to present our ideas the end of September, which is when the intifada erupted.

He knew we were poised to present the ideas. His own people were telling him they looked good. And we asked him to intervene to ensure there wouldn't be violence after the Sharon visit, the day after. He said he would. He didn't lift a finger.

On a final plan in December:

Now, eventually we were able to get back to a point where private channels between the two sides led each of them to again ask us to present the ideas. This was in early December. We brought the negotiators here.

The ideas were presented on December 23 by the President, and they basically said the following:

On borders, there would be about a 5 percent annexation in the West Bank for the Israelis and a 2 percent swap. So there would be a net 97 percent of the territory that would go to the Palestinians.

On Jerusalem, the Arab neighborhoods of East Jerusalem would become the capitol of the Palestinian state.

On the issue of refugees, there would be a right of return for the refugees to their own state, not to Israel, but there would also be a fund of $30 billion internationally that would be put together for either compensation or to cover repatriation, resettlement, rehabilitation costs.

And when it came to security, there would be an international presence, in place of the Israelis, in the Jordan Valley.

These were ideas that were comprehensive, unprecedented, stretched very far, represented a culmination of an effort in our best judgment as to what each side could accept after thousands of hours of debate, discussion with each side.

Arafat came to the White House on January 2.

Mr. President, it was January 2, just before President Clinton left office.

Met with the president, and I was there—

''I'' being Dennis Ross—

in the Oval Office. He said yes, and then he added reservations that basically meant he rejected every single one of the things he was supposed to give.

He [was] supposed to give, on Jerusalem, the idea that there would be for the Israelis sovereignty over the Western Wall, which would cover the areas that are of religious significance to Israel. He rejected that.

He rejected the idea on the refugees. He said we need a whole new formula, as if what we had presented was non-existent.

He rejected the basic ideas on security. He wouldn't even countenance the idea that the Israelis would be able to operate in Palestinian airspace.

This is commercial aviation.

You know when you fly into Israel today you go to Ben Gurion. You fly in over the West Bank because you can't—there's no space through otherwise. He rejected that.

So every single one of the ideas that was asked of him he rejected.

Dennis Ross then went on to say:

It's very clear to me that his negotiators understood this was the best they were ever going to get. They wanted him to accept it. He was not prepared to accept it.

Then on why Arafat said no. Dennis Ross said:

Because fundamentally I do not believe he can end the conflict. We had one critical clause in this agreement, and that clause was, this is the end of the conflict.

Arafat's whole life has been governed by struggle and a cause. Everything he has done as leader of the Palestinians is to always leave his options open, never close a door. He was being asked here, you've got to close the door. For him to end the conflict is to end himself.

Now, he was asked the question on whether Arafat believed he could get more through violence. This is how Dennis Ross responded. And I quote:

It is possible he concluded that. It is possible he thought he could do and get more with the violence. There's no doubt in my mind that he thought the violence would create pressure on the Israelis and on us and maybe the rest of the world.

And I think there's one other factor. You have to understand that Barak was able to reposition Israel internationally. Israel was seen as having demonstrated unmistakably it wanted peace, and the reason it wasn't available, achievable was because Arafat wouldn't accept it.

Arafat needed to re-establish the Palestinians as a victim, and unfortunately they are a victim, and we see it now in a terrible way.

Mr. REID. Will the Senator yield for a question?

Mrs. FEINSTEIN. I certainly will.

Mr. REID. I did not see this interview on television over the weekend, so I appreciate very much the Senator from California bringing it to my attention and the attention of the Senate and the American people.

But it appears to me that what he has said—''he,'' meaning Dennis Ross—is that Yasser Arafat could not take yes for an answer. It appears that he and his people got everything they asked for, and that still was not good enough.

Is that how the Senator sees that?

Mrs. FEINSTEIN. I think that is exactly correct.

What Dennis Ross said, essentially, was the final negotiations, that had been gone over prior to this meeting in the White House, had been gone over with the negotiators—that the implication is, that there was an assent to it by the negotiators, and then when the meeting was held in the White House, Arafat said, yes, but then he presented so many reservations that that clearly countermanded the ''yes.''

So the implication that is drawn from that, I say to the Senator, is that you are absolutely right. When push came to shove, Yasser Arafat said no.

Mr. REID. Well, I appreciate very much the Senator from California bringing this to our attention. And I have a clear picture that what has taken place in the Middle East since August a year ago is the direct result of the inability of Yasser Arafat to accept what he had asked for in the first place; that is, all the violence, all the deaths, all the destruction, I personally place at his footsteps.

I want the Senator from California to know how I personally feel, that this man, to whom I tried to give every benefit of the doubt, has none of my doubt any more. I think Yasser Arafat is responsible for the problems in the Middle East totally.

Mrs. FEINSTEIN. I say to Senator REID, thank you very much. I appreciate those comments. I think there are many in the Senate who share those comments. What is so significant to me because I know Dennis Ross—and Dennis Ross was really an excellent Middle East envoy, an excellent negotiator, fully knowledgeable about all of the points of convention—and I thought if anybody had a chance of achieving a settlement, it really was Dennis Ross and President Clinton. And, clearly, that did not happen. I think on this ''FOX News Sunday,'' Dennis Ross clearly said why it did not happen.

So I appreciate those comments.

## THE ARAFAT ACCOUNTABILITY ACT

Mrs. FEINSTEIN. Mr. President, on Thursday, Senator MCCONNELL and I introduced legislation that had findings as well as bill language containing some sanctions. The title of the legislation is the Arafat Accountability Act. I do not want to argue that now, but I do want to point out, in a column in this morning's New York Times, Mr. William Safire, under the title ''Democrats vs. Israel,'' made a statement about this resolution, saying it has been blocked by Majority Leader TOM DASCHLE.

This is not true. Senator MCCONNELL and I presented the bill on Thursday. We indicated we were not pushing for its passage at the present time, that we wanted time to go out and achieve a number of cosponsors. That was the reason for any delay. So I would like the record to clearly reflect that.

## EARTH DAY AND GLOBAL WARMING

Mrs. FEINSTEIN. Mr. President, today is the 32nd anniversary of Earth Day. I think it is fitting, then, to say a few words about the world's No. 1 environmental problem; and that is clearly global warming. It is also fitting because last week the east coast of our country experienced its first April heat wave in more than a quarter of a century. Even more disturbing, in February, an iceberg, the size of Rhode Island, collapsed from the Antarctic ice shelf.

The Earth's average temperature has risen 1.3 degrees in the last 100 years. Computer models predict an increase of 2 to 6 degrees over the next century.

The 10 hottest years on record have all occurred since 1986. What does that mean? Today the atmospheric concentration of carbon dioxide—that is our No. 1 greenhouse gas—is 30 percent higher than preindustrial levels. This may seem to be a small change, but just a few upticks in temperature can produce catastrophic conditions in weather. So the window of time to do something to curb global warming is closing fast.

One of my disappointments with the energy bill is the fact that there is no substantive action taken to reduce our Nation's profligate carbon dioxide pollution.

California is in a unique and precarious position. With a population of 34 million people today and an expected population of 50 million by 2020, the State is particularly vulnerable to global climate change. Global warming could make California's water even more scarce, create further flooding, destroy certain agricultural crops, and lead to more frequent and intense Sierra forest fires. Because global warming will likely increase sea levels and since most of the population lives just a stone's throw from the coast, the result could be flooding for millions of Californians.

Actually, there has already been a significant rise in sea level along the U.S. coast of about a tenth of an inch per year, which translates into about 11 inches per century.

The global sea level is rising about three times faster over the past 100 years compared to the previous 3,000 years. The melting of polar ice and land-based glaciers is expected to contribute a projected one-half to 3-foot sea level rise for the 21st century. That is enormous. Just a 20-inch rise in sea level from climate change could inundate 3,200 to 7,300 square miles of dry land.

The Presiding Officer, coming from the State of Hawaii, knows how that could impact his State.

This could eliminate as much as 50 percent of North America's coastal wetlands. In northern California, increased winter flows into San Francisco Bay could increase the flooding risk and shift saltwater upstream from the bay. This is already happening. Saltwater levels are rising in the delta areas. This increased saltwater penetration into the delta, which is the source of two-thirds of the drinking water for the State, could affect water quality for millions of Californians.

The underlying cause of flooding is also very concerning. Mountain glaciers throughout the world seem to be receding. Glacier National Park may be glacier free by 2070, and the Sierra Nevada mountains may be glacier free soon after. The Greenland ice sheet has already lost roughly 40 percent of its thickness over the past four decades. And shrinking ice caps may very well alter ocean circulation and storm tracks.

Rising sea level is not our only concern. Precipitation, rain, has increased by 5 to 10 percent during the last century. Much of this was attributed to heavy and very heavy rainfall events which reaffirm the importance of developing ways of storing this water during wet periods and having it available during times of drought, because global warming means more turbulent weather patterns; it means more hurricanes, more tornadoes. When it rains, the drops of rain are bigger, the rainfall is more intense; ergo, the destruction is greater.

The report also pointed out that rising temperatures are likely to result in less snow and more rain, quicker melting of the existing snowpack, particularly at lower elevations, and a shift in runoff to earlier in the year.

While total runoff amounts haven't changed, the timing of that runoff is shifting to winter. In fact, the amount of runoff in the spring snowmelt period—that is, April through July—in northern California has actually dropped over the past century from 45 percent to 35 percent.

In normal winters, California's water gets stored in snowpacks until spring, and that is when the spring runoff fuels our reservoirs and is there for drinking as well as farming.

Drought conditions may worsen, thereby destroying water-dependent crops such as rice, cotton, and alfalfa. For many parts of the western United States, the shifting weather patterns brought on by global warming could mean a greater risk of damage, life-threatening floods. And, of course, southwestern States worry that a 10-percent drop in flows in the Colorado River could lead to a 30-percent drop in water storage behind the reservoirs along the Colorado, not to mention a 30-percent drop in hydroelectric generation on the Colorado itself. The stakes are very high.

Unfortunately, our country lags behind when it comes to providing the leadership necessary to stem this growing problem. Amazingly, some of us in Congress even question whether we have a problem in this regard. I believe if we don't act soon, our State, our Nation, and our planet will pay a heavy price.

What should we do? The first thing, and the largest way of reducing the No. 1 greenhouse gas, the No. 1 contributor to global warming, is to do something about carbon dioxide emissions in automobiles. That is fuel efficiency for automobiles.

We had this debate in the Senate earlier, and a bill presented by the Senator from Massachusetts to increase mileage standards to 35 miles per gallon went down to crashing defeat. There still is another item that I am giving serious consideration to presenting as an amendment, and that is closure of the SUV/light truck loopholes. If SUVs were simply required to meet the same fuel economy standards as automobiles, we would prevent the emission of more than 200 million tons of carbon dioxide each year. This is 3 percent of the country's entire $CO_2$ emissions. This in itself would be the largest single step we could take at this time to reduce global warming.

The big three auto manufacturers continue to fight for the status quo. They oppose all increases in fuel efficiency. Last year, Senator SNOWE and I and about 13 of our colleagues introduced the SUV/light truck loophole closing legislation. What we said we wanted to do was, over the next 10-year period, bring SUVs and light trucks to the same level as other passenger vehicles. A study has been done by the National Academy of Sciences. Senators Slade Gorton, Dick Bryan, and I began this effort some 3 years ago. I believe the technology is available to make those changes. Instead, our automobile companies have chosen to make SUVs more like tanks than fuel-efficient vehicles.

Consequently, we continue to pump out large amounts of carbon dioxide. I believe increased fuel economy standards represent the logical first step in reducing mobile sources of carbon dioxide.

We also have to work to expand California's zero emission vehicle program and examine ways to promote cleaner and more efficient battery, electric, fuel cell, or hybrid vehicles. We should also look toward reducing urban sprawl and our dependence on gas-guzzling vehicles.

The second action we should take is to increase the use of renewable energy. Energy use by buildings and appliances accounts for a quarter of California's carbon dioxide emissions. We can solve this problem by providing necessary tax credits and other incentives for energy-efficient buildings and appliances.

By operating more efficiently, we not only reduce waste and pollution that contribute to global warming, we also save consumers and businesses money in the process.

Finally, I deeply believe that the President of the United States should submit the Kyoto Protocol on climate change to the Senate and that the Senate should take up the treaty and ratify it. This historic United Nations framework—established in 1997—aims to reduce greenhouse gases by setting emissions targets and timetables for industrialized nations.

To enter into force, the Kyoto Protocol must be ratified by at least 55 countries, accounting for at least 55 percent of the total 1990 carbon dioxide emissions of developed countries.

Even though we are only 4 percent of the world's population, we account for 20 percent of the world's energy use. No other country is nearly as profligate.

Opponents of the treaty say there is no reason for the United States to do anything to combat global warming unless developing countries, such as China and India, also participate. In my view, this is simply shortsighted. As the most economically advanced nation, what we do sets the standard for the rest of the world—like it or not. So if we want to reduce global warming, if we take this position, I believe other nations will follow.

President Clinton signed the treaty in 1998, but it was never submitted to the Senate, in part because the 67 votes needed to pass it were simply not there. If the United States will not ratify this treaty, at an absolute minimum, we need to come up with a way to substantially reduce our emissions on our own.

The bottom line is that this energy bill does not, in any way, shape, or form, actually reduce any of these emissions.

As the No. 1 contributor of greenhouse gases worldwide, I believe it is our responsibility to show leadership; and every day we wait, we lose an opportunity to reduce the threat of global warming. It is not too much to ask the world's economic and political superpower to provide the necessary leadership to address global warming and, one day, to celebrate an Earth Day in which the United States has truly taken the lead.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LIEBERMAN. Mr. President, I further ask unanimous consent that I may proceed as in morning business.

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

Mr. LIEBERMAN. I thank the Chair.

(The remarks of Mr. LIEBERMAN pertaining to the submission of S. Res. 247 are printed in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

Mr. LIEBERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 15 minutes as in morning business

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

## WHERE IS THE DEMOCRATIC BUDGET RESOLUTION?

Mr. GRASSLEY. Mr. President, Monday was April 15. That is the day Americans file their income tax return with the IRS.

April 15 was also the deadline for Congress to complete its work on the budget resolution for the Federal government. But, the deadline has come and gone and we still don't have a budget.

It seems the Democratic leadership is reluctant to bring their proposed budget to the floor of the Senate for a vote. According to recent press reports, they don't know if they have the votes to pass their budget.

What is interesting about the Democratic leadership's inability to find enough votes to pass a budget is that the makeup of the Senate this year is exactly the same as last year. With this same membership, Republicans last year produced a bipartisan budget supported by 65 Senators, including 15 Democrats.

After taking a closer look at their budget, I am not surprised they do not have the votes. The Democratic budget is a case study in contradictions.

They claim to support the war on terrorism, but they don't fund the Presidents' request for defense. They say the President's tax cut was too big, but they don't delay or repeal it. They claim to protect Social Security and Medicare, but they spend trust fund money on other programs for the rest of the decade. In short, the Democratic budget says one thing and does another.

Take a closer look at these contradictions.

First, according to the Democratic Budget Committee Report, ''the budget resolution provides all of the resources requested by the President for the Department of Defense for the next 2 years. It includes a reserve fund that will provide all of the defense funding requested by the President in 2005 through 2012 if it becomes clear that the funds are needed.''

In other words, the Democratic budget funds the President's request for 2 years and then cuts it by $160 billion the next 8 years.

Their so called defense ''reserve fund'' is fraud. Unlike the other reserve funds in their budget—for Medicare, health care, and the Individuals with Disabilities Act—no money is actually being set aside for defense.

Admittedly, the war on terrorism may not cost as much as the President has requested, but instead of honestly setting aside the extra money until we know for sure, the Democratic budget spends the money on other programs.

According to the Democratic Budget Committee Report, ''The President's budget does represent an appropriate response to the September 11 attacks—it provides the resources that will allow our armed forces, homeland security personnel, and citizens to respond to the challenge posed by terrorists. But—just as last year—the President's budget does not respond adequately to the other major challenges facing this nation.''

In other words, the Democratic budget recognizes the potential need to fund the President's defense request, but insists other programs must come first. Compared to the President's budget, the Democratic budget spends $160 billion less on defense and $348 billion more on everything else.

The second contradiction in the Democratic budget is the issue of tax cuts.

The Democratic Budget Committee Report says, ''Last year our national leaders were presented with a golden opportunity to set this Nation on a course to deal with the challenges facing it . . . But the President and Republicans in Congress instead pushed through a plan that had only one priority—tax cuts . . . Becuase of the huge tax cut, there were not enough resources left to address other challenges . . . The effects of this squandered opportunity are being felt this year.''

So how does the Democratic budget propose to deal with this so called squandered opportunity. The Democratic Budget Committee Report states ''the budget resolution assumes no repeal or delay of tax rate reductions that are scheduled to occur in future years under the law enacted last year.''

So if last year's tax cut was such a ''squandered opportunity,'' why doesn't the Democratic budget do something about it?

The reason is simple. They know the American people are overtaxed. They know twelve Democratic Senators vote for the tax cut signed into law by President Bush last year. They know their Senate colleagues will not vote to delay or repeal the tax cut.

But instead of admitting these facts, the Democratic leadership continues its partisan attacks on Republicans for ''squandering'' the surplus and ''raiding'' Social Security.

That brings us to the third and most outrageous contradiction of them all.

The Democratic Budget Committee Report states, ''The budget resolution recognizes that it is crucial to return the budget to balance without Social Security as soon as possible . . .''

So how does the Democratic budget propose to do this? It contains a so called ''circuit breaker'' that would create a budget point-of-order against the consideration of next year's budget if it does not get to balance—excluding Social Security—by 2008.

In other words, the Democratic budget believes it is so ''crucial'' to balance the budget without Social Security that it proposes to wait until next year. Apparently, ''as soon as possible'' doesn't apply to this year.

During the Budget Committee markup, the chairman explained that he was not requiring a plan to protect Social Security this year because the economy was still weak and that it is unwise to engage in further deficit reduction during our recovery.

One might be tempted to accept this explanation. But consider what the chairman had to say when OMB Director Mitch Daniels testified before the Budget Committee.

The Budget Committee chairman stated, ''I'd be quick to acknowledge I could live with [a deficit] in a year of economic downturn and at a time of war. But you're not forecasting economic downturn for even later this year—you're forecasting economic recovery. And for the rest of the decade, you're forecasting rather strong economic growth and yet year after year you propose taking money from Social Security, taking money from Medicare . . . How do you justify it?''

Blaming the economy for their failure to make any effort to protect Social Security is especially ironic given the Budget Committee chairman's view of how the economy works.

According to the chairman, the tax cuts reduced the surplus, thereby driving up long-term interest rates which have a negative impact on the economy.

If one accepts the chairman's view of the economy, the sooner Congress enacts a deficit reduction package, the sooner we can bring down long-term interest rates and stimulate the economy.

But instead of having the courage of his economic convictions, the Democratic budget fails to make any effort to reduce the deficit. Instead, it just digs the hole deeper.

The Democratic budget resolution dips into the Social Security trust fund and spends $1.3 trillion of the Social Security surplus on other programs.

What is even more ironic about the Democratic budget ''circuit breaker'' is that it only applies to Social Security. Last year, the chairman of the Budget Committee insisted that it was equally important to protect the Medicare trust fund as well.

Last year during the debate over the Social Security lockbox, the chairman stated, ''Some of us believe it is critically important that we protect both the Social Security trust fund and the Medicare trust fund so they are not used for other spending in the Federal budget.'' Apparently, that was then and this is now.

Now, the Democratic budget proposes to dip into the Medicare trust fund and spend $360 billion of the Medicare surplus on other programs.

The Democratic leadership would like the American public to believe their opposition to tax cuts is based on their desire to protect Social Security and Medicare. But the budget they have produced this year shows that is simply not true.

Despite what the Democratic leadership might say, their opposition to tax cuts has nothing to do with protecting Social Security and Medicare.

If they were so committed to protecting Social Security and Medicare, they could have proposed to delay or repeal the tax cut. If they were so committed to protecting Social Security and Medicare, they could have proposed to reduce other spending. But they chose to do none of the above.

Instead, the Democratic leadership chose to produce a budget that increases Federal spending and thereby spends $1.7 trillion of the Social Security and Medicare surplus on other programs. That is the dirty little secret of the Democratic budget.

After spending all of last year and the first part of this year engaged in partisan attacks on a so called Republican tax cut—that passed with the votes of twelve Democrats—they have decided they would rather increase spending than protect Social Security and Medicare.

Now, I believe we all know why the Democratic leadership doesn't want to bring their budget resolution to the floor of the Senate for a vote—they are too embarrassed. I have to admit, I would be embarrassed, too.

Based on CBO latest projections, including the economic stimulus bill, the Federal budget will not have a surplus—excluding Social Security and Medicare—until 2011.

Instead of addressing these long-term deficits, the Democratic budget proposes to increase spending by $1.1 trillion.

''New Spending'' shows how the Democratic budget would dig the deficit hole even deeper.

The Democratic budget only achieves balance in 2012 by assuming the tax cut will expire.

Between now and 2011, the Democratic budget would spend $1.7 trillion from the Social Security and Medicare trust funds—$362 billion from Medicare and $1.32 trillion from Social Security.

The Democratic budget ''circuit breaker'' would require next year's budget to get the balance—excluding Social Security—by 2008.

But this year's Democratic budget proposes to spend an additional $428 billion between 2004 and 2008.

In order to comply with the ''circuit breaker,'' next year's budget would have to reduce spending or increase taxes by $424 billion.

In other words, next year's budget would have to repeal virtually every dollar of additional spending provided by this year's budget.

If the ''circuit breaker'' were expanded to include Medicare, then next year's budget would have to reduce spending or increase by $536 billion.

The PRESIDING OFFICER. The Senator from North Dakota.

## U.S. FARM PRODUCT SALES TO CUBA

Mr. DORGAN. Mr. President, it is one thing to shoot yourself in the foot, it is quite another thing to take aim before you shoot. That is what has happened in the last couple of weeks with respect to the State Department deciding to revoke the visas they previously granted to Pedro Alvarez and other officials from a group called Alimport, which is a Cuban state-run purchaser of foreign goods.

Mr. Alvarez and others were invited to come from Cuba to the United States, to come to North Dakota, to Iowa, and to other parts of farm country in the United States because they need food. The Cuban economy has been injured, of course, by the hurricane, and they need food. As a result of that, they have been purchasing food from the United States. Why have they been purchasing food from the United States? Because I and some others took the lead in Congress to end the embargo with respect to the shipment of food from the United States to Cuba.

That embargo has existed for decades. We ended that in the year 2000. The result is that Cubans have bought $70 million-plus worth of food from us in the last few months.

It is kind of byzantine, because in order to buy food from us, they are required to pay cash and do it through a French bank. They work the transaction through a French bank. Nonetheless, that is what they have done.

Mr. Alvarez and the organization Alimport applied for visas to come to this country at the invitation of U.S. farm groups to buy additional wheat, eggs, dried beans, and other commodities. So they were given the visas. Just a couple days later, the visas were yanked. The passports were asked to be returned, and the visas were revoked. When I learned of that, I called the State Department.

Here is what the State Department told my staff. My staff asked: What is going on? Why did you revoke the visas of the people who were going to come from Cuba to purchase some additional United States food from our farmers?

It is the policy of this administration not to encourage agricultural sales to Cuba.

Let me read that again. That is a most byzantine position.

It is the policy of this administration not to encourage agricultural sales to Cuba.

We sell it to Communist China. Yes. That is a Communist government. We sell food to Vietnam. Yes. That is a Communist government. We sell food virtually all around the world. We fought for years to lift this embargo on food sales to Cuba. We are now selling food to Cuba, and we have some people taking a brainless position down at the Department of State that it is not our position to encourage food sales to Cuba; therefore, we will revoke the visas we previously granted to the head of Alimport to come into this country, to visit farm States, to purchase some dried beans, wheat, eggs, and other food products.

I am writing a letter today to Mr. Alvarez inviting him to come to the United States. It is not from farm organizations. It is from me. I am sending a copy of that letter to the State Department saying: You have an obligation to play straight.

When this country has the opportunity for family farmers to sell food to those in Cuba who need it and who are hungry and want access to that food, we have a responsibility to our farmers, and the State Department has a responsibility to the Congress to help make that happen.

Our farmers are facing really tough times. Prices have collapsed. They have remained down for a long while. Then we have this embargo on food sales and shipments to Cuba. We opened it just a bit and sold them $70 million worth of food. Now we have folks down in the State Department trying to play games with it once again.

I have asked the State Department: Who made these decisions? How did you make the decision? Who demanded that the visas be revoked? I want to know who has their foot on the brake. I want to know who has one of these hardheaded embargoes still going on

with respect to Cuba. I want to know who is asking family farmers to be pawns in this struggle they have with Cuba.

Let me say that Mr. Otto Reich, the administration's top Latin American official, told a group of farmers: We are not going to be ''economic suckers'' to Fidel Castro. That attitude is an insult to American farmers. Our farmers produce food. They ought not be pawns in some soft-headed foreign policy by which someone wants to prevent that food from going to hungry people.

Does anyone here think Fidel Castro has ever missed a meal because we have for 35 or 40 years not allowed farmers to send food to Cuba? Does anyone here think Fidel Castro has ever missed breakfast, lunch, or dinner? You know better than that.

This country is shooting itself in the foot. Mr. Reich and others are taking aim before they do it. It is unforgivable. They have an obligation to play straight on this issue.

We have already debated this issue and made a decision on this issue. The decision was that it is immoral to use food as a weapon, and we are not going to do it anymore—not with Cuba, and not with other countries.

I ask unanimous consent to have printed in the RECORD a copy of a letter I sent to Mr. Colin Powell, Secretary of State, asking the questions: Who made these decisions? How did they make these decisions? When did they make them?

I would also like to have printed in the RECORD a letter from two dozen agricultural organizations protesting the same decision to revoke this visa. It includes the American Farm Bureau Federation, the American Meat Institute, Farmland Industries, the National Association of Wheat Growers, the U.S. Canola Association, the U.S. Dry Pea & Lentil Council, U.S. Wheat Associates, and the list goes on and on.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, DC, April 17, 2002.*

Hon. COLIN L. POWELL,
*Secretary of State, the State Department, Washington, DC.*

DEAR SECRETARY POWELL: My office has been informed that the State Department recently approved—then rescinded—a visit for Pedro Alvarez, Chief of Alimport and other Cuban officials, who wished to come here to buy U.S. farm products.

Their trip to the United States would have included a visit to my state, North Dakota, where they had been invited by a North Dakota farm organization which hoped to interest them in buying some of North Dakota's excellent farm products. It was to be a customary visit foreign purchasing agents make to meet with U.S. suppliers, inspect facilities, and verify U.S. procedures and standards before making major purchases.

This was an important visit, filled with economic opportunity for North Dakota farmers who continue to suffer under commodity prices that collapsed six years ago and that have remained collapsed ever since.

Alimport is a very significant customer for U.S. farm products. Since November 2001, when legislation I helped enact into law finally made it possible for U.S. organizations and companies to sell food and medicines to Cuba, Alimport has purchased approximately 450,000 metric tons of agricultural commodities—corn, rice, wheat, soy, poultry, vegetable oil, apples, peas, eggs and pork lard—worth about $75 million.

I want a complete investigation into why these visas were cancelled. When my staff inquired about it, State Department officials told them, ''It is the policy of this Administration not to encourage agricultural sales to Cuba.'' That is unacceptable to me.

If that is the basis for which the visas were cancelled, it is an insult to American farmers and puts at risk agricultural sales to Cuba. At a time when grain prices remain collapsed, it is just plain wrong for the Administration to try to impede the sale of grain to Cuba.

This is a brainless policy to be saying that we don't want to sell grain to the Cubans. We sell grain to communist China, communist Viet Nam, and it's just absurd to tell our farmers that our government doesn't want to sell grain to Cuba.

I want a complete investigation to find out who is running things in the State Department. Who ordered the visas cancelled? Did political operatives in the Administration communicate with the State Department about these visas?

I also want to request that you personally intervene in this matter. Our country needs to use some common sense. We must stop using our family farmers as pawns in foreign policy. That is the mandate from Congress and, specifically, when it comes to Cuba that is the law. It ought to be obeyed.

Pleased intervene and make the right decision with respect to these issues.

Sincerely,

BYRON L. DORGAN,
*U.S. Senator.*

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APRIL 18, 2002.

Hon. COLIN L. POWELL,
*Secretary, U.S. Department of State, Washington, DC.*

DEAR SECRETARY POWELL: As export dependent food and agricultural industries, we wish to express our disappointment with the recent action taken by the Department of State to deny visas to Cuban trade officials. The planned meetings between U.S. agricultural representatives and Cuban officials to review U.S. standards and procedures in conjunction with contracted and potential agricultural sales to Cuba will no longer be possible. Maintaining access to the Cuban market for our products is an important goal for our industry.

The purpose of the Cuban travel, that has now been denied, was for Cuban officials to meet with U.S. suppliers, inspect facilities, discuss sanitary and phytosanitary issues and verify U.S. procedures and standards associated with the sale of U.S. food and agricultural exports to Cuba. Visits of this type are routinely conducted by U.S. officials and U.S. importers in markets that sell to the United States. It is also customary practice for foreign purchasing agents and government technical teams to travel to the U.S. to meet with U.S. suppliers and tour facilities.

Two years ago, Congress, backed by the strong support of the U.S. food and agricultural community, opened the Cuban market for our goods by partially lifting nearly 40 years of unilateral sanctions against Cuba. Cuba continues to pay cash in full for its purchases and has signaled intent to expand its imports of U.S. food and agricultural commodities.

Mr. Secretary, we ask your help in keeping this small but viable market open for export sales of U.S. food and agricultural commodities. This recent action by the Department of State puts all future Cuban food and agricultural purchases at risk at a time when American farmers and ranchers are under extreme economic stress from low prices and decreasing world market share.

We hope that the administration will look favorable upon future purchasing and technical visits from Cuban officials.

Sincerely,

Agricultural Retailers Association.
American Farm Bureau Federation.
American Meat Institute.
American Soybean Association.
Archer Daniels Midland Company.
Cargill Incorporated.
Farmland Industries, Inc.
Grocery Manufacturers of America.
Louis Dreyfus Corporation.
National Association of Wheat Growers.
National Barley Growers Association.
National Chicken Council.
National Corn Growers Association.
National Oilseed Processors Association.
National Pork Producers Council.
National Renderers Association.
National Sunflower Association.
North American Export Grain Association.
North American Millers' Association.
Rice Millers' Association.
U.S. Canola Association.
U.S. Dry Pea & Lentil Council.
U.S. Rice Producers Association.
U.S. Rice Producers' Group.
U.S. Wheat Associates.
Wheat Export Trade Education Committee.

Mr. DORGAN. Mr. President, this policy is wrong. This policy injures American farmers. This policy continues an embargo. We know embargoes hurt us. They hurt our farmers. Those kinds of activities hurt poor, sick and hungry people in countries like Cuba. They do not hurt Fidel Castro. They hurt our farmers. And they hurt the poor, sick, and hungry people abroad.

When someone wants to come to this country to buy American grain, eggs, dried beans, and other products our farmers produce, the State Department has no right, in my judgment, to revoke those visas for political purposes. That is what I think has happened in this regard.

It is the policy of this administration not to encourage agricultural sales to Cuba.

I say to those in this administration who have said that and who believe that: You have a responsibility to stop this nonsense. You are hurting American family farmers. And it is an abrogation of the policies we have already developed here in the Congress.

I am going to send a letter today to the State Department saying I have invited the head of Alimport into this country. I have invited them to North Dakota. I want them to come here and buy American farm products. I think the State Department has a responsibility to provide visas for those who would come from Alimport to make those purchases of grain.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me remind my colleagues of a couple things. First, this is a revenue bill.

The PRESIDING OFFICER. The Chair wishes to inform the Senator from Texas, we are not on the energy

bill at this moment. We are still in morning business.

Does the Senator seek recognition in morning business?

Mr. GRAMM. Mr. President, I would be very happy to have my remarks in morning business.

The PRESIDING OFFICER. The Senator from Texas.

## THE ENERGY BILL

Mr. GRAMM. Mr. President, when we resume consideration of the energy bill later today, we will be on a revenue measure. As all of my colleagues know, the Constitution gives a special privilege to the House of Representatives by requiring all money bills to originate in the House. This represents a constraint on the Senate in terms of voting on tax issues because in order to have a vote on a tax issue that could actually become law, you have to have a vote on a bill that is already a revenue measure and has been passed by the House. So this means the bill before us, in addition to being an energy bill, becomes a very important bill because it will contain energy tax provisions, and therefore will be a revenue bill.

I have now about 15 Members of the Senate, on a bipartisan basis, who are determined to have a vote on making the death tax repeal permanent. I will not repeat the whole debate because we will have plenty of opportunity to talk about it—we have in the past and will have in the future. But we have the anomaly that the tax cut passed last year will expire in 10 years because of a budget technicality that was in place when it was adopted. And this creates the incredible anomaly that while we are phasing out the death tax now, 9 years from now it will spring back in full force and will ensure that families that worked to build up a business or a family farm would end up having to sell that business or sell that farm to give the Government 55 cents out of every dollar of its value upon the death of the people who created it before it can be passed on to their children.

We have every right, on any revenue measure, to offer any amendment we wish. That is how the rules of the Senate work. On Thursday, I had called for regular order—which brought up Senator KERRY's amendment with Senator MCCAIN—and I offered my amendment to it. I was unaware at the time that discussions were going on as to how we were going to proceed from there. As it turned out, Senator KERRY came over and withdrew his amendment. At that point, the distinguished Democrat floor leader filled up the amendment tree by offering a second-degree amendment to the next amendment under regular order. I think there were about nine amendments that had been set aside as we went on to consider other measures.

In working with our leadership and, through their discussions, with the leadership on the Democrat side, I have now proposed in writing an agreement whereby we would agree to forgo the ability to offer an amendment on this bill to make death tax repeal permanent, if we could have a guarantee that at some point in the future we would get such a vote. The proposal I have made is that we pull up H.R. 8, which is on the Senate Calendar. It, in fact, is a bill to repeal the death tax. I hope it will be looked at.

We feel very strongly we ought to have the right to offer this amendment. This is a revenue measure. We have no guarantee there will be another revenue measure considered by the Senate this year. I know there are people in the Finance Committee—and I am privileged to serve on that committee—who hope we will have other opportunities. But it may well be that this is the only opportunity we have this year.

As my colleagues are aware, the House of Representatives has voted to make the whole tax cut permanent. We want to have a vote on making the death tax repeal permanent. I am hoping that something can be done to accommodate us in terms of our right.

I know there are many people who want to finish this bill. There are things in the bill I am for, but I don't know of anything that is more important than making the repeal of the death tax permanent.

I wanted my colleagues to know that we do have a growing number of people who are working to achieve this goal. It would be our objective. I think there are two amendments the managers of the bill wanted to do this afternoon that we have agreed to step aside and allow them to do. But beyond that point, it would be our intent to object to bringing up new amendments or to setting aside the pending amendment until we get some agreement. We don't have to do our amendment now, but we want to be guaranteed that at some point we will have our right as Senators to offer an amendment related to making the repeal of the death tax permanent.

I came over today to simply outline that there is the beginning of a discussion on how to accommodate Senators who wish to offer this amendment. I have talked to our leader, and nothing would make me happier than to get a guarantee that we will get a vote on making repeal of the death tax permanent. In that case, we would get out of the way and allow consideration of the energy tax amendment and adopt it, perhaps on a voice vote.

Mr. REID. Will the Senator yield?

Mr. GRAMM. I am happy to yield.

Mr. REID. The majority leader and the Republican leader have spoken about this issue. The Senator has submitted to us in writing his proposal which has now been reviewed. We will do everything we can to move this bill along. We hope as to the written proposal for the unanimous consent agreement, that we can work something out on that before the end of the day.

Mr. GRAMM. I appreciate the Democrat floor leader's willingness to try to work on this. I am very grateful. It would break a major impasse and virtually guarantee that the bill will be adopted. What we would like to do is have a vote on permanently repealing the death tax. We realize the vote might come on cloture or it might come on a point of order. But we would like to have a vote nonetheless.

I thank the Senator for his help.

Mr. DURBIN. Will the Senator yield for a question?

Mr. GRAMM. I would be happy to yield, but I am getting ready to give up the floor. I am happy to yield.

Mr. DURBIN. That is fine, if he is going to yield the floor.

Mr. GRAMM. I yield the floor.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Illinois.

Mr. DURBIN. Mr. President, if I might respond very briefly to what the Senator from Texas has said, the Senator from Texas is very honest and forthright in his position. He stated in the Chamber, and it will be reflected in the RECORD, that he believes the elimination of the estate tax, the death tax, is the most important priority for this Congress when it comes to tax legislation.

I disagree. Right now, fewer than 2 percent of the estates in America pay any estate tax whatsoever. We have changed the law so even fewer will pay it in the future. What the Senator from Texas and those in support of his position are arguing for is to eliminate this estate tax for the very few remaining wealthiest people in America, and it is his belief that this is the highest tax priority for Congress. I would like to take that question to his State of Texas, let alone my State of Illinois.

I just finished a tour of Illinois, and I went to small business after small business. I asked: What is the biggest problem you are facing?

They answered: The cost of health insurance. We can't pay for health insurance for our employees, let alone for the owners of the business.

A labor union, the plumbers and pipefitters, came from Chicago last week. I asked: What is your agenda in Congress?

They said: The cost of health insurance. We can't get a penny more in our paychecks when we negotiate a contract each year with our union because all the money is going into health insurance.

So if you want to know where my highest priority is in terms of tax breaks for businesses and families across America, it doesn't start at the top with people who are worth megamillions. It starts with working families who cannot afford their health insurance.

I will say to the Senator from Texas and those supporting his position, please bring a tax bill to the floor. There are those of us who want to try some other issues that we think are much more important.

Do you know what this means if we make President Bush's tax cut permanent? It means 65 percent of all of the

tax breaks will go to people making over $500,000 a year. That is their highest priority—people with incomes of $500,000 a year or more.

Do you know how much of a tax break they will get if we go ahead with their proposal to make the President's tax cut permanent? It turns out to be $39,000 a year on average for people making over a half million a year.

If you are making a half million a year, let's assume that is about $10,000 a week, and times are tough. You are going to get $39,000 more to deal with it. Meanwhile, the small business in southern Illinois, the small business in Humboldt Park in Chicago that can't afford to pay its health insurance premiums brings the employees in and says: We are sorry, we can't do it anymore. We can't offer you health insurance for you and your family.

Which is the greater priority in America? The people making over a half million a year who get $39,000 more in tax cuts to put in some investment or another vacation home or a boat or a luxury car or is it more important that families across America have health insurance so they can protect themselves and their children?

While we are on the subject of children, ask those same families about the importance of the deductibility of college expenses. If you want to know a tax break people across America want, talk to any family with a new baby. They will show you the child and say: Doesn't he look like his dad or doesn't she look like her mom?

The next thing they will tell you is they better open a savings account for their college right now. Otherwise, they won't be able to pay for college education.

So if we are going to talk about priorities in tax cuts, wouldn't it be good for the first time in America to allow people to deduct the cost of college education from their taxes? Isn't that a good investment for America? I think it is a far better investment than the same people who make over a half million a year, guess what, getting another windfall check of $39,000 from President Bush's permanent tax cut.

Incidentally, so the record is clear, that permanent tax cut of President Bush's that gives $39,000 to the wealthiest people, for all the rest of the folks in America it is less than $1,000 a year.

So you look at it and say, well, everything is upside down in this world if the most important thing in Congress, when it comes to taxes, happens to be the wealthiest people in America. The people I represent in Illinois—some are wealthy, but the vast majority are not—are hard working, low- and middle-income families struggling to pay for health insurance, for education, and for college expenses. Those are the people who deserve a break.

In my State, we are facing a health care crisis, and it has to do with more than just the cost of health insurance. That is a major problem, but we are also seeing a crisis that is reaching in many different directions. Talk to folks with parents and grandparents on Medicare. Ask them what they are facing when it comes to paying for prescription drugs. The Senator from Texas wants to take what limited amount of money we might spend for tax relief and give it to people making over $500,000 a year.

Frankly, I would like to see us also consider—in addition to the cost of health insurance—the deductibility of education expenses and prescription drug costs for the elderly in America. Do you know how much prescription drug costs went up last year in our country? It was 16 percent. Put yourself on a fixed income and in a position with a serious illness. You go to the doctor and he says: Durbin, if you want to stay out of the hospital, here is a prescription that I think will do the trick. Then you go down to the pharmacy and they say: Well, I am sorry to tell you that it will cost you $300 to fill the prescription. Well, if you are living on $800 or $900 a month—and that is not uncommon if you are on Social Security—what are you going to do? Many people have to make a hard choice: Am I going to fill the prescription and figure out how to pay the rent and utilities and the other bills, or am I going to walk away from it? Which is the higher priority in America, the seniors who have to walk away from the medicine they need too survive, or people making over $500,000 a year and to give them $39,000 a year in tax breaks? That is what it comes down to; that is the choice we face.

You have heard the Senator from Texas make his choice very clear: The highest priority, when it comes to taxes, from his point of view, is to say that the estate tax is going to be eliminated for everybody forever. I see it differently. We can reform the estate tax and do it in a sensible way. We can protect family farmers and family-owned businesses. I will sign up for that any day. But to say we are going to give a windfall in tax breaks to the wealthiest, at the expense of the people I have described, is unfair. It is the reason there are two different political parties in this Chamber, why we need political debate. It is the reason, when we disagree, sometimes it gets to the heart of issues that make a difference to families in America.

Mr. DORGAN. I wonder if the Senator will yield for a question.

Mr. DURBIN. Yes.

Mr. DORGAN. There was a discussion earlier on the estate tax. They call it the ''death tax'' because the pollsters figured that politically it sounded better, but it is the estate tax. Also, the discussion about estate taxes always comes in terms of helping family farmers or small businesses. I wonder if the Senator remembers that last year, when we had this debate, I offered an amendment to the estate tax. The amendment was one to the proposal by the then-majority, who wanted to abolish the estate tax. My amendment said I don't believe we ought to interrupt the passage of any family business from the father and mother to the descendants who want to continue to operate the business. It doesn't matter whether it is a family farm or a hardware store, and it doesn't matter how big it is. If it is a family enterprise being transferred from the parents to the children, I think it ought to be totally exempt from the estate tax. So I offered an amendment.

My amendment said that transfers of family businesses, regardless of size, to family heirs to operate shall be totally exempt from estate taxes beginning in the year 2003, and all other estates shall have a $4 million exemption. So if you have up to $4 million in assets, or if you are transferring a family business, you are not going to pay any estate tax at all.

Now, the estate tax provision passed by the Senate said we will begin creating larger exemptions for the transfer of family assets including a family farm or a family business so that, in 2010, there shall no longer be any tax. I said, no, if you package this by saying what you really want to do is help family farmers and family businesses, why don't you vote for my amendment and they will all be exempt next year, in 2003?

We had 43 Senators who voted for my amendment. All of those who have spent their careers in the Senate saying ''we want to get rid of this burdensome death tax for family-owned businesses and family farms'' voted against that amendment. So when there is a family farm or a family business that is transferred next year, and there is an estate tax applied to it, people should understand it is because the then-majority decided last year, when they wanted to ram this fiscal policy through the Senate, that they were not really quite as interested in family farms and small businesses as they were in those who have millions and billions of dollars of assets.

Incidentally, this country has one-half of the world's billionaires. Good for us and good for them. There is nothing wrong with being that successful. But if somebody in this country has $6 billion or $8 billion, I guarantee you a substantial amount of that has never been taxed. It represents growth appreciation on assets over time, and there is nothing at all wrong, in my judgment, in asking that at least some of that—just some of it—be put back into this country's schools, or invested in the country's kids, and in this country's future.

But that is not what the Republicans wanted to have done. They wanted, at all costs, to protect this, and they did it at the expense of having a total exemption for transfers of all family farms and all family businesses, effective immediately in 2003. That is what we could have had.

I ask the Senator from Illinois if he recalls that debate and what the real priorities were for the other side of the aisle?

Mr. DURBIN. I certainly do. The Senator is correct. After that debate, I sent a letter to the two major farm organizations in Illinois, the Illinois Farm Bureau and the Farmers Union. I said: You don't have to name names, but can you give me an example of somebody who lost a family farm because of the estate tax? They could not come up with one in my State.

I readily concede that there are sacrifices that have to be made to pay the estate tax. But the doom and gloom stories we hear from them are stories you have heard over and over. With the Senator's amendment, if they were worried about family farms or family businesses, they would have jumped all over his amendment. But it is not; it is about the people who are at the highest end of the spectrum, who have an appreciation of stock, or the appreciation of some capital asset and they finally face taxation for the first time. That isn't unfair. Families and businesses across America pay their fair share of taxes. Why do we want to exempt the wealthiest in our society at the expense of tax benefits that would help with the cost of health insurance, care for the cost of college education, and deal with prescription drugs? Those are the areas I think, frankly, in which the vast majority of Americans would applaud us for dealing with the problems they face.

Mr. DORGAN. I have one additional question. We ended up with the worst of possible worlds last year. Those who said they supported a repeal of the estate taxes to help businesses and farms would not support the amendment that would have repealed it for family businesses and family farms next year. That was more than confusing.

No. 2, the bill that was finally completed said let's repeal the estate tax and we will ratchet it up until it is finally repealed in 2010. So if you are going to die, you have to die in 2010 to take full advantage of this because in 2011, the estate tax kicks back in. I think historians and policy analysts will look at that and say what on earth could they have been thinking? Who could have constructed something that bizarre?

Mr. DURBIN. I had a group in my office that does financial planning, and they said they are cautioning clients not to walk by any open windows above the fourth floor in the year 2010 because that is the year when we have the estate tax repeal and it reinstates in 2011. It is a bizarre tax policy. If you will remember correctly, we were told by the administration that went ahead with the tax break that the reason we could do that was because they projected surpluses of $5.2 trillion over the next 10 years. And with all this money, the obvious question they asked was: Why should the Government keep the people's money? Let's give it back to them. Some us who lived through the deficit years said we should be more careful in how we make these decisions. But they went ahead and passed the tax cut.

But a year later, they said: We made a mistake; it is not going to be a $5.2 trillion surplus over the next 10 years. It is going to be $1.2 trillion. What happens with the $4 trillion? Three things happened to it: The recession continued, an unexpected war took place; but for 40 percent of it, it was a direct result of that tax cut decision. That, to me, was the wrong thing to do. It is not cautious or prudent. We will pay for it if we are not careful.

Mr. REID. Will the Senator yield for a question?

Mr. DURBIN. I will be happy to yield.

Mr. REID. Mr. President, I was in the Chamber—I stepped out but still listened to the Senator from Illinois and the Senator from North Dakota—when the Senator from Texas spoke. I have the greatest respect for him. He has a Ph.D. in economics. I know how versed he is in economic issues, and he has a long history of being a Member of the House and Senate.

It is my understanding the Senator from Illinois was presiding when the Senator from Texas gave his remarks; is that correct?

Mr. DURBIN. That is correct.

Mr. REID. Did the Senator from Illinois hear the Senator from Texas say—and I am paraphrasing but not very much—that he believes the most important issue before the Congress today is the estate tax issue?

Mr. DURBIN. I believe that is accurate.

Mr. REID. I am sure he does not mean that, and I am sure he will let us know if I am paraphrasing him improperly. I have to think—and I would like the Senator from Illinois to acknowledge—that prescription drug benefits for seniors may be more important than repealing the estate tax or making it permanent. We have already changed it. Something dealing with the Patients' Bill of Rights would also be something we should do.

Going from one end of the spectrum where people have billions of dollars to the other end of the spectrum where people have nothing, does the Senator from Illinois think it is also important to raise the minimum wage for people who are struggling? I say to the Senator from Illinois that 60 percent—I remind the Senator, and I am sure he knows this—60 percent of the people who draw minimum wage are women, and for 40 percent of those women, that is the only money they get for themselves and their families. Speaking for myself, I am more concerned about that than whether Bill Gates is going to pay taxes when he passes away.

There are other issues, of course, that are of stronger importance to the people of Nevada than the estate tax. Last year, the people who actually paid estate taxes in Nevada were fewer in number than the fingers on your hands.

Mr. DURBIN. I say to the Senator, he reminds me, come September we are either going to celebrate the fifth or sixth anniversary since we last increased the minimum wage to $5.15 an hour. Imagine what that translates into if you are working at $5.15. Double that if you are working two jobs. Say you worked 80 hours a week at $5.15 an hour. What a glorious life you would lead.

The Senator from Nevada comes back to the point I was trying to make earlier. Whether you are talking about the cost of health insurance, the cost of college education, prescription drugs in Medicare, or minimum wage, those issues certainly are higher priorities to this Senator and to most of the people I represent than whether or not people who are worth literally millions and millions of dollars are going to get a tax break.

The Senator from Texas is entitled to his point of view. I respect him for being very honest about it. But I hope this Senate comes down to some face-to-face votes, some real votes on real issues that mean something to families across Nevada and Illinois.

Mr. REID. Will the Senator yield for one more point?

The Senator is aware that the majority of the Democrats in the Senate have agreed to change the estate tax to increase the amount—this is a floor, I should say. The Senator from North Dakota is in the Chamber. He offered an amendment that I supported which would have increased it, as I recall, to about $4 million and also exempted family-owned businesses.

I think that everyone knows, hearing this colloquy among the three of us, that we support changing the estate tax. It is not as if we are totally opposed to changing it. Does the Senator from Illinois agree that we think it should be done incrementally and not eliminated completely?

Mr. DURBIN. The Senator is correct. We made that point over and over with the amendment of the Senator from North Dakota and others, that we do want to increase the exemption, which means fewer estates even than those paying today would be eligible or covered by it, and second, for family farms and family businesses.

I said to a group of small businessmen who came to visit me last week: Don't you think that is a reasonable way to go?

One of them said: No, Senator, I have to tell you, I think this is a moral issue; it's a moral issue; we should eliminate the estate tax as a moral issue.

I am not an arbiter of morality; I just ran for political office. If we are going to stack things against moral relevance, I would certainly put in that list increasing the minimum wage for millions of Americans; providing health insurance for people, 39 million who have none and more losing it every day; paying for college education expenses and prescription drugs for the elderly. Those are certainly moral issues, too, and if we are going to make a choice, the Senator from Texas made it clear what his choice would be: the estate tax.

For the rest of us, there are other issues of equal moral heft that we ought to be considering before we move to the estate tax issue. I hope we get a chance to during the course of this session. It is important during the course of this budget debate that we talk about issues that mean something to families, small businesses, and family farmers across America.

Mr. DORGAN. Will the Senator yield for one additional question?

Mr. DURBIN. I will yield.

Mr. DORGAN. I indicated to the Senator from Nevada that if there is to be a vote on the estate tax issue in the coming days—and I guess it may be with respect to the tax provisions dealing with the energy bill, I will want the opportunity to offer a second-degree amendment or at least offer essentially the same amendment we considered last year, and that amendment will draw a distinction. The distinction is this: If my amendment is adopted, then effective in 2003, no transfer or passage of any family business or family farm, regardless of size, to qualified heirs will have an estate tax obligation attached to it. None. It will be completely exempt next year.

There is nothing under the minority party's proposal that would immediately exempt family businesses from the estate tax. It will be another 7 years or so before they are totally exempt.

My amendment says, yes, let's exempt them, and do it immediately. My amendment also provides for a higher threshold exemption on all other estates. And I do not intend to agree to an unanimous consent agreement on this issue unless I have an opportunity to offer that as an amendment as well.

Warren Buffett has been here a couple of times in the last year or so to visit with us. He is the world's second richest man. He said to us: What can people be thinking about, getting rid of the estate tax? I do not support getting rid of the estate tax. This is the world's second richest man. He said you ought not do that; it does not make any sense.

Bill Gates' father came to Congress and said: Don't get rid of the estate tax completely. There are people who have billions of dollars who ought to pay some basic estate tax because they have never paid taxes on those assets, and that is the majority of those assets for the largest estates.

When they pass, obviously a significant part ought to go to their heirs, but a significant part ought to be available to invest back into this country's future, especially education, health care, and other critical areas.

I think the proper way to deal with this issue is to recognize there is merit to the question of whether we want to interrupt the transfer of a family business to other family members. The answer from us is, no, we should not interrupt that transfer. If mom and dad want to pass the business along to the kids to run, I do not care how big the business, let's not saddle them with an estate tax obligation.

The fact is, the amendment I offered last year would have exempted all of them completely next year. We can do that. I would like an opportunity to vote on that again, if we are going to vote on exempting all estates forever from the estate tax. I think we ought to have a vote on the amendment I offered last year.

I thank the Senator for yielding.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent to speak as in morning business for 6 minutes.

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

## DR. RUDOLFO ANAYA'S NATIONAL MEDAL OF ARTS AWARD

Mr. BINGAMAN. Mr. President, I speak briefly today to recognize one of my State's greatest citizens—an extraordinary author whose contributions to the arts have made him known as the father of modern Chicano literature. Today Dr. Rudolfo Anaya will be 1 of 14 distinguished artists to receive this year's National Medal of Arts.

Dr. Anaya is a legend in New Mexico and throughout the Nation for writings that reflect the cultural crossings unique to the Southwest. Born in the small town of Pastura, NM, he grew up in a Spanish-speaking home rich with tradition. His family moved to Albuquerque when he was 15, where he attended high school.

His first novel, ''Bless Me, Ultima,'' was published in 1972 and won him the prestigious Premio Quinto Sol national award for Chicagno literature. This widely-acclaimed novel brought many Hispanic traditions into the limelight, creating a colorful narrative spiced with Spanish vocabulary. ''Bless Me. Ultima'' continues to be a best-selling Chicano work, and is used in classrooms throughout the world as a standard text for Chicano studies and literature courses.

Dr. Anaya's work combines history and tradition with the supernatural. Old Spain and New Spain, Mexico, and Mesoamerica, all come together in a style that Newsweek has referred to as ''the new American writing.'' his second novel, ''Heart of Aztlan,'' explores a Mexican-American family's struggle with discrimination and poverty and its determination to preserve a proud sense of cultural identity. Such themes recognize a harsh reality, while also presenting the richness of Hispanic and Native American traditions and ceremonies that are so fundamental to New Mexican culture.

Other works by Dr. Anaya include ''Zia Summer,'' ''Rio Grande Fall,'' ''Jalanta,'' ''Torguga,'' ''Anaya Reader'', ''Albuquerque,'' and his most recent mystery novel, ''Shaman Winter.'' He has also written numerous short stories, essays, and children's books, including ''Farolitos for Abuelo'' and ''The Farolitos of Christmas.'' Other distinguished awards include the PEN Center West Award for Fiction, the Before Columbus American Book Award, and the Excellence in the Humanities Award.

Dr. Anaya is a professor emeritus of English at the University of New Mexico, where he began teaching in the summer of 1974. That same year he served on the board of Coordinating Council of Literary Magazines. Both Dr. Anaya's teaching and his work build an interest and pride in New Mexican history. His unique story-telling abilities stem from the oral tradition he experienced growing up, and his desire to pass these stories down to children make him an author, a storyteller, an educator, and a role model.

As our Nation continues to explore ways to better educate our children and increase cultural awareness, we must look to role models like Dr. Anaya for guidance. His writings continue to inspire people of all ages, from all ethnic backgrounds. He has not only brought a rich tradition of storytelling and folklore to bookshelves all over the world, but he has also utilized his tremendous gift to portray the Hispanic experience. He inspires young writers to share their gifts, and he provides given millions of readers, including myself, incredible joy.

The state of New Mexico is proud to be home to such an esteemed artist—one who has brought the Southwest to the forefront of American literature. I am truly honored to congratulate Dr. Anaya for all of his accomplishments for for the distinguished National Medal of Arts award that the President will present to him this afternoon in Constitution Hall. His hard work has earned him our utmost respect and admiration, I would like to thank him personally for his outstanding contributions to the arts in America.

## THE ENERGY BILL

Mr. BINGAMAN. Mr. President, I will say a few words about where we find ourselves. I know we are in morning business, and that is appropriate for the various statements that have been made, but this is the beginning of week 6 in which the Senate is considering energy legislation. We are fast approaching a decisive point in that debate: Will we be able to bring this bill to an orderly close this week or will we not?

We tried before to get a finite list of amendments agreed to, and there were objections raised by some in the Senate so we were not able to do that. We also could not get any agreement, at least as yet, on tax provisions. So the majority leader has filed for cloture on the bill, and all first-degree amendments have now been submitted. That deadline was 1:30 today.

I hope we are able to deal with the remaining amendments and move forward. I hope we are able to invoke cloture so we can bring this very large

legislation to an orderly conclusion. Obviously, we want to see all issues that relate and that are germane to this energy bill adequately considered, but at this point, 5 weeks into the debate and starting week 6, I think most Senators have had ample opportunity to present their amendments and raise the issues they think are of concern.

I see there are other Senators seeking recognition. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

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

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

## THE FIX IS IN ON O'HARE AIRPORT

Mr. FITZGERALD. Mr. President, in the upcoming discussion on the expansion of O'Hare, in which I know the Presiding Officer has been deeply involved, one of the issues the Senate will be debating will be a competitive bidding requirement for the contracts and concessions at O'Hare Airport. I intend to offer an amendment that would apply Federal competitive bidding procedures to the contracts at O'Hare and which would require the city of Chicago to disclose the recipients of those contracts.

The lead articles in the two major Chicago newspapers over the weekend illustrate precisely why this competitive bidding amendment is essential. The two papers, taken together, report a pattern of flagrant and chronic abuse in the city of Chicago. The Chicago Tribune reports that Mayor Daley's pals get rich yet again on a huge public works project that the city of Chicago thoroughly misrepresented. Simultaneously, the Chicago Sun-Times reports that, because of a budget crisis, city workers get the choice of unpaid days off or layoffs. That is the pattern: The connected guys get the bucks; the ordinary guys get the shaft.

Yesterday, the Tribune reported that a major Chicago deal was enacted with the aid of an intense public relations campaign that misled the citizens of the city and the State on a number of key issues. That deal—Soldier Field—followed a distinctly Chicago pattern. After the deal was rammed through, we find that misrepresentations were so egregious that it is difficult to call them misrepresentations and not outright fabrications. We also find that several political friends and allies of both the mayor and the Governor make serious money off their inside connections.

I will read from the Tribune. The title of the article is ''Bears play, Public pays.'' It is by Andrew Martin, Liam Ford, and Laurie Cohen.

I ask unanimous consent that this article be printed in the RECORD.

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

[From the Chicago Tribune, Apr. 21, 2002]

BEARS PLAY, PUBLIC PAYS

(By Andrew Martin, Liam Ford and Laurie Cohen)

As construction at Soldier Field advances, a Tribute analysis of the $632 million project shows that the public bill for the stadium renovation is higher than city officials have said it would be while benefits to taxpayers—in terms of promised parkland and additional part revenues—fall short of what was promised.

The bottom line is that the new Chicago Bears stadium will get one of the largest government contributions in the history of professional sports, a fact obscured by a public-relations strategy that tried to divert attention from the public costs. Among the Tribune's findings

City officials have said the public bill for the project won't exceed $406 million; in fact, another $26 million in public costs is buried in bond documents. That money brings the total public tab to $432 million.

While Mayor Richard Daley praised the Bears's $200 million contribution to the project as ''unheard of'' for a publicly owned stadium, neither the mayor nor anyone else involved in the project noted that the city's contribution also might be unprecedented.

Officials with the Chicago Park District, which owns Soldier Field, have called the renovated stadium a good deal for the agency. But an internal Park District analysis shows the agency will make $900,000 less the first full year the stadium is open, figures that officials now dispute. Meanwhile, the new stadium is expected to double the value of the Bears franchise, experts said.

Proponents of the stadium renovation pointed to the creation of 19 acres of parkland for Chicagoans. But officials counted landscaped medians and sloped berms beside a parking garage as part of the acreage, according to one of the project's architects, Dirk Lohan.

In reality, only about 10 acres of usable parkland is being created, according to an analysis by Friends of the Parks, which is suing to stop the renovation. The lawsuit could be decided at a hearing Thursday.

''You're not able to play on a slope or on the middle of a roadway,'' said Erma Tranter, the group's president.

The strategy to sell the Soldier Field renovations, mapped out in a 1990 memo by the Bears' public-relations firm, was based on emphasizing the new stadium's amenities, such as new parkland and expanded lakefront parking in an underground garage, while downplaying public costs for the Bears facility.

''The problem with the current debate is that it is too often about the Chicago Bears and not about the future of Chicago and its prized lakefront,'' according to the memo, crafted by the firm, Burson-Marsteller. The public-relations advisers recommended a strategy recommended a strategy that includes changing ''the conversation from 'public funding for the Chicago Bears stadium needs' to a civic-led discussion'' about such things as preserving Soldier Field as a landmark and ''doing things right, the Chicago way,'' said the memo, a copy of which was obtained by the Tribune.

The Soldier Field deal contradicts previous public statements from the mayor and Gov. George Ryan, who had balked at government financing for the stadium.

It also ran counter to a trend in the NFL in which teams in lucrative markets such as the Washington Redskins and the New England Patriots are paying most of the costs for their privately owned stadiums, the Tribune analysis found.

Meanwhile, in nearly every city where government subsidies were used for a publicly owned NFL stadium in the last decade, a referendum was held to ask voters whether they approved of the idea. In Chicago, the city went to court to stop a proposed referendum on the plan.

Daley on Saturday defended his support for the Soldier Field project, saying the $200 million private contribution was unprecedented and the public portion was paid for by taxes on hotel rooms, not property taxes.

Had the city not proceeded with the stadium deal, the mayor said, ''Soldier Field, what are you going to do with it?''

Daley appeared to confirm the Friends of the Parks allegation that the project would only create 10 acres of usable parkland, not 17. ''They're building 10 acres of open space and another seven acres of landscape in all of that. That's what you need to make it environmentally friendly.''

The city's longtime point man on the Soldier Field deal, Edward Bedore, a former city budget director who now is a lobbyist for the city, Park District Supt. David Doig and other Park District officials declined to be interviewed.

Bears Chief Executive Officer Ted Phillips and former Bears President Michael McCaskey declined to comment.

Barnaby Dinges, a public relations consultant for the project, said the Park District will save money in the long term by not paying the increasing costs of maintaining an old, deteriorating stadium.

''There are tremendous benefits to this project,'' Dinges said. ''After 30 years of trying, the Park District, the Bears, the city and the state finally found a plan that does right by taxpayers, park and Museum Campus users, the lakefront, sports and entertainment fans and the people of Illinois.''

In written responses to questions, Park District officials said that the Bears' contribution to the project far exceeds what most other teams have chipped in for stadiums. Park District officials also stood by their estimate for new parkland, which was revised from 19 acres to 17 acres after the deal passed the state legislature and more precise calculations were made.

''This figure includes the planted medians, which amount to just a fraction of an acre,'' the statement says.

Lohan, the architect, said, ''A berm can have plants on it, and isn't that part of a park?''

A DEAL IS STRUCK

Although most of the principals would not comment, others familiar with the deal suggested that the decades-long logjam over a new Bears stadium was broken because of a confluence of several key points. There was a flash of inspiration by the Bears' architect about how to squeeze a new stadium into a historic landmark, an infusion of cash from the NFL and a change of leadership in the governor's office and the Bears' executive suites.

At the same time, the deal created a huge public-works project with plenty of hefty contracts for friends and political allies of City Hall and Springfield. For instance, the bond work went to former proteges of Bedore's, security for the construction site is provided by an alderman's brother's firm and the local partner for the construction team is a major Ryan contributor whose vice president was chairman of the governor's inaugural ball.

The Soldier Field project was sold to the public, in part, because of the $200 million contribution by the Bears, which is the largest private contribution for a publicly owned NFL stadium. But the Bears are contributing only about $30 million of their own money. The remainder comes from $100 million from the NFL and the sale of personal seat licenses to season-ticket holders.

The public portion, $432 million, is being financed by an extension of a 2 percent city hotel tax originally levied by the Illinois Sports Facilities Authority to pay for Comiskey Park.

On its face, the city's portion of the Soldier Field project is the largest public contribution in the NFL, in which stadiums are larger and generally more expensive than those in other professional sports.

The next-biggest public contribution for a football stadium is in Cincinnati, where taxpayers paid $400 million for Paul Brown Stadium, the Bengals' new $449 million home, according to a Tribune analysis of NFL stadiums built in the last decade.

Precise comparisons are difficult because some stadium deals, including the deal for Soldier Field, provide amenities outside of the stadium. Similarly, some stadiums include costs for land acquisition. Some, like Soldier Field, do not because they are on publicly owned property.

The cost of building just the stadium at Soldier Field is estimated at $383 million, prompting the Park District to claim that the Bears will pay more than half the cost of the new facility. But critics say that calculation is imprecise because it does not include the cost of amenities that will primarily serve the stadium, such as the parking deck south of Soldier Field and landscaping on stadium access roads.

Marc Ganis, president of the Chicago-based sports consulting firm Sportscorp Ltd., said the high cost of the stadium and the public contribution reflect a decision to keep the Bears playing on the lakefront in a historic landmark rather than building a new stadium elsewhere.

''A 61,000-seat open-air football stadium on a clean site would likely cost less than $400 million,'' Ganis said.

CREATIVE FINANCING

Officials have pegged the public cost for the project at $406 million, but the actual amount is $26 million higher, thanks to some financial moves designed to skirt a legislative limit on the value of bonds sold to pay for the deal, the Tribune found.

Soon after the legislation was passed, it became clear that the project's costs, including the cost of issuing the bonds would exceed that limit, documents and interviews show. The funding problem worsened after Sept. 11 because a sudden drop in Chicago tourism threatened to erode the hotel tax revenues that would be used to pay off the bonds. Shortfalls would require the city to tap its share of state income taxes.

The solution involved a financing device that allowed the Illinois Sports Facilities Authority to raise $425 million on the bond sale in October while keeping the original value of the bonds at the legislative limit of $399 million. This was done by setting such low prices on some of the bonds that investors were willing to pay extra to buy them; the extra amount, or premium, wasn't included in the value of the outstanding bonds.

The total public bill comes to $432 million after adding $7 million in interest income on the bond proceeds.

While the public costs of the deal are higher than advertised, the benefits to the Park District appear to be lower. The agency's claims that it will make more money from the new Soldier Field are belied by its documents.

''Neighborhood park users win because a renovated Soldier Field will generate at least $10 million in net annual revenues for neighborhood park programs,'' Supt. Doig said in a 2001 letter published in the Tribune.

According to a city memo last year to Chicago aldermen, the Park District's profit from Soldier Field had been about $9.5 million a year. That figure will drop to $8.6 million in 2004, the first full year the new stadium will be open, a Park District forecast shows.

But even the $8.6 million profit forecast is inflated because it includes an annual subsidy from the Illinois Sports Facilities Authority that was wrapped into the Soldier Field legislation, meaning that one public agency essentially will be funding another. That subsidy, which will come from Chicago hotel taxes, will total $3.6 million in 2004.

In the written responses, Park district officials said that the $8.6 million forecast for 2004 didn't include another contribution from the Illinois Sports Facilities Authority—a $1.5 million annual payment for Soldier Field improvements—and a projected $500,000 fee from the Chicago Fire.

The soccer team, which played at Soldier Field before the renovation, plans to play at the new stadium in 2004 but has made no commitments beyond that year, a Fire official said.

Documents obtained by the Tribune did not include revenue forecasts beyond 2004. Park district officials said they are optimistic that revenues will continue to grow but declined to provide specifics.

FRIENDS LAND CONTRACTS

The Park District may be coming up short at Soldier Field, but some political supporters of Daley and Ryan are not.

Bedore, who retired from City Hall in 1993, has served as the city's consultant on Soldier Field for years. A former budget director for both Daley and his father, Bedore lists Michael Daley, the mayor's brother, as an attorney for his consulting business, records show.

The lead bond underwriter for the Soldier Field bonds was George K. Baum and Co. of Kansas City, Mo., which beat out several Wall Street companies for the work. Though the financial advisers for the Illinois Sports Facilities Authority ranked at least two other firms ahead of Baum, sources familiar with the deal said City Hall demanded the Baum get the assignment.

Baum's Chicago office is headed by two former city budget officials and Bedore proteges, Anthony Fratto and Albert Boumenot. Baum also had been selected to sell bonds for Millennium Park, another project that Bedore launched for Daley.

When Baum was selected for the Soldier Field work in March 2001, the firm never had been lead underwriter on a deal for more than $350 million, according to the information service Thomson Financial. Baum collected fees of at least $1.3 million for the deal, bond documents and interviews show.

Jerry Blakemore, the sports authority's chief executive, declined to comment on the bond deal, as did the authority's financial advisers. Fratto and Boumenot could not be reached for comment.

The prime contractor for the Soldier Field renovation, selected without competitive bidding by the Bears, is a joint venture that includes two national firms with stadium-building experience and Kenny Construction, a Wheeling firm whose principals are campaign contributors to both Daley and Ryan. The company's vice president also was chairman of Ryan's inaugural ball.

Security at the construction site is being provided by Monterrey Security, a 3-year-old firm that is partially owned by Santiago Solis, the brother of Ald. Danny Solis (25th), one of Daley's closest allies on the City Council.

BREAKING THE LOGJAM

Despite decades of squabbling over a new stadium for the Bears, the football club's fortunes began to change in late 1998.

That fall, the Bears' architect, Benjamin wood, raised the possibility of renovating Soldier Field, an idea that had always fizzled because there didn't seem to be a way to fit enough seats along the sidelines without ruining the stadium's historic charm.

During a visit to Chicago, Wood measured the distance between the colonnades of the stadium and thought he might be able to squeeze a stadium into Soldier Field by positioning all the skyboxes and club seats on one side.

The result: a narrower field that would fit within the stadium's colonnades while positioning most of its seats between the 20 yard lines. Seats in that area offer better views and higher prices.

In January 1999, George Ryan became governor, replacing Jim Edgar, who had fought with Daley for years over stadium deals. Ryan vowed to work with the mayor and the Bears to resolve the stadium issue ''short of spending taxpayers' dollars on a new stadium.''

A month later, McCaskey, who had openly feuded with Daley over stadium proposals, was ousted by his mother as Bears president and replaced by the more amiable Phillips.

With a new design for a stadium in the works, Phillips was a crucial funding boost in March 1999 when the NFL approved a program to help bib-city teams build arenas by offering to match a team's contribution to a stadium project.

Daley and Phillips later used the NFL money to pressure state legislators to pass the stadium deal during the fall veto session in 2000, saying the money could disappear unless it was used quickly.

The day the legislation was rushed through Springfield infuriated some legislators.

''It came out of left field carried by a Hall of Fame bevy of lobbyists and lawyers who told us that the sky is falling, the world would come to an end, civilization would end as we know it, unless we did this deal in the next 72 hours,'' state Rep. William Black (R-Danville) told his colleagues.

But late last week, NFL spokesman Greg Aiello indicated the legislative rush may have been unnecessary to land the NFL's $100 million commitment to the Bears.

''There wasn't a specific time frame,'' he said.

Mr. FITZGERALD. I will read an excerpt from that article:

The park district may be coming up short at Soldier Field but some political supporters of Daley and Ryan are not. Bedore, who retired from City Hall in 1993, has served as the city's consultant on Soldier Field for years. A former budget director for both Daley and his father, Bedore lists Michael Daley, the mayor's brother, as an attorney for his consulting business, records show. The lead bond underwriter for the Soldier Field bonds was George K. Baum and Co. of Kansas City, MO, which beat out several Wall Street companies for the work.

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bond deal, as did the authority's financial advisers. Fratto and Boumenot could not be reached for comment.

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Security at the construction site is being provided by Monterey Security, a 3-year-old firm that is partially owned by Santiago Solis, the brother of Alderman Danny Solis, one of Daley's closest allies on the city council.

What the Tribune has reported is flagrant, conspicuous, insider dealing. The friends and allies of the mayor get rich on huge public works projects that are, to begin with, misrepresented to the people. We have seen it with Millennium Park in Chicago, and we are seeing it now with Soldier Field. Does anyone really believe it is going to be any different with the O'Hare expansion?

The only difference with O'Hare will be the scale and the scope, both of the misrepresentations of the consequences of the project and of the amount of money that will flow to the friends and allies of the mayor.

Chicago is indeed the city that works, and it works the same angle over and over. The city cut the template on this kind of a deal: Ram it through, fabricate the details, and watch as the money comes home to daddy.

And what about the ordinary guys? A headline in the Sunday Chicago Sun-Times: Daley to city workers: Take unpaid days or face layoffs. The paper reports:

Mayor Daley is asking unions representing all city employees except police and firefighters to make a painful choice—take five unpaid vacation days, put off their raise for six months or face 425 layoffs—to generate $15 million in savings to help solve Chicago's worst budget crisis in a decade. . . .

I ask unanimous consent to have printed in the RECORD this article from the Chicago-Sun Times from April 21, 2002.

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

DALEY TO CITY WORKERS: PICK UNPAID DAYS OR LAYOFFS

''DON'T HOLD YOUR BREATH,'' REPLIES POLICE UNION CHIEF; OTHER LABOR GROUPS UPSET

(By Fran Spielman)

Mayor Daley is asking unions representing all city employees except police and firefighters to make a painful choice—take five unpaid vacation days, put off their raise for six months or face 425 layoffs—to generate $15 million in savings to help solve Chicago's worst budget crisis in a decade, labor leaders said.

''It's not anybody against anybody. It's trying to keep people surviving,'' Daley told reporters Saturday at a far South Side school.

Sworn police officers and firefighters would be exempt from layoffs partly because their contracts prohibit them unless non-safety personnel are sacrificed first.

But police and fire unions are being asked to contribute by accepting one unpaid furlough day. That would cost the average sworn police officer about $200.

''Don't hold your breath,'' said Mark Donahue, newly elected president of the Fraternal Order of Police.

''Our new board will be consulted. A decision will be made early next week. But I don't know that it has a great deal of chance to be considered. There's a lot of frustration among uniformed sworn personnel over our recent contract negotiations.''

James McNally, newly elected president of the Chicago Firefighters Union Local 2, refused to comment on the city's request, except to say that Chicago firefighters who changed union presidents this week are ''looking for a contract.''

Ousted Local 2 President Bill Kugelman, who got the boot because of the three-year wait for a new contract, didn't mince words.

''They've been sticking it to us all this time, and now we're supposed to be nice guys? All of these unions that Daley has no use for, and now he needs our help? Forget him? Where was he when we needed him? They haven't done a damned thing for us,'' Kugelman said.

''That's up to them,'' Daley said. ''You can only ask them, and that's what we're trying to do. We're trying to have no one laid off.''

The Chicago Police Department also is exploring the politically volatile possibility of slowing the steady march of recruit classes through the police academy to cut costs, said Lisa Schrader, a spokeswoman for the city's Office of Budget and Management.

The training academy has been churning out about 10 classes a year, each with 60 to 100 recruits.

If rookies hit the streets at a slower rate, it would reduce police protection at a time when the city is losing 650 to 700 officers a year to retirement and grappling with a rising homicide rate that last year made Chicago the murder capital of the nation.

''There have been internal discussions about what the effects would be of delaying a class. How much would it save,'' Schrader said. ''We don't want to do anything that will compromise public safety. But that's one of the things that's being looked at.''

There are 13,248 sworn police officers on the street, said Kimberly O'Connell-Doyle, manager of police personnel. Daley's 2002 budget authorized 13,522 sworn officers.

The Chicago Sun-Times reported earlier this month that Daley was extending a city hiring freeze through the end of the year, ordering a 5 percent cut in non-personnel spending and considering employee layoffs and more unpaid furlough days to close a $25 million first-quarter gap caused by lower than expected local tax revenues.

The mayor has said that tax increases on the eve of his 2003 re-election bid were a ''last, last, last resort,'' but he has refused to slam the door on either layoffs or new revenues.

Already, the budget crisis has prompted the City Council to establish an unprecedented $200 million line of credit to pay the city's bills if there's a repeat of what happened in February when the state was late with a $20 million income tax payment.

Late last week, City Hall began meeting with city labor leaders to discuss specific union givebacks.

At a meeting Friday hosted by the Chicago Federation of Labor, union leaders representing 14,050 non-safety employees got the bad news from John Doerrer, the former labor liaison now serving as the mayor's director of intergovernmental affairs.

Doerrer told them the city needs $15 million in personnel savings and that there are basically three ways to get there unless they have other ideas: 425 layoffs, five unpaid furlough days or a six-month deferral of their 3 percent mid-year pay raise.

Daley has the power to order layoffs without union consent so long as he goes about it as outlined by union contracts. Furlough days and pay raise deferrals need union approval.

''They have a shortfall of 425 jobs in two corporate funds, and every furlough day is [the equivalent] of 81 jobs. They're looking for $15 million. They don't care how they get to it,'' said Dennis Gannon, secretary-treasurer of the Chicago Federation of Labor.

''They gave us those choices, but we're not to the point of picking. The labor community chose to have the city talk to fire and police and see what can happen there, then come back and talk to us again,'' he said.

Another labor leader in attendance, who asked to remain anonymous, said the city ''didn't seem to have a well thought-out plan . . . They just said, 'Here are the options. Let's see which one is most doable.' Obviously to us, layoffs are the worst-case scenario, but most of the unions were pretty upset with it.''

Five years ago, union leaders allowed the city to reduce its contribution to their overfunded pension funds in a landmark deal that paved the way for a $20 million property tax cut, head-tax relief and $200 million in neighborhood improvements.

In exchange, the city agreed to lobby the General Assembly to increase the maximum retiree benefit from 75 percent of an employee's highest salary to 80 percent.

That never happened. And it left a bad taste in the mouths of the union leaders whose support Daley now needs to solve the budget crisis.

''If we go to our people and say, 'The city needs a hand,' they're going to say, 'They came to us before, and they didn't live up to their promise. Why should we help them out?' '' said one labor leader, who asked to remain anonymous.

Gannon agreed it's ''pretty hard to make more concessions when we're still waiting on things that were promised to us years ago.''

''I'd like to see them pass the pension bill, see how many people take retirement and then come back and talk to us about reality,'' he added. ''We could actually have 600 people take their pensions. We might not have to lay so many people off.''

Schrader insisted the options laid out for union leaders are not written in stone.

''We need to achieve a certain amount of savings, and there are several ways we can do it. It's not that rigid. We're saying, 'Let's work together and be creative,' '' she said.

The impact of layoffs on city services won't be known until specific employees are targeted. But it could translate into delayed garbage pickup, one union leader said.

Ten years ago, a budget crisis forced Daley to eliminate 1,474 jobs, 837 of them layoffs, and cancel a $25 million property tax cut that was the cornerstone of his 1991 reelection campaign.

The next year, he ordered an additional 740 layoffs and proposed a $48.7 million property tax increase. A rare City Council rebellion forced the mayor to settle for a $28.7 million property tax increase and cancellation of a supplemental increase to finance a new police contract.

The Mayor's pals get rich and the workers get to choose between layoffs or unpaid days off. What a contrast.

But here is a different idea: why not take it from the inside guys for a change? Why not take it from all the people who use their connections and clout to cash in on no-bid contracts

and concessions at O'Hare, or Soldier Field, or Millennium Park?

Why not learn from Millennium Park and Soldier Field and exempt O'Hare before the Mayor can do it again? We have a competitive bid proposal for concessions and contracts at O'Hare. It is comprehensive. The Daley-Ryan forces are opposing it. I wonder why that might be?

Maybe Mayor Daley should tell us, before the discussion goes any farther, who's going to pour the concrete at O'Hare? Will it be someone who has been lobbying for the expansion at O'Hare? Who will be hired as consultants or so-called ''expediters''? Who will get a cut of the contracts? Will it be Jeremiah Joyce or will it be Oscar D'Angelo? Who is going to get a piece of the action on the insurance? Is it Mickey Segal or is he too hot right now? What about the bonds? Who is going to rake it in there? Is it Baum and Co., and Tony Fratto? And what about the janitorial contracts? Will that be John Duff, Jr. and his sons, the Duffs?

We have a chance to pass a Federal competitive bid provision for O'Hare in the U.S. Senate. If we pass it, it should mean a markedly different way of doing business in Chicago, at least at O'Hare. There are a number of arguments we will make, and precedents we will review. Mr. President, I look forward to the debate and to continuing to work with my colleagues on that issue.

The PRESIDING OFFICER. The Presiding Officer, in his capacity as the Senator from West Virginia, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

Mr. REID. Mr. President, are we on the energy bill at this time?

The PRESIDING OFFICER. The bill has not been laid down yet.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 517, which the clerk will report by title.

The legislative clerk read as follows:

A bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917, in the nature of a substitute.

Dayton/Grassley amendment No. 3008 (to amendment No. 2917), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

Landrieu/Kyl amendment No. 3050 (to amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment.

Schumer/Clinton amendment No. 3093 (to amendment No. 2917), to prohibit oil and gas drilling activity in Finger Lakes National Forest, New York.

Dayton amendment No. 3097 (to amendment No. 2917), to require additional findings for FERC approval of an electric utility merger.

Feinstein/Boxer amendment No. 3115 (to amendment No. 2917), to modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004.

Murkowski/Breaux/Stevens amendment No. 3132 (to amendment No. 2917), to create jobs for Americans, to reduce dependence on foreign sources of crude oil and energy, to strengthen the economic self determination of the Inupiat Eskimos and to promote national security.

Reid amendment No. 3145 (to amendment No. 3008), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

### AMENDMENT NO. 3141

Mr. DORGAN. Mr. President, last week the Senate adopted an amendment that deals with vehicle efficiency. It deals with the issue of fuel cells. I want to describe the amendment, because I think it is a very important amendment.

The amendment directs the Energy Department to develop a program that would create measurable goals and timetables with the aim of putting 100,000 hydrogen fuel cell vehicles on the road by 2010, and 2.5 million by the year 2020, along with the needed hydrogen infrastructure. DOE would have to report annually on its progress toward achieving these goals.

The amendment is designed to have the Department of Energy work with the auto manufacturers to ensure these goals are met. With this amendment, we are sending a strong signal that our goal is to accelerate and enhance the development of fuel cell vehicles and fuel cell technologies with concrete targets and timetables.

I have asked the question with respect to our energy policy, especially with respect to our transportation sector, about whether our policy is going to be ''yesterday forever.'' I have said on previous occasions—and I will say it again—my first car was an antique 1924 Model T Ford that I bought for $25 as a young kid, and I restored it. It took me a couple of years to restore that old Model T. But a 1924 Model T Ford is fueled exactly the same way as a current model Ford. You drive up to the gas pump, stick a hose in the tank, and start pumping. Nothing has changed. Nothing has changed in 78 years, and it ought to change.

The issue of how we run our vehicles what kind of engines we use and what kind of fuel we use—we ought to inspire these changes by developing aspirations and national goals with respect to new technologies. I drove a fuel cell car here on the Capitol grounds some months ago. It has essentially a limitless battery that allows you to run the vehicle using this fuel cell. The fuel cell combines hydrogen and oxygen and the only byproduct is water vapor. Fuel cells have the potential to dramatically improve the efficiency of automobiles and dramatically reduce emissions, as opposed to the vehicles that we use now, which have the internal combustion engine we have used for decade after decade after decade.

We can decide that the debate will be a debate about our energy supply, as it has always been. That has been the energy debate we have had for a long while and will be again 25 and 50 years from now, unless we decide to create national aspirations and goals for new technologies.

I believe we ought to do that with respect to automobiles. Our transportation sector consumes the largest amount of energy in our society: about 40 percent of the oil products our Nation consumes each year, or nearly 8 billion barrels of oil each day. In 2001, we imported about 53 to 57 percent of our energy from abroad. That is expected to increase, according to the Energy Information Administration.

So the question is, What do we do about that? Some say we should just adopt CAFE standards. Others say let's develop new technologies. Others say let's not do anything at all. Let's let the marketplace decide who buys what, when, and why.

I think this country ought to encourage the development and the capability to move to a new technology. The Ford Motor Company representative stated that alternative fuel technology has the potential to significantly improve the fuel economy of vehicles, which could reduce U.S. dependence on imported oil, reduce greenhouse gas emissions, and save consumers substantial money at the pump.

Most major automakers are racing to produce prototype fuel cell vehicles. DaimlerChrysler has been talking about this now for several years. They plan to have a fuel cell car in production by the year 2004. California has a Clean Air Act requirement that will ensure that many fuel cell vehicles are going to be on the road. By next year—2003—2 percent of California's vehicles have to be zero-emission vehicles, and around 10 percent of its vehicles must be zero-emission vehicles by 2018. That means California could have nearly 40,000 or 50,000 fuel cell cars on the road by the next decade.

The amendment I offered is supported by the Alliance to Save Energy

and United Technologies. Senators CANTWELL, BAYH, REID of Nevada, DODD, LIEBERMAN, and HARKIN all cosponsored my amendment. The amendment was adopted last week. I think most Members of the Senate want to move, using new technology, to new opportunities and new goals for our country's future.

Fuel cells are expected to achieve energy efficiencies of 40 to 45 percent, and possibly much higher. After a century of constant improvements, the internal combustion engine converts, on average, about 19 percent of the energy and gasoline to turn the wheels of an automobile—19 percent. Fuel cells are expected to achieve efficiencies double that: 40 to 45 percent at least.

I think that as we debate this energy bill there is much, perhaps, that will persuade some that it is worthless. There is much in it that will persuade others it has great merit. There are a fair number of amendments that we have produced in the many weeks this bill has been on the floor of the Senate—thanks to the patience of Senator BINGAMAN, who I know wanted it completed much earlier—but there are many amendments that have been added to a pretty sound piece of legislation, in the first instance, that I think will commend this legislation to the Congress as a whole and to the American people as moving toward a solution.

Finally, when the Energy Department testified before our Energy Committee, I asked the representatives of the U.S. Department of Energy what goals they have for 25 and 50 years from now for our country's energy supply and energy use. We talk a great deal about what is going to happen 25 and 50 years from now with respect to Social Security and Medicare. What about with respect to energy use and energy supply, do we have goals there? The answer is, no, we do not. There are no such goals.

We ought to develop those goals, in my judgment. That is the purpose of this amendment dealing with new vehicle technology, and specifically with fuel cells.

Mr. President, I yield the floor.

AMENDMENT NO. 3239

Mr. REID. Mr. President, Senators BROWNBACK and CORZINE have offered an amendment No. 3239 to the underlying bill which replaces the mandatory greenhouse gas reporting requirement in the underlying bill with a ''hard trigger.'' That means emissions reporting will continue to be voluntary for at least the next 5 years, but if voluntary reports don't add up to at least 60 percent of total emissions at the end of 5 years, then mandatory reporting will be triggered.

I think this is a sound approach. I applaud the Senators for working together to come up with a reasonable compromise between voluntary and mandatory.

This amendment is an important step forward in promoting the development of emissions trading markets and market-based programs to reduce greenhouse gas emissions.

I also note that it is my belief, if cloture is invoked on this underlying bill, that this amendment will be in order.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRAHAM. Mr. President, I will ask to submit an amendment to the pending business which is the energy bill.

As we have seen over the past several days as the Senate has considered a variety of amendments to the energy bill, energy is not a subject which can be taken up in isolation. It is such a pervasive fact of our existence that it necessarily has significant impacts on other important considerations. Two of those are our environment and other aspects of our economy beyond energy itself.

The amendment I am offering today is intended to give to oil and gas companies, which currently hold leases for development in the eastern Gulf of Mexico planning area, an option. This would provide to these companies a voluntary option to trade those existing leases for credits of an equivalent value. These credits could be used toward royalty payments and rental fees.

I have been working with mineral policy experts, representatives from the oil industry, and concerned citizens over the past several months to try to develop a process that is reasonable, flexible, and mutually beneficial. I believe this amendment captures all of those qualities.

First, the amendment is reasonable because it gives to oil companies the voluntary option as to whether they wish to continue to pursue the development of the leases they have acquired—in many cases a considerable period of time in the past—or whether they would like to exchange those leases for credits which could be used to pay other costs the oil companies owe the Federal Government in the form of royalties or rentals. These credits take into account the amount the oil and gas company paid for the original lease and expenditures for exploration on those leases.

Second, the amendment is flexible. It would require the Secretary of the Interior to offer this lease-for-credit program to all of the companies that would be covered by the amendment, those that have leases in the eastern planning area, except for those that are currently in the process of application for a drilling permit, and the companies that voluntarily choose to participate in this program would receive credits which can be used effective in the year 2012. The value of these credits would take into account inflation for the period between the time the credits were issued and the time in which the credits were submitted for redemption. There also is a provision for added flexibility to give the companies the ability to initiate the lease-for-credit process and not necessarily have to wait for the Secretary of the Interior to do so.

Third, the amendment is beneficial because it provides a win-win-win situation for the current leaseholders, for the environment and the economy, and for the Nation as a whole.

It provides to the oil and gas companies an option that will give them value for leases in which today they have substantial cost but in many cases limited prospects of deriving a benefit.

It will be beneficial to the environment and the economy of the eastern Gulf of Mexico planning area. This is an area which is peculiarly dependent upon the quality of its water and the attractiveness of its coastal areas for its economic well-being.

In my State of Florida, tourism is the leading business, and of all the reasons that people come to our State, consistently our coastal areas have been listed as the No. 1 attraction. They also are a part of our fundamental culture. They are to our State and to other areas in the eastern planning region what, for instance, the Platte River would be in Nebraska or the Rocky Mountains in Colorado. They help define what kind of place, what kind of people we are. They are a critical part of our environment, as witness the fact that the Federal Government, through the Coastal Zone Management Act, has made the protection of our coastal zones a national priority.

The benefit to the Nation as a whole is seen by a precedent which has already occurred. During the administration of the first President Bush, there was concern about the potential adverse effects of a similar set of leases which covered approximately 600 square miles in the area south of the 26th latitude—the 26th latitude runs east and west, more or less, at the line of Naples to Fort Lauderdale—and that the development of those leases over that large 600-square-mile expanse could represent a serious threat to places such as Everglades National Park, the Dry Tortugas National Park, and the National Marine Sanctuary that protects the coral reefs of the Florida Keys. Therefore, under the leadership of the first President Bush, an effort was initiated to reacquire those 600 square miles of leases.

This became embroiled in litigation. It took almost 8 years to resolve the matter. But in the final instance, in 1995, those 600 square miles of leases were terminated. A fair compensation was arranged with the previous leaseholders, and the Nation benefited because some of its most valuable treasures were no longer subject to that vulnerability.

I believe the same win-win-win arrangement will be possible through this approach. It would be very appropriate that the now second President Bush, who as a candidate for President indicated his sensitivity to the importance of the coast, the environment, and the economic relationship of those in my State and in the eastern Gulf of Mexico planning area and indicated that he would use his influence to provide protection—there is no better form of protection that can be provided than that which is sought by this amendment and that which was achieved by his father's efforts in the area south of the 26th latitude.

There have been some who have suggested that these are in some way selfish moves and motivated by a desire for self-protection; that every part of the country which is a user of energy, which means every part of the country, should also be a supplier of energy; and that no part of the country should be off limits to make that contribution.

That is a fundamental misunderstanding of what the United States of America is. The United States of America is a republic of 50 States that have given to the central government certain powers to be administered under the laws that we and our colleagues in the House of Representatives pass.

The United States of America represents a common destiny, but each State has different things to contribute to that common destiny. As an example, our State provides over half the national supply of phosphate, a critical mineral, particularly for agriculture and for industrial activities. It is an activity which has been environmentally difficult for our State. I think maybe we are doing a better job today than we did in previous times. But we accept that as part of our contribution to the Nation. Nature happened to put a lot of the world's phosphate in what is now the State of Florida.

Near those phosphate mines is also grown over half the citrus that is consumed in the United States. That is a product that has great nutritional and health value. It requires a combination of climate and soil type that is uniquely found in Florida; therefore, we produce a lot of citrus.

We also, during the winter months, provide a substantial percentage of all the fresh fruits and vegetables consumed in the eastern U.S. We are a major fisheries State. We are the largest State for tourism, and we have the highest percentage of Americans who move to retire to someplace other than where they had lived. Florida receives more of those retirees than any other State. So we make a substantial number of contributions to America.

On the other side, we don't have much energy. Historically, we have not been a site where a significant amount of oil, gas, coal, or other major energy sources have been found. We even have difficulty with things that people find. Surprisingly, we are not a particularly good State for wind power because the winds are not reliable enough to convert it into commercial applications.

We are also a State which has not benefited by the industrial revolution, as most other States have. We were a State that did not have the essential qualities that the industrial revolution required. Energy access to certain raw materials, such as iron ore, cheap transportation systems in proximity to markets—none of those were true in Florida in the 19th century. Therefore, we largely were passed over in the industrial revolution.

So every State has its own strengths, weaknesses, and contributions. I believe one of the synergies which makes America a great place is that we recognize that and, collectively, we have almost a bounty of everything that humans would like to have. It just happens to be distributed over a continental landmass of the United States of America.

What Florida has particularly contributed, and what the eastern planning area of the Gulf of Mexico includes, is beautiful waters, pristine beaches, areas that contribute substantially to the economy, while at the same time protecting the environment. The principal threat to that environment today is the potential of developing inappropriate oil and gas production, and that we might suffer some accident that would result in damage to those critically important parts of our State.

This amendment I am offering, I believe, stands the test of being fair to all parties—fair to the oil and gas companies by giving them a voluntary election, a means by which they can recapture past expenses in the form of credits that they can use for required future expenses, balanced insofar as protecting the economy and the environment of the eastern Gulf of Mexico, and will meet the same kind of national standards as the first President George Bush did when he led the way to eliminate 600 square miles of oil and gas leases off the Florida Keys and the southwest coast of my State.

This is an opportunity that I hope we will grasp as part of this energy bill. I recognize there are, in a parliamentary sense, other amendments that will be considered prior to this. We will be taking a vote tomorrow on a cloture motion, which could further affect the procedure for consideration of amendments. But I am committed that the Congress will have an opportunity to consider this approach, which I think brings such value and security to our Nation and to our future environment and economy.

I appreciate this opportunity to outline this proposal. At the appropriate time, I look forward to calling this amendment before the Senate.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BINGAMAN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The bill S. 517.

## MORNING BUSINESS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business and that Senators be allowed to speak for up to 10 minutes each.

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

## ADDITIONAL STATEMENTS

### PROSPECTS FOR PEACE

● Mrs. LINCOLN. Mr. President, now that Secretary of State Colin Powell has concluded his recent diplomatic mission to Israel and the Middle East, I would like to take this opportunity to reflect on recent events in the region. There are many opinions about the most effective approach to the current crisis, but I believe the Bush administration's renewed emphasis on ending the violence and reaching a negotiated settlement is a positive development.

As America properly takes steps to defend our Nation's vital economic and security interests in the region, though, we must be mindful that Israel is a sovereign nation with a responsibility to defend the safety and security of its citizens. After suffering dozens of deadly attacks aimed at innocent civilians during the last 18 months, I believe Israel has every right to take steps, including military action, to neutralize Palestinian terrorists that Yasser Arafat and the PLO have been unable or unwilling to detain. I would expect no less from our Nation and it is unfair to ask any less from Israel. The United States endured some international criticism for our anti-terrorism campaign in Afghanistan and I would expect a special empathy by the U.S. Government toward Israel as it faces similar criticism today.

I am optimistic that the current military operation in the West Bank will curb the violence so that the peace process can proceed in a meaningful way. To achieve a final settlement, all interested parties will be required to make painful and difficult choices in the weeks and months ahead. I believe Israel has demonstrated its willingness and ability over time to live up to its commitments and responsibilities to exist peacefully with its neighbors.

Unfortunately, the lack of leadership and vision exhibited by the Palestinian Authority in recent years has, in my estimation, prevented the Palestinian people from achieving liberation and attaining the hopes and dreams they

deserve. Let's hope Chairman Arafat fully appreciates the precarious nature of his current position and how the choices he makes in the immediate future will determine what role he will play in future peace negotiations.

I want to conclude, by expressing my profound sadness for the tragic loss of life that has befallen both Israelis and Palestinians in this conflict. As a person of faith, I value the inherent dignity of every human being and believe all interested parties have a responsibility to actively pursue the benefits of peace and freedom. It is my sincere hope that through strong leadership and determination, the next generation of Israeli and Palestinian children will be able to focus on building a prosperous future instead of on the carnage and destruction of the past.●

## EVERY DAY IS EARTH DAY IN OREGON

● Mr. SMITH of Oregon. Mr. President, I come to the floor today on the occasion of Earth Day, which was first officially recognized 32 years ago. I can assure you, however, that the spirit of Earth Day has been in bold practice for generations in my home State of Oregon, where the words of John Jay ring true: ''this land and these people were made for each other.''

What is unique about Oregon is that, for so many, there is a profound connection between the products and comforts of our daily lives and where those products ultimately came from. In Oregon, it is difficult to forget that the wood our homes are built of came first from a forest, a forest that was harvested and has since been regenerated. We know that the food we buy for our families at grocery stores came first from a farm, a farm most likely owned and operated by another family not unlike our own. Oregonians can easily remember these things because the forests and the farms are not in some distant region, they are right down the road.

Down those countryside and mountain roads, you will find Oregon's first and finest environmentalists: generations of fishers, farmers and foresters who learned long ago that Oregon's rich natural resources could be perpetually sustained through careful stewardship and innovation.

Down one of those roads, near The Dalles, you will find the Baileys, who were recently given the American Farmland Trust's Steward of the Land Award. The Bailey's orchard was established in 1923, and successive members of the Bailey family have continued to use the latest research and technology to minimize the farm's impact on the land and water. The Baileys initiated an Integrated Fruit Production program for their trees, which includes efficient and responsible pest management, irrigation practices and control of weeds without residual herbicides.

They have also been strong advocates of preserving farmland and agricultural communities. For the Baileys and so many others, the values of the farm go far beyond the safe and affordable food they provide, but also extends to the scenic open space, wildlife habitat and filters for clean air and water that the farm provides.

The growing awareness of those values has finally reached the policymakers in this country. I am eager and hopeful that a balanced agreement on this year's Farm Bill will include a landmark commitment to cost-share and incentive payments for farm stewardship practices, as outlined in the Harkin-Smith Conservation Security Act. When that investment is made, we will have taken a bold step toward recognizing and rewarding all the Baileys of this country, and ensuring that there are many more to come.●

## FOREIGN LANGUAGE ASSISTANCE PROGRAM AND THE NATIONAL SECURITY EDUCATION PROGRAM'S NATIONAL FLAGSHIP LANGUAGE INITIATIVE

● Mr. AKAKA. Mr. President, I rise today to request full funding for the Foreign Language Assistance Program, FLAP, which has been cut from the President's fiscal year 2003 budget and for the National Security Education Program's, NSEP, National Flagship Language Initiative. These two programs would enhance the foreign language capabilities of this Nation at a time when foreign language proficiency plays a critical role in maintaining our national security. The security, stability, and economic vitality of the United States depend on American citizens knowledgeable about the world. To become so, we need to encourage knowledge of foreign languages and cultures.

Unfortunately, the United States faces a critical shortage of language proficient professionals throughout Federal agencies. The inability of law enforcement officers, intelligence officers, scientists, military personnel, and other federal employees to decipher and interpret information from foreign sources, as well as interact with foreign nationals, presents a threat to their mission and to the well being of the Nation. It is crucial that we invest in programs like the Flagship Initiative and FLAP in order to strengthen the security of the United States.

While the General Accounting Office has highlighted the Federal Government's deficiency in personnel with foreign language proficiency, the entire country became aware of this problem after the events of September 11th, when FBI Director Robert Mueller called on English-speaking Americans with professional level proficiency in Arabic and Farsi to help with the translation of documents for the ensuing investigation. To address this need, Senators DURBIN, THOMPSON, and I introduced S. 1799, the Homeland Security Education Act, and S. 1800, the Homeland Security Federal Workforce Act. These proposals are designed to improve educational programs in science, mathematics, and foreign languages and then attract graduates possessing these critical skills to the Federal Government.

However, these legislative initiatives cannot succeed if the foundations on which they are based are not supported. Moreover, while these initiatives go a long way to help agencies recruit those possessing these critical skills, we needs programs like FLAP and the Flagship Initiative to create a larger talented and proficient applicant pool to address the growing foreign language needs in the national security community.

NSEP was created in 1991 by the David L. Boren National Security Education Act, P.L. 102–183, and administers three programs to enhance foreign language education: undergraduate scholarships for study abroad, graduate fellowships, and grants to U.S. institutions of higher education. As part of its grant program, NSEP intends to implement a National Flagship Language Initiative. The Flagship Initiative would establish national and regional language programs in universities throughout the Nation. These institutions would in turn educate significant numbers of graduates, across disciplines, with advanced proficiency levels in those languages critical to our national security.

The Flagship Initiative is designed to address the urgent and growing need for higher levels of language competency among a broader cross-section of professionals, particularly for those who will join the federal workforce. The goal is to produce students with professional proficiency in critical foreign languages. Professional proficiency is considered to be at least a level 3 proficiency in listening, reading, and speaking where an individual is capable of speaking with sufficient structural accuracy and vocabulary to participate effectively in most formal and informal conversations on practical, social, and professional topics.

However, current foreign language programs in the United State, both Federal and academic, at best, aim toward 'limited working proficiency' which is defined as level 2. This skill level includes the ability to satisfy routine social demands and limited work requirements and handle routine work-related interactions that are limited in scope. Level 2 proficiency is generally insufficient for more complex and sophisticated work-related national security tasks.

While programs like the Flagship Initiative would make significant improvements in the country's language capabilities, university-level training alone will not meet the challenge currently before us. We must also take steps to address what foreign language experts have recommended for years—start early. The Foreign Language Assistance Program, FLAP, initiates, through competitive grants, foreign

language study at the elementary and secondary level—when students have the best chances of developing the strongest language proficiencies as adults. Eliminating funding for FLAP would be a disservice to the nation. We would have contributed to the lack of foreign language proficiencies at a time when the government needs people with those skills the most.

Both FLAP and NSEP have suffered from inadequate funding over the past few years. Funding for FLAP was $14 million in FY 2002, but the program has never received funding resembling that which was anticipated at its inception $35 million.

NSEP receives funding from the National Security Education Trust Fund. Under the Department of Defense Appropriations Act for FY 1992, the NSEP trust fund received $150 million. Since then, more than $80 million from the trust fund has been transferred to other federal projects and only $8 million has been appropriated for NSEP projects each year. The trust fund is now valued at $43 million. This amount alone cannot support both NSEP's current programs and the innovative Flagship Initiative.

NSEP has conducted a survey of universities and has found a number of them willing and qualified to participate in this program. I am pleased to say that the University of Hawaii has been designated a likely flagship school due to the strength of its faculty and curriculum. However, in order to implement this program, approximately 10 national flagship programs and three regional flagship programs will be required. It is estimated that full implementation across a wide array of languages will require an investment of at least $20 million per year.

I urge my colleagues to support full funding of FLAP and the Flagship Initiative.●

## IN RECOGNITION OF RUDOLFO ANAYA

● Mr. DOMENICI. Mr. President, I rise today to honor the accomplishments of Chicano writer Rudolfo Anaya. Often considered ''the godfather of Chicano literature,'' Mr. Anaya writes of Hispanic culture and his experiences in the American Southwest, and especially of life in New Mexico.

Born in the small village of Pastura, NM, Mr. Anaya is the fifth child of seven in a devout Catholic family. Growing up, Rudolfo's family spoke Spanish at home sharing stories about their culture and history. His upbringing in the American Southwest taught him to be proud of his Hispanic heritage which is often reflected in his writing. Rudolfo's technique of ''cuento'' stems from this important Hispanic tradition of oral storytelling.

Mr. Anaya can be proud of his many accomplishments. It would be hard to find a Chicano studies or literature course that did not include one of Rudolfo's works, such as ''Bless Me, Ultima,'' which won the Premio Quinto Sol national award for Chicano literature. In addition, New Mexicans and readers around the world have enjoyed his novel ''Albuquerque,'' his children's book, ''The Farolitos of Christmas,'' and his other essays and plays.

In addition, Rudolfo has worked diligently to inspire and promote other Hispanic writers. He has encouraged publishers to recruit more Hispanic writers and share their stories with the American public. His efforts have also helped Hispanic children find an interest in reading, stimulating a new generation to become more involved in their history and improving their literacy skills.

President Bush has chosen to honor Rudolfo Anaya's accomplishments by bestowing on him a National Medal of Arts for 2001. Originally created by Congress in 1984, the National Medal of Arts allows the President to select exceptional individuals for ''their outstanding contributions to the excellence, growth, support, and availability of the arts in the United States.'' Clearly, Rudolfo is one such individual deserving of recognition for his contributions not only to the arts but to Hispanic culture as well.

Rudolfo is a living New Mexico treasure, giving voice to the heritage and culture of a proud people. Through his writings we get a chance to enter the heart of the Chicano and Hispanic culture that is part and parcel of who we are, as a whole, as New Mexicans. On behalf of the Senate, I want to thank this fellow New Mexican for the fine work he has done. I am proud of him and commend him on receiving a National Medal of Arts award.●

## TRIBUTE TO SHARON DARLING

● Mr. MCCONNELL. Mr. President, I rise today to honor Sharon Darling, the founder and president of the National Center for Family Literacy, in Louisville, KY. Sharon is a recipient of the 2001 National Humanities Medal and I want to offer my congratulations to her on this tremendous honor.

Sharon Darling is a devoted civic leader and a longtime advocate of family literacy. Through hands on experience as an elementary school teacher and an adult reading mentor, Sharon developed an education program that stresses the importance of early childhood education, adult literacy education, and parental involvement in the learning process. In 1989, she used her revolutionary program as a foundation for establishing the National Center for Family Literacy. Under Sharon's leadership the NCFL has grown into a widely respected national organization that promotes family literacy. Today the NCFL has more than 3,000 literacy programs throughout America.

The National Humanities Medal honors individuals whose work has contributed to their community by broadening citizens' access to the humanities. Given the years of service Sharon has dedicated to helping families read, I cannot think of anyone more deserving of this honor. Whether helping them to enjoy classic literature or simply understand written instructions, Sharon's work has improved the lives of countless Americans.

Sharon's commitment to public service does not end with the National Center for Family Literacy. She also actively serves with a number of important national and international organizations such as the International Women's Forum, Barbara Bush Foundation for Family Literacy, National Coalition for Literacy, the American Indian Education Foundation, and the Heart of America Foundation.

Sharon, my colleagues, and I, join in congratulating you on your fine achievements. We also thank you for the time and effort you have put into the lives of others. I know the people of Kentucky and this great nation will continue to benefit from your contributions for many years to come.●

## LOCAL LAW ENFORCEMENT ACT OF 2001

● Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of last year. The Local Law Enforcement Act of 2001 would add new categories to current hate crimes legislation sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 29, 2001 in Nashville, Tennessee. Willie Houston, 38, was fatally shot in the chest. The alleged gunman, Lewis Maynard Davidson III, 25, taunted the victim with anti-gay epithets, and shot him outside a restaurant. While the victim was reportedly not gay, Tennessee hate crime laws cover violence based on real or perceived sexual orientation.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MEASURE REFERRED

The Committee on Veterans' Affairs was discharged from the further consideration of the following bill; which was referred to the Committee on the Judiciary:

S. 1644. A bill to further the protection and recognition of veterans' memorials, and for other purposes

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions.

Rene Acosta, of Virginia, to be a Member of the National Labor Relations Board for the remainder of the term expiring August 27, 2003.

*Dennis P. Walsh, of Maryland, to be a Member of the National Labor Relations Board for the term of five years expiring December 16, 2004.

*Nomination was reported with recommendation that it be confirmed subjected to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KOHL:

S. 2216. A bill to suspend temporarily the duty on fixed-ratio gear changers for truck-mounted concrete mixer drums; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 2217. A bill to designate the facility of the United States Postal Service located at 3101 West Sunflower Avenue in Santa Ana, California, as the ''Hector G. Godinez Post Office Building''; to the Committee on Governmental Affairs.

By Mrs. LINCOLN (for herself and Ms. COLLINS):

S. 2218. A bill to amend title XVIII of the Social Security Act to provide coverage for kidney disease education services under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. EDWARDS (for himself, Mr. JEFFORDS, and Mr. KENNEDY):

S. 2219. A bill to provide for compassionate payments with regard to individuals who contracted the human immunodeficiency virus due to provision of a contaminated blood transfusion, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. JEFFORDS:

S. 2220. A bill to amend the Solid Waste Disposal Act to require implementation by brand owners of management plans that provide refund values for certain beverage containers; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER (for himself and Mr. SMITH of Oregon):

S. 2221. A bill to temporarily increase the Federal medical assistance percentage for the medicaid program; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LIEBERMAN (for himself, Mr. SMITH of Oregon, Mr. DASCHLE, Mr. CLELAND, and Ms. COLLINS):

S. Res. 247. A resolution expressing solidarity with Israel in its fight against terrorism; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 572

At the request of Mr. CHAFEE, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 572, a bill to amend title XIX of the Social Security Act to extend modifications to DSH allotments provided under the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.

S. 776

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 776, a bill to amend title XIX of the Social Security Act to increase the floor for treatment as an extremely low DSH State to 3 percent in fiscal year 2002.

S. 808

At the request of Mr. BAUCUS, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 808, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. 885

At the request of Mr. HUTCHINSON, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 885, a bill to amend title XVIII of the Social Security Act to provide for national standardized payment amounts for inpatient hospital services furnished under the medicare program.

S. 897

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 897, a bill to amend title 39, United States Code, to provide that the procedures relating to the closing or consolidation of a post office be extended to the relocation or construction of a post office, and for other purposes.

S. 960

At the request of Mr. BINGAMAN, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 960, a bill to amend title XVIII of the Social Security Act to expand coverage of medical nutrition therapy services under the medicare program for beneficiaries with cardiovascular diseases.

S. 1016

At the request of Mr. BINGAMAN, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 1016, a bill to amend titles XIX and XXI of the Social Security Act to improve the health benefits coverage of infants and children under the medicaid and State children's health insurance program, and for other purposes.

S. 1329

At the request of Mr. JEFFORDS, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1329, a bill to amend the Internal Revenue Code of 1986 to provide a tax incentive for land sales for conservation purposes.

S. 1626

At the request of Mr. BINGAMAN, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1626, a bill to provide disadvantaged children with access to dental services.

S. 1917

At the request of Mr. JEFFORDS, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1917, a bill to provide for highway infrastructure investment at the guaranteed funding level contained in the Transportation Equity Act for the 21st Century.

S. 1924

At the request of Mr. LIEBERMAN, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1924, a bill to promote charitable giving, and for other purposes.

S. 1945

At the request of Mr. JOHNSON, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1945, a bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes.

S. 1967

At the request of Mr. KERRY, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1967, a bill to amend title XVIII of the Social Security Act to improve outpatient vision services under part B of the medicare program.

S. 2046

At the request of Mr. CRAIG, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2046, a bill to amend the Public Health Service Act to authorize loan guarantees for rural health facilities to buy new and repair existing infrastructure and technology.

S. 2051

At the request of Mr. REID, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2067

At the request of Mr. BINGAMAN, the names of the Senator from New Jersey (Mr. TORRICELLI) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2067, a bill to amend title XVIII of the Social Security Act to enhance the access of medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits, to improve the Medicare+Choice program, and for other purposes.

S. 2070

At the request of Mr. BINGAMAN, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 2070, a bill to amend part A of title IV to exclude child care from the determination of the 5-year limit on assistance under the temporary assistance to needy families program, and for other purposes.

S. 2184

At the request of Mr. BREAUX, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2184, a bill to provide for the reissuance of a rule relating to ergonomics.

S. 2189

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2189, a bill to amend the Trade Act of 1974 to remedy certain effects of injurious steel imports by protecting benefits of steel industry retirees and encouraging the strengthening of the American steel industry.

S. 2194

At the request of Mrs. FEINSTEIN, the names of the Senator from California (Mrs. BOXER), the Senator from New York (Mrs. CLINTON), the Senator from New York (Mr. SCHUMER), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 2194, a bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes.

S. 2215

At the request of Mrs. BOXER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

S. RES. 109

At the request of Mr. REID, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. Res. 109, a resolution designating the second Sunday in the month of December as ''National Children's Memorial Day'' and the last Friday in the month of April as ''Children's Memorial Flag Day.''

S. RES. 185

At the request of Mr. ALLEN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. Res. 185, a resolution recognizing the historical significance of the 100th anniversary of Korean immigration to the United States.

S. RES. 230

At the request of Mr. CORZINE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. Res. 230, a resolution expressing the sense of the Senate that Congress should reject reductions in guaranteed Social Security benefits proposed by the President's Commission to Strengthen Social Security.

AMENDMENT NO. 3141

At the request of Mr. DORGAN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of amendment No. 3141 proposed to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN:

S. 2217. A bill to designate the facility of the United States Postal Service located at 3101 West Sunflower Avenue in Santa Ana, as the ''Hector G. Godinez Post Office Building''; to the Committee on Governmental Affairs.

Mrs. FEINSTEIN. Mr. President, I rise to ask my colleagues to support a bill to name the Santa Ana, CA Post Office as the ''Hector G. Godinez Post Office Building.'' I introduced similar legislation the during the last session of Congress, and I hope, with the Senate's support, it will become law during this session.

Hector Godinez, who passed away in May of 1999, was a true leader in his community of Santa Ana, CA. He was a pioneer in the United States Postal Service rising from letter carrier to become the first Mexican-American to achieve the rank of District Manager within the United States Postal Service. He served with honor in World War II, was a ardent civil rights activist and an active participant in civic organizations and local government.

After graduation from Santa Ana High School, Mr. Godinez enlisted into the armed services and was a tank commander in World War II under General George Patton. For his service, he earned a bronze star for bravery under fire and was also awarded a purple heart for wounds received in battle.

Upon his return home in 1946, Mr. Godinez started his first of 48 years of distinguished service as a United States postal worker.

Hector Godinez was a true pillar within the Santa Ana community devoting his tireless energy to such civic groups as the Orange County District Boy Scouts of America, Santa Ana Chamber of Commerce, Orange County YMCA and National President of the League of United Latin American Citizens, one of the country's oldest Hispanic civil rights organizations.

On behalf of the Godinez family and the people of Santa Ana, CA, it is my pleasure to introduce this bill to name the Santa Ana, CA Post in his honor.

Mr. JEFFORDS:

S. 2220. A bill to amend the Solid Waste Disposal Act to require implementation by brand owners of management plans that provide refund values for certain beverage containers; to the Committee on Environment an Public Works.

Mr. JEFFORDS. Mr. President, I rise today in celebration of Earth Day to introduce the National Beverage Producer Responsibility Act of 2002. This legislation will increase recycling, reduce litter, save energy, create jobs, decrease the generation of waste and proliferation of landfills, and supply recyclable materials for a high-demand market.

The estimated 1999 recycling rate for aluminum, glass and plastic beverage containers was 41 percent when measured by units and 30 percent when measured by weight. This is unacceptable. We have many laws in place holding industries responsible for their actions; the beverage industry should not be exempt.

The arguments for increasing the beverage container recycling rate to 80 percent could not be more timely. This redemption rate would save the equivalent of 640 million barrels of oil in the next decade. Based on 1999 figures, recycled containers accounted for a reduction of greenhouse gas emissions by 4,093,000 metric tons, or about 79 pounds for each of 103.9 million households in the U.S. Analysis shows that land filling the containers recycled in 1999 would have required the use of about 20 million cubic yards of landfill space. A single landfill of this size, with a depth of 300 feet, would cover an area of about 40 acres. Recycling is an easy way to ease our dependence on foreign oil, reduce greenhouse gas emissions, and conserve natural resources.

Ten States, including Vermont, attest to the success of deposit legislation, commonly called bottle bills. Vermont, whose law passed in 1972, has one of the highest redemption rates in the nation, 95 to 98 percent of deposit-bearing containers are recycled. The popularity behind the issue grows every year; thirty bottle bills were introduced this year in State legislatures across this country.

The National Beverage Producer Responsibility Act of 2002 is a new approach to the traditional bottle bill

legislation, which prescribes specific roles and responsibilities for retailers and distributors. Some believe that these prescriptive provisions constrain the industry from innovating more cost-effective solutions to the beverage container management challenge.

The National Beverage Producer Responsibility Act sets a performance standard which industry must meet and allows industry the freedom to design the most efficient deposit-return program to reach the standard. By providing beverage companies the flexibility to structure and operate their own container recovery programs, this legislation simply extends the beverage company's ''supply chain'' to include the management of empty containers after consumption. This approach is appealing because it reduces the administrative burden on government and takes full advantage of the business skills of industry.

Specifically, the National Beverage Producer Responsibility Act would: establish a measurable performance standard of 80% recovery of used, empty beverage containers for recycling or reuse; establish a minimum refundable deposit, of 10 cents, as the economic incentive for consumers to recycle; require beverage brand-owners, as a condition of sale of their product, to develop and submit to the Environmental Protection Agency a Beverage Container Management Plan, within 180 days of the law's implementation; establish consequences for failing to submit, implement and operate the approved Program and achieve the legislated Performance Standard; and establish provisions for evaluation and monitoring of the industry's performance.

I look forward to holding a hearing on this legislation this summer in the Senate Environment and Public Works Committee.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

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

S. 2220

*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 ''National Beverage Producer Responsibility Act of 2002''.

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the beverage industry has an established and effective marketing infrastructure that provides a wide range of beverage products at affordable prices to consumers in the United States;

(2) the absence of a beverage industry infrastructure for recovering used beverage containers has—

(A) placed undue burdens on local waste authorities;

(B) failed to provide any incentive for the beverage industry to reduce waste; and

(C) resulted in tens of billions of unrecycled beverage containers per year, including 114,000,000,000 unrecycled beverage containers in 1999;

(3) of particular concern—

(A) glass beverage containers are difficult and costly to recycle through municipal curbside programs because of breakage;

(B) valuable beverage container types are being replaced with low-value plastics and composite packaging; and

(C) removing glass or other valuable beverage container types from curbside programs has been found to reduce the public costs of those programs;

(4) an efficient, industry-operated system of beverage container collection, recycling, and reuse would—

(A) reduce the overall burden placed on taxpayers and municipal waste management systems; and

(B) shift the responsibility for that collection, recycling, and reuse to beverage producers and consumers;

(5) deposit systems, originally devised by the beverage industry to recover used bottles, have been shown to be an effective and sustainable means for recovering used beverage containers, especially the increasing proportion of beverage containers the beverages contained by which are consumed away from the home;

(6) greater reuse and recycling of beverage containers would—

(A) significantly improve the energy and emissions performance of the beverage industry of the United States; and

(B) in each year, conserve an amount of electrical energy equivalent to that required to serve millions of homes in the United States;

(7) 10 States have enacted and implemented laws designed to protect the environment, conserve energy and material resources, and reduce waste by requiring—

(A) beverage consumers to pay a deposit on the purchase of beverage containers; and

(B) the beverage industry to pay a refund on used beverage containers that are returned for reuse and recycling;

(8) those laws—

(A) enjoy strong public support; and

(B) have proven to be effective in achieving high rates of beverage container reuse and recycling;

(9) a national standard for beverage container reuse and recycling would ensure that beverage consumers in all regions of the United States would enjoy access to beverage container reuse and recycling services;

(10) a beverage container reuse and recycling system designed by brand owners could—

(A) be seamlessly integrated with the national and regional marketing systems of the brand owners;

(B) maximize efficiency of the brand owners; and

(C) minimize unproductive costs of compliance with requirements of several different recycling programs;

(11) a national system of beverage container reuse and recycling is consistent with the intent of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); and

(12) this Act is consistent with the goals established by the Administrator of the Environmental Protection Agency, including the national goal of 35 percent source reduction and recycling by 2005.

**SEC. 3. BEVERAGE CONTAINER REUSE AND RECYCLING.**

(a) IN GENERAL.—The Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) is amended by adding at the end the following:

**''Subtitle K—Beverage Container Reuse and Recycling**

**''SEC. 12001. DEFINITIONS.**

''In this subtitle:

''(1) BEVERAGE.—

''(A) IN GENERAL.—The term 'beverage' means a nonalcoholic or alcoholic carbonated or noncarbonated liquid that is intended for human consumption.

''(B) EXCLUSIONS.—The term 'beverage' does not include milk or any other dairy or dairy-derived product.

''(2) BEVERAGE CONTAINER.—The term 'beverage container' means a container that—

''(A) is constructed primarily of metal, glass, plastic, or paper (or a combination of those materials);

''(B) has a capacity of not more than 1 gallon of liquid; and

''(C) on or after the date of enactment of this subtitle—

''(i) may contain or contains a beverage; and

''(ii) is offered for sale or sold in interstate commerce.

''(3) BEVERAGE CONTAINER AGENCY.—The term 'beverage container agency' means, as determined by a brand owner—

''(A) the brand owner; or

''(B) an entity appointed by the brand owner to act as an agent on behalf of the brand owner.

''(4) BRAND OWNER.—The term 'brand owner' means a person that owns the trademark for, manufactures, distributes, or imports for resale in interstate commerce, a beverage sold in a beverage container.

''(5) MANAGEMENT PLAN.—The term 'management plan' means a management plan submitted under section 12004.

''(6) RECOVERY RATE.—The term 'recovery rate' means the percentage obtained by dividing—

''(A) the number of beverage containers of a brand owner returned for a refund under section 12005(b)(2) in a calendar year; by

''(B) the number of beverage containers of the brand owner for which a deposit was collected under section 12005(a)(1) in the calendar year.

''(7) REFUND VALUE.—The term 'refund value' means the refund value of a beverage container determined in accordance with section 12006.

''(8) RETURN SITE.—The term 'return site' means an operation, facility, or retail store, or an association of operations, facilities, or retail stores, that—

''(A) is identified in an approved management plan; and

''(B) is operating under contract entered into by the return site and a beverage container agency to collect and redeem empty beverage containers of 1 or more brand owners.

''(9) SELLER.—

''(A) IN GENERAL.—The term 'seller' means a person that sells a beverage in a beverage container.

''(B) INCLUSIONS.—The term 'seller' includes all members of the supply chain.

''(10) UNBROKEN BEVERAGE CONTAINER.—The term 'unbroken beverage container' includes a beverage container that has been opened in a manner in which the beverage container was designed to be opened.

**''SEC. 12002. RESPONSIBILITIES OF BRAND OWNERS.**

''(a) IN GENERAL.—Each brand owner shall implement an effective redemption, transportation, processing, marketing, and reporting system for the reuse and recycling of used beverage containers of the brand owner.

''(b) PROHIBITION OF POST-REDEMPTION LANDFILLING OR INCINERATION.—No brand owner or beverage container agency shall dispose of any beverage container labeled in accordance with section 12003 in any landfill or other solid waste disposal facility.

**''SEC. 12003. BEVERAGE CONTAINER LABELING.**

''(a) IN GENERAL.—No brand owner may sell or offer for sale in interstate commerce a beverage in a beverage container unless a statement of the refund value of the beverage container is clearly, prominently, and

securely affixed to, printed on, or embossed on the beverage container.

''(b) SIZE AND LOCATION OF REFUND VALUE STATEMENT.—The Administrator shall promulgate regulations establishing uniform standards for the size and appropriate location on beverage containers of the refund value statement required under subsection (a).

**''SEC. 12004. MANAGEMENT PLANS.**

''(a) SUBMISSION OF PLANS.—Not later than 180 days after the date of enactment of this subtitle, each beverage container agency shall submit to the Administrator—

''(1) a management plan, in such form as the Administrator may prescribe, for the collection, transport, reuse, and recycling of beverage containers that the beverage container agency, or that each brand owner represented by the beverage container agency, sells into interstate commerce; and

''(2) a fee, in such amount as the Administrator may establish by regulation, to cover administrative costs relating to administration of the management plan.

''(b) CONTENTS OF PLAN.—A management plan submitted under this section shall—

''(1) include—

''(A) the name, and address for service of process, of the beverage container agency submitting the management plan;

''(B) the name and title of a contact person at the beverage container agency;

''(C) the name and corporate address of each brand owner covered by the management plan; and

''(D) the brand name of each beverage covered by the management plan;

''(2) provide—

''(A) a proposed implementation date for the management plan; and

''(B) appropriate documentation of such agreements entered into by the beverage container agency and return site operators as will take effect as of the date of implementation of the management plan; and

''(3) include a description of—

''(A) the ways in which the beverage container agency intends to make the use of return sites convenient for consumers of beverages covered by the management plan in all areas of interstate commerce;

''(B) the ways in which the beverage container agency intends to achieve, not later than 2 years after the date of implementation of the management plan, a recovery rate of at least 80 percent; and

''(C) the ways in which the beverage container agency will manage beverage containers returned under the management plan in an environmentally responsible manner.

''(c) CHANGES IN INFORMATION.—Each beverage container agency that submits a management plan under this section shall promptly notify the Administrator, in writing, of any change in the information provided under subsection (b)(1).

''(d) APPROVAL OF MANAGEMENT PLANS.—

''(1) IN GENERAL.—The Administrator shall approve or disapprove each management plan submitted under this section.

''(2) DETERMINATION.—In determining whether to approve or disapprove a management plan, the Administrator may return the management plan to the beverage container agency—

''(A) with a request for additional information; or

''(B) for amendment.

''(3) DISAPPROVAL.—If the Administrator disapproves a management plan, the Administrator shall, not later than 60 days after the date of disapproval, provide to the beverage container agency that submitted the management plan a written explanation of the reasons for disapproval.

''(e) IMPLEMENTATION OF MANAGEMENT PLANS.—

''(1) IN GENERAL.—A brand owner that, on or before the date of enactment of this subtitle, is selling in interstate commerce a beverage in a beverage container, shall—

''(A) not later than 180 days after the date of enactment of this subtitle, have in effect a management plan that has been approved by the Administrator; and

''(B) implement the management plan in accordance with the implementation date proposed in the management plan under subsection (b)(2)(A).

''(2) NEW BRAND OWNERS.—A brand owner that proposes, after the date of enactment of this subtitle, to sell in interstate commerce a beverage in a beverage container shall—

''(A) have, as of the date on which the brand owner commences the selling of the beverage, a management plan that has been approved by the Administrator; and

''(B) implement the management plan in accordance with the implementation date proposed in the management plan under subsection (b)(2)(A).

''(3) PROHIBITION.—No brand owner shall sell in interstate commerce any beverage in a beverage container—

''(A) except as in accordance with paragraph (1) or (2), as appropriate; or

''(B) on or after the implementation date proposed in a management plan of the brand owner under subsection (b)(2)(A), if the Administrator has not approved the management plan.

''(f) REPORT.—

''(1) IN GENERAL.—Each beverage container agency the management plan of which is approved and implemented under this section shall, not later than March 31 of each year after the implementation date of the management plan, submit to the Administrator a report that describes the effectiveness of the management plan during the preceding calendar year.

''(2) INFORMATION.—The report shall include—

''(A) for each type of beverage container returned, the recovery rate—

''(i) expressed as a percentage; and

''(ii) audited by an entity independent of the beverage container agency; and

''(B) annual financial statements, prepared by an entity independent of the beverage container agency, of all deposits received and refunds paid by each brand owner subject to the management plan.

''(3) PUBLIC AVAILABILITY.—The Administrator may make available to the public the information described in paragraph (2).

**''SEC. 12005. DEPOSIT AND REFUND.**

''(a) DEPOSIT.—

''(1) IN GENERAL.—On and after the implementation date of any approved management plan to which a seller is subject, the seller shall collect from each purchaser of a beverage in a beverage container, at the time of sale, a deposit in an amount that is not more than the refund value of the beverage container.

''(2) DOCUMENTATION.—A deposit collected under paragraph (1) shall be indicated on the receipt of the purchaser, if a receipt is given for the purchase.

''(3) EXCEPTION.—This subsection shall not apply to a case in which a beverage in a beverage container is sold for consumption, and is consumed, on the premises of the seller.

''(b) REFUND.—On and after the implementation date of an approved management plan, a beverage container return site covered by the management plan shall—

''(1) accept unbroken beverage containers for return; and

''(2) pay to a person returning beverage containers an amount, in cash or in the form of a voucher redeemable for cash on demand, that is equal to the total of the refund values affixed to, printed on, or embossed on, each container returned by the person.

''(c) ACCEPTABLE BEVERAGE CONTAINERS.—A return site shall not be required to accept or pay a refund for a beverage container under this section if, as determined by the return site, the beverage container—

''(1) is contaminated or, for hygienic reasons, is unsuitable for recycling;

''(2) can be reasonably identified as a container that was purchased outside the United States; or

''(3) cannot be reasonably identified as a container to which this subtitle applies.

**''SEC. 12006. REFUND VALUE.**

''(a) IN GENERAL.—The refund value of a beverage container shall be the greater of—

''(1) 10 cents; or

''(2) an adjusted value determined under subsection (b).

''(b) ADJUSTMENT.—The Administrator shall—

''(1) adjust the amount of the refund value of a beverage container under subsection (a) on the date that is 10 years after the date of enactment of this subtitle, and every 10 years thereafter, to reflect changes during those 10-year periods in the Consumer Price Index for all urban consumers published by the Department of Labor; and

''(2) round any adjustment under paragraph (1) to the nearest 5-cent increment.

**''SEC. 12007. RECOVERY RATES.**

''(a) IN GENERAL.—Except as provided in subsections (b) and (c), in a case in which a brand owner complies with each provision of this subtitle, but fails to achieve a recovery rate of at least 80 percent for beverage containers of the brand owner during a calendar year, the Administrator may require that the beverage container agency of the brand owner pay to each State an amount equal to the difference between—

''(1) the amount of deposits collected on beverage containers of the brand owner that were sold in the State; and

''(2) the amount of refunds paid on those beverage containers.

''(b) EXEMPTIONS FOR CERTAIN STATES.—A brand owner that achieves a recovery rate of at least 80 percent under a beverage container deposit program of a State within the 2-year period beginning on the date of enactment of this subtitle shall be exempt from the provisions of this subtitle with respect to that State.

''(c) REUSE RATE ADJUSTMENT.—The minimum recovery rate required to be achieved by a brand owner under subsection (a) shall be reduced by 1 percentage point for each percentage point increase in the use by the brand owner of refillable beverage containers.

**''SEC. 12008. OTHER MANAGEMENT REQUIREMENTS.**

''(a) DISPUTES.—If a dispute arises under this subtitle between, and cannot be resolved by, a beverage container agency and a return site, the beverage container agency or the return site shall refer the matter to binding arbitration.

''(b) CONFIDENTIALITY.—

''(1) IN GENERAL.—Except as provided in paragraph (2), each person acting under the authority of this subtitle shall keep confidential all facts, information, and records obtained or provided under this subtitle.

''(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which public duty requires, or any regulation promulgated by the Administrator under this subtitle permits, the disclosure of any facts, information, or records described in that paragraph.

**''SEC. 12009. REPORT BY ADMINISTRATOR.**

''Not later than May 31, 2003, and annually thereafter, the Administrator shall submit to Congress a report that describes—

''(1) the recovery rate for beverage containers during the year covered by the report; and

''(2) the extent to which beverage container collection is proceeding in accordance with this subtitle.

**''SEC. 12010. PENALTIES.**

''Notwithstanding any other provision of this Act—

''(1) a person that violates any provision of this subtitle (other than section 12004(f)) shall be subject to a civil penalty of not more than $1,000 for each violation; and

''(2) a person that violates section 12004(f) shall be subject to a civil penalty of not more than $10,000 for each violation.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end the following:

''Subtitle K—Beverage Container Reuse and Recycling

''Sec. 12001. Definitions.
''Sec. 12002. Responsibilities of brand owners.
''Sec. 12003. Beverage container labeling.
''Sec. 12004. Management plans.
''Sec. 12005. Deposit and refund.
''Sec. 12006. Refund value.
''Sec. 12007. Recovery rates.
''Sec. 12008. Other management requirements.
''Sec. 12009. Report by Administrator.
''Sec. 12010. Penalties.''.

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By Mr. ROCKEFELLER (for himself and Mr. SMITH of Oregon):

S. 2221. A bill to temporarily increase the Federal medical assistance percentage for the medicaid program; to the Committee on Finance.

Mr. SMITH of Oregon. Mr. President, I rise today to talk about a vital federal program that is an essential part of our health care safety net—Medicaid. Last year, the Medicaid program provided health coverage for 44 million of the most vulnerable Americans—22.6 million children, 9.2 million adults in low-income families, and 12 million elderly and disabled. One in four American children are covered by this important program.

Yet despite the program's importance, states around the country are struggling to fund their share of their Medicaid programs. Going into legislative session this year, my home state of Oregon faced a budget shortfall of nearly $800 million, and most other states are facing similar conditions. The cruel irony of this situation is that just as state revenues have dropped due to poor economic conditions, many more families are turning to Medicaid as their only source of health care. I know that in Oregon, the number of people on Medicaid has risen by 10% since June of last year, and I suspect that many of your states have experienced similar increases. Additionally, because of scheduled formula adjustments, many states will see their existing Medicaid payments from the Federal government fall this year.

It is not a mystery what will happen if we do not act: states will be forced to cut their Medicaid programs and more Americans will lose their health coverage. The number of uninsured people in this country will rise dramatically. Last year, more than 40 million Americans lived and worked without health insurance, and it is estimated that the economic downturn will add another 4 million to the ranks of the uninsured.

This legislation would allow states to continue providing health care to our society's most vulnerable members in this economic downturn by providing a temporary increase in the Federal Medical Assistance Program, FMAP, funds states receive to pay their portion of the Medicaid bill. This legislation would hold states harmless at their 2003 FMAP levels so that no state will experience a decrease in Federal funds for Medicaid, while providing all states with an additional temporary 1.5 percentage in their matching rates for three years. It would also target assistance to the most needy states by providing another 1.5 percentage point increase in their FMAP for three years.

The goal of this bill is to prevent erosion of health insurance coverage and to maintain a strong health care safety net for vulnerable people during the economic downturn. By temporarily increasing the Federal portion of the Medicaid bill, the scope and depth of possible state budget cuts or tax increases will be lessened, minimizing the potential negative impact on the economy and our most vulnerable citizens across the country. It is the right thing to do, and the right time to do it.

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## STATEMENTS ON SUBMITTED RESOLUTIONS

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### SENATE RESOLUTION 247—EXPRESSING SOLIDARITY WITH ISRAEL IN ITS FIGHT AGAINST TERRORISM

Mr. LIEBERMAN (for himself, Mr. SMITH of Oregon, Mr. DASCHLE, Mr. CLELAND, and Ms. COLLINS) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 247

Whereas the United States and Israel are now engaged in a common struggle against terrorism and are on the frontlines of a conflict thrust upon them against their will;

Whereas President George W. Bush declared on November 21, 2001, ''We fight the terrorists and we fight all of those who give them aid. America has a message for the nations of the world: If you harbor terrorists, you are terrorists. If you train or arm a terrorist, you are a terrorist. If you feed a terrorist or fund a terrorist, you are a terrorist, and you will be held accountable by the United States and our friends.''; and

Whereas the United States has committed to provide resources to states on the frontline in the war against terrorism: Now, therefore, be it

*Resolved*, That the Senate—

(1) stands in solidarity with Israel, a frontline state in the war against terrorism, as it takes necessary steps to provide security to its people by dismantling the terrorist infrastructure in the Palestinian areas;

(2) remains committed to Israel's right to self-defense;

(3) will continue to assist Israel in strengthening its homeland defenses;

(4) condemns Palestinian suicide bombings;

(5) demands that the Palestinian Authority fulfill its commitment to dismantle the terrorist infrastructure in the Palestinian areas;

(6) urges all Arab states, particularly the United States' allies, Egypt and Saudi Arabia, to declare their unqualified opposition to all forms of terrorism, particularly suicide bombing, and to act in concert with the United States to stop the violence; and

(7) urges all parties in the region to pursue vigorously efforts to establish a just, lasting, and comprehensive peace in the Middle East.

Mr. LIEBERMAN. Mr. President, I have submitted a resolution today, along with Senator SMITH of Oregon, Senator DASCHLE, our majority leader, and we are currently in the process of communicating with the Republican leader. I hope Senator LOTT will become the fourth initial cosponsor of this resolution which expresses the solidarity of Congress—Senate and House—with the State of Israel in its fight against terrorism.

The painful events of September 11 have taught us Americans a powerful lesson: When innocent people are attacked, we have no choice but to capture or kill those killers and dismantle their terrorist infrastructure. That is the first step in reducing the likelihood of future attacks and making clear through our actions—not just our words—that violence against innocents will never be tolerated.

Now we see Israel under siege by a systematic and deliberate campaign of suicide-homicide attacks whose essence is identical to the attacks on our country on September 11. Those suicide bombers striking innocent Israelis in supermarkets, pizza restaurants, buses, and schools are cut from the same cloth of fanatical, inhumane hatred as those terrorists who turned airplanes into weapons of mass destruction and killed more than 3,000 Americans on September 11.

God knows that we have not always been astute enough to learn from history, but when the history of September 11 is this fresh in our minds and in our hearts, and the lessons are as clear and compelling as the lessons of September 11 were, let us not fail to apply those lessons. Let us not waver, let us not blur our vision or our values, particularly in this case when the victims of the country are citizens of a fellow democracy and a great ally, which is to say the State of Israel.

Instead, let us recall the principled message of President Bush in his address to Congress less than 7 months ago: Terrorism is evil. It is not an acceptable form of political action. It is a crime that runs contrary to our most basic human values. Nations that support it, condone it, or enable it are our enemies, and nations that dismantle its immoral, inhuman machinery and go after its perpetrators to protect innocent lives of their citizens are doing freedom's work and they are our allies.

In laying out this doctrine, President Bush actually echoed the words that

President Franklin Roosevelt spoke in 1940 when he said:

No man can tame a tiger into a kitten by stroking it. There can be no appeasement with ruthlessness. There can be no reasoning with an incendiary bomb.

The United States supports a peaceful Palestine along a secure Israel, as, for that matter, does Israel herself. We support a two-state solution. In other words, we support what we hope and pray is still the cause of the vast majority of the Palestinian people. But there is a danger that these suicide bombers operating out of Palestinian territory have hijacked the legitimate cause of Palestinian statehood. These homicide bombers do not represent what we hope is the aspiration of a majority of the Palestinian people for statehood, for a better life for themselves and their children.

These homicide bombers—terrorists—insult that cause and undermine their own people's desire to live a better life. They represent a morally bankrupt and tactically suicide policy. Their militancy will only deepen the misery of the Palestinian people.

Ultimately, in supporting Israel's right to protect and defend itself, we are also supporting our own war against terrorism because if we lose our bearings and muddy the moral clarity with which we began and are carrying out our campaign against terror, we risk undermining the fight against al-Qaida and other international terrorist groups that threaten our own people. We cannot allow that.

The United States, acting in concert with Israel and our allies in the Arab world, and hopefully our allies in the rest of the world, including Europe and Asia, can still bring security to the region. It can still happen if mainstream, moderate leaders in the Arab world will not accommodate themselves out of fear or insecurity to the threats of the fanatical elements within the region but will stand up with our strong support and assert that the only way to achieve a better future for the Palestinian people and, in fact, for all the people in the Middle East, is to come together for the good people, to come together behind the rule of law against fanaticism, against solving problems with violence, for more human rights, for more democracy, for the kind of open economies that allow people to raise up their standard of living and deprive terrorists of the conditions they exploit for violent and suicidal purposes. Together, we can bring such a result to the region.

This week, President Bush has two very important meetings: One with King Mohamed VI of Morocco, the other with Crown Prince Abdullah of Saudi Arabia. These are opportunities not only to develop the hopes expressed in the Saudi peace proposal for mutual recognition of Israel by the Arab world, but to make clear to our allies in the Arab world and countries like Saudi Arabia and Morocco how critically important their own moral clarity in this moment of crisis is; that we need them to stand with us for a peaceful path to Palestinian statehood and a better life for all the people of their region.

Ultimately, that only comes with more human rights for their citizens and a more open economic society with more opportunity. Together we can create conditions for a just and lasting peace, a peaceful and sovereign Palestine alongside a peaceful and secure Israel. It is time for the humane, law-abiding forces within the Middle East and those outside to come together and defeat the cancer of terrorism that now eats away at that region and the world.

The United States must stand with our ally, Israel, sharing values and hopes for peace as we do, as she attempts to defeat and protect her citizens from acts of terrorism. That is the message we send with the resolution we are submitting today. I hope an overwhelming majority of my colleagues will join Senator SMITH and me, Senator DASCHLE and, I hope, Senator LOTT, in cosponsoring this resolution.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 3177. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3178. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3179. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3180. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3181. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3182. Mr. KYL (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3183. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3184. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3185. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3186. Mr. HAGEL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3187. Mr. BYRD (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3188. Mr. GRAHAM (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3189. Mr. TORRICELLI (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3190. Mr. TORRICELLI (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3191. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3192. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3193. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3194. Ms. LANDRIEU (for herself and Mr. DOMENICI) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3195. Mr. HARKIN (for himself, Mr. COCHRAN, Mr. GRASSLEY, and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3196. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3197. Mr. CARPER (for himself, Ms. COLLINS, Mr. LEVIN, Ms. LANDRIEU, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3198. Mr. CARPER (for himself, Mr. SPECTER, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3199. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917

proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3200. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3201. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3202. Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3203. Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3204. Mrs. CARNAHAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3205. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3206. Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3207. Mr. BAUCUS (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3208. Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3209. Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3210. Mr. CORZINE (for himself and Mr. FITZGERALD) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3211. Mrs. FEINSTEIN (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3212. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3213. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3214. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3215. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3216. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3217. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3218. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3219. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3220. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3221. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3222. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3223. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3224. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3225. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3226. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3227. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3228. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3229. Mr. WYDEN (for himself, Ms. CANTWELL, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3230. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3231. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3232. Mr. BINGAMAN (for himself, Mr. MURKOWSKI, Mr. BYRD, Mr. LIEBERMAN, Mr. THOMPSON, Mr. HOLLINGS, Mr. KERRY, Mr. HAGEL, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3233. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, Mr. JEFFORDS, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3234. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3235. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3236. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3237. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3238. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3239. Mr. BROWNBACK (for himself, Mr. CORZINE, Mr. LIEBERMAN, Mr. MCCAIN, Mr. JEFFORDS, Mr. CHAFEE, Mr. NELSON of Nebraska, and Mr. REID) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3240. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3241. Mr. BINGAMAN (for himself, Mr. DURBIN, and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3242. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3243. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3244. Mr. BINGAMAN (for Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 3041 proposed by Mr. WYDEN (for himself, Mr. MURKOWSKI, Mr. BENNETT, and Mr. SMITH of Oregon) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3245. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3246. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3247. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3248. Mr. BINGAMAN (for Mr. THOMAS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3249. Mr. BINGAMAN (for Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3250. Mr. BINGAMAN (for Mrs. CARNAHAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3251. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3252. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3253. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3254. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3255. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3256. Mr. NICKLES (for himself, Mr. BREAUX, and Mr. MILLER) submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3257. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3258. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3259. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3260. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3261. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3262. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3263. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3264. Mr. SMITH, of Oregon (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3265. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3266. Mr. SMITH, of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3267. Mr. VOINOVICH submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3268. Mr. SHELBY (for himself, Mr. AKAKA, Mr. SCHUMER, and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3269. Mrs. LINCOLN (for herself and Mr. AKAKA) submitted an amendment intended to be proposed by her to the bill S. 517, supra; which was ordered to lie on the table.

SA 3270. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3271. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3272. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3273. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3274. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3275. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3276. Mr. WYDEN (for himself, Ms. CANTWELL, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3277. Ms. COLLINS (for herself, Mrs. MURRAY, Ms. CANTWELL, Mr. JEFFORDS, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3278. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3279. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3280. Mr. SCHUMER (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3281. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 517 proposed by Mrs. CLINTON to the amendment SA 358 proposed by Mr. JEFFORDS (for himself and Mr. KENNEDY) to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table.

SA 3282. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3283. Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3284. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3285. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3286. Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNAHAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3287. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3288. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3289. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3290. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3291. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3292. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 3177.** Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, strike line 14 and all that follows through page 92, line 16.

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**SA 3178.** Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 94, line 5, strike ''renewable''.

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**SA 3179.** Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 109, line 5, strike ''renewable''.

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**SA 3180.** Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 109, line 12, strike ''renewable''.

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**SA 3181.** Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 109, line 14, strike ''renewable''.

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**SA 3182.** Mr. KYL (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . PERMANENT REPEAL OF ESTATE TAXES.**

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking ''this Act'' and all that follows through ''2010.'' in subsection (a) and inserting ''this Act (other than title V) shall not apply to taxable, plan, or limitation years beginning after December 31, 2010.'', and by striking '', estates, gifts, and transfers'' in subsection (b).

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**SA 3183.** Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following section.

**SEC. . RESEARCH PROGRAM.**

(a) IN GENERAL.—The Secretary may fund comprehensive geological, engineering, and geophysical studies concerning—

(1) natural gas products in storage facilities; and

(2) other related research topics.

(b) PRIORITY.—In funding studies under subsection (a), the Secretary shall give priority to studies relating to storage facilities that have experienced releases of natural gas.

(c) RESEARCH AREAS.—Studies under subsection (a) shall—

(1) interpret geology in the context of possible releases of natural gas;

(2) develop a comprehensive and quantitative understanding of geology relevant to past and possible future migration and loss of stored natural gas;

(3) include an engineering analysis of existing storage facilities, including laboratory analysis of well construction and operations;

(4) integrate information through simulations using geomechanical and fluid flow models to reconstruct or predict geological events that caused or may cause releases of natural gas from storage facilities;

(5) evaluate—

(A) properties of underground reservoirs and surrounding geological strata;

(B) natural geological stresses; and

(C) possible geological alterations caused by the process of storage in storage facilities; and

(6) use a cross-disciplinary approach using technologies in geophysical, petrophysical, hydrological, geomechanical, and remote sensing to characterize and model geology in the vicinity of a storage facility.

(d) REVIEW.—The Office of Fossil Energy Research of the Department of Energy shall review applications for funding of studies under this section.

(e) UNSOLICITED APPLICATIONS.—In addition to applications for funding of studies received in response to requests for proposals issued by the Secretary, the Secretary shall accept and consider for funding under this section any unsolicited application for research funding received by the Secretary that has research goals consistent with this section.

(f) RESEARCH SUPPORT.—The Secretary shall facilitate research support from other Federal agencies that have related geological, engineering, and other specialties.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000 for each of fiscal years 2003 through 2006.

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**SA 3184.** Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 28 following line 16 insert the following:

**SEC. 211. SERVICE OBLIGATIONS OF LOAD-SERVING ENTITIES.**

Part II of the Federal Power Act is amended by inserting after section 207 the following new section:

''SERVICE OBLIGATIONS

''SEC. 207A. (a)(1) The Commission shall exercise its authority under this act to ensure that any load-serving entity that, as of the date of enactment of this section—

''(A) owns generation facilities, or holds rights under one or more long-term contracts to purchase electric energy, for the purpose of meeting a service obligation, and

''(B) by reason of ownership of transmission facilities, or one or more contracts for firm transmission service, holds firm

transmission rights for delivery of the output of such generation facilities or such purchased energy to meet such service obligation, is entitled to use such firm transmission rights in order to deliver such output or purchased energy to meet that service obligation.

''(2) The Commission shall exercise its authority under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy their service obligations.

''(b) For purposes of this section:

''(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users.

''(2) The term 'load-serving entity' means a distribution utility or an electric utility that has a service obligation to a distribution utility.

''(3) The term 'service obligation' means (i) a requirement applicable to an electric utility under Federal, State or local law to provide electric service to end-users or to a distribution utility, or (ii) an obligation under a long-term firm sales contract (executed before the date of enactment of this section) to provide all or part of the electric energy necessary for a distribution utility to meet a requirement under clause (i).''

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**SA 3185.** Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 28 following line 16 insert the following:

**SEC. 211. SERVICE OBLIGATIONS OF LOAD-SERVING ENTITIES.**

Part II of the Federal Power Act is amended by inserting after section 207 the following new section:

''SERVICE OBLIGATIONS

''SEC. 207A. (a)(1) The Commission shall exercise its authority under this Act to ensure that any load-serving entity that, as of the date of enactment of this section—

''(A) owns generation facilities, or holds rights under one or more long-term contracts to purchase electric energy, for the purpose of meeting a service obligation, and

''(B) by reason of ownership of transmission facilities, or one or more long-term contracts or agreements for firm transmission service, holds firm transmission rights for delivery of the output of such generation facilities or such purchased energy to meet such service obligation, is entitled to use such firm transmission rights in order to deliver such output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using such rights, to meet that service obligation.

''(2) The Commission shall exercise its authority under this Act in a manner that facilities the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy their existing and reasonably forecast service obligations.

''(b) For purposes of this section:

''(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users.

''(2) The term 'load-serving entity' means a distribution utility or an electric utility that has a service obligation to a distribution utility.

''(3) The term 'service obligation' means (i) a requirement applicable to an electric utility under Federal, State or local law or under long-term contract to provide electric service to end-users or to a distribution utility, or (ii) an obligation under a long-term firm sales contract (executed before the date of enactment of this section) to provide all or part of the electric energy necessary for a distribution utility to meet a requirement under clause (i).''

''(4) The term 'long-term' means for a period of one year or more.''

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**SA 3186.** Mr. HAGEL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 370, strike line 3 and all that follows through page 384, line 19, and insert the following:

**SEC. 1101. PURPOSE.**

The purpose of this title is to establish a greenhouse gas reductions registry and information system that—

(1) is complete, consistent, transparent, and accurate;

(2) will create reliable and accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and,

(3) will encourage and acknowledge greenhouse gas emissions reductions.

**SEC. 1102. DEFINITIONS.**

In this title:

(1) DATABASE.—The term ''database'' means the National Greenhouse Gas Database established under section 1104.

(2) DESIGNATED AGENCY OR AGENCIES.—The term ''Designated Agency or Agencies'' means the Department or Departments or Agency or Agencies given the responsibility for a function or program under the Memorandum of Agreement entered into pursuant to section 1103.

(3) DIRECT EMISSIONS.—The term ''direct emissions'' means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.

(4) ENTITY.—The term ''entity'' means—

(A) a person located in the United States; or

(B) a public or private entity, to the extent that the entity operates in the United States.

(5) FACILITY.—The term ''facility'' means all buildings, structures, or installations located on any 1 or more of contiguous or adjacent property or properties, or a fleet of 20 or more transportation vehicles, under common control of the same entity.

(6) GREENHOUSE GAS.—The term ''greenhouse gas'' means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons; and

(F) sulfur hexafluoride.

(7) INDIRECT EMISSIONS.—The term 'indirect emissions' means greenhouse gas emissions that are a consequence of the activities of an entity but that are emitted from a facility owned or controlled by another entity and are not already reported as direct emissions by a covered entity.

(8) SEQUESTRATION.—The term 'sequestration' means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere, including through a biological or geologic method such as reforestation or an underground reservoir.

**SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.**

(a) Not later than 1 year after the date of enactment of this Act, the President, acting through the Chairman of the Council on Environmental Quality, shall direct the Department of Energy, the Department of Commerce, the Department of Agriculture, the Department of Transportation and the Environmental Protection Agency, to enter into a Memorandum of Agreement that will—

(1) recognize and maintain existing statutory and regulatory authorities, functions and programs that collect data on greenhouse gas emissions and effects and that are necessary for the operation of the National Greenhouse Gas Database;

(2) distribute additional responsibilities and activities identified by this title to Federal departments or agencies according to their mission and expertise and to maximize the use of existing resources; and

(3) provide for the comprehensive collection and analysis of data on the emissions related to product use, including fossil fuel and energy consuming appliances and vehicles.

(b) The Memorandum of Agreement entered into under subsection (a) shall, at a minimum, retain the following functions for the respective Departments and agencies:

(1) The Department of Energy shall be primarily responsible for developing, maintaining, and verifying the emissions reduction registry, under both this title and its authority under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)).

(2) The Department of Commerce shall be primarily responsible for the development of measurement standards for emissions monitoring and verification technologies and methods to ensure that there is a consistent and technically accurate record of emissions, reductions and atmospheric concentrations of greenhouse gases for the database under this title.

(3) The Environmental Protection Agency shall be primarily responsible for emissions monitoring, measurement, verification and data collection, pursuant to this title and existing authority under titles IV and VIII of the Clean Air Act, and including mobile source emissions information from implementation of the Corporate Average Fuel Economy program under chapter 329 of title 49, United States Code, and the Agency's role in completing the national inventory for compliance with the United Nations Framework Convention on Climate Change.

(c) The Chairman shall publish a draft version of the Memorandum of Agreement in the Federal Register and solicit comments on it as soon as practicable and publish the final Memorandum of Agreement in the Federal Register not later than 15 months after the date of enactment of this Act.

(d) The final Memorandum of Agreement shall not be subject to judicial review.

**SEC. 1104. NATIONAL GREENHOUSE GAS DATABASE.**

(a) ESTABLISHMENT.—The Designated Agency or Agencies, working in consultation with the private sector and nongovernmental organizations, shall establish, operate and maintain a database to be known as the National Greenhouse Gas Database to collect, verify, and analyze information on—

(1) greenhouse gas emissions by entities located in the United States; and

(2) greenhouse gas emission reductions by entities based in the United States.

(b) NATIONAL GREENHOUSE GAS DATABASE COMPONENTS.—The database shall consist of a registry of greenhouse gas emissions reductions.

(c) DEADLINE.—Not later than 2 years after the date of enactment of this Act, the Designated Agency or Agencies shall promulgate a rule to implement a comprehensive system for greenhouse gas emissions reporting and reductions registration. The Designated Agency or Agencies shall ensure that the system is designed to maximize completeness, transparency, and accuracy and to minimize measurement and reporting costs for covered entities.

(d) REQUIRED ELEMENTS OF DATABASE REPORTING SYSTEM.—

(1) VOLUNTARY REPORTING.—An entity may voluntarily report to the Designated Agency or Agencies, for inclusion in the registry portion of the national database—

(A) with respect to the preceding calendar year and any greenhouse gas emitted by the entity—

(i) project reductions from facilities owned or controlled by the reporting entity in the United States;

(ii) transfers of project reductions to and from any other entity;

(iii) project reductions and transfers of project reductions outside the United States;

(iv) other indirect emissions; and

(v) product use phase emissions; and

(B) with respect to greenhouse gas emissions reductions activities carried out since 1990 and verified according to rules implementing paragraphs (3) and (5) and submitted to the Designated Agency or Agencies before the date that is three years after the date of enactment of this Act, those reductions that have been reported or submitted by an entity under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)) or under other Federal or State voluntary greenhouse gas reduction programs.

(2) TYPES OF ACTIVITIES.—Under paragraph (1), an entity may report projects that reduce greenhouse gas emissions or sequester a greenhouse gas, including—

(A) fuel switching;

(B) energy efficiency improvements;

(C) use of renewable energy;

(D) use of combined heat and power systems;

(E) management of cropland, grassland, and grazing land;

(F) forestry activities that increase forest carbon stocks or reduce forest carbon missions;

(G) carbon capture and storage;

(H) methane recovery; and

(I) greenhouse gas offset investments.

(3) PROVISION OF VERIFICATION INFORMATION BY REPORTING ENTITIES.—Each reporting entity shall provide information sufficient for the Designated Agency or Agencies to verify, in accordance with measurement and verification criteria developed under section 1106, that the greenhouse gas report of the reporting entity—

(A) has been accurately reported; and

(B) in the case of each voluntary report, represents—

(i) actual reductions in direct greenhouse gas emissions relative to historic emission levels and net of any increases in—

(I) direct emissions; and

(II) indirect emissions from—

(aa) all outsourced activities, contract manufacturing, wastes transferred from the control of an entity, and other relevant instances, as determined to be practicable under the rule promulgated under subsection (c); or

(bb) electricity, heat, and steam imported from another entity, as determined to be practicable under the rule promulgated under subsection (c); or

(ii) actual increases in net sequestration.

(4) INDEPENDENT THIRD-PARTY VERIFICATION.—A reporting entity may—

(A) obtain independent third-party verification; and

(B) present the results of the third-party verification to the Designated Agency or Agencies for consideration by the Designated Agency or Agencies in carrying out this subsection.

(5) DATA QUALITY.—The rule promulgated under subsection (c) shall establish procedures and protocols needed to—

(A) prevent the reporting of some or all of the same greenhouse gas emissions or emission reductions by more than 1 reporting entity;

(B) provide for corrections to errors in data submitted to the database;

(C) provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;

(D) provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions; and

(E) account for changes in registration of ownership of emissions reductions resulting from a voluntary private transaction between reporting entities.

(6) AVAILABILITY OF DATA.—The Designated Agency or Agencies shall ensure that information in the database is published, accessible to the public, and made available in electronic format on the Internet, except in cases where the Designated Agency or Agencies determine that publishing or making available the information would disclose information vital to national security.

(7) DATA INFRASTRUCTURE.—The Designated Agency or Agencies shall ensure that the database uses and is integrated with existing Federal, regional, and state greenhouse gas data collection and reporting systems to the maximum extent possible and avoid duplication of such systems.

(8) ADDITIONAL ISSUES TO BE CONSIDERED.—In promulgating the rules for and implementing the Database, the Designated Agency or Agencies shall consider a broad range of issues involved in establishing an effective database, including the following:

(A) UNITS FOR REPORTING.—The appropriate units for reporting each greenhouse gas, and whether to require reporting of emission efficiency rates (including emissions per kilowatt-hour for electricity generators) in addition to mass emissions of greenhouse gases,

(B) INTERNATIONAL CONSISTENCY.—The greenhouse gas reduction and sequestration methods and standards applied in other countries, as applicable or relevant; and

(C) DATA SUFFICIENCY.—The extent to which available fossil fuels, greenhouse gas emissions, and greenhouse gas production and importation data are adequate to implement a comprehensive National Greenhouse Gas Database.

(e) ANNUAL REPORT.—The Designated Agency or Agencies shall publish an annual report that—

(1) describes the total greenhouse gas emissions and emission reductions reported to the database;

(2) provides entity-by-entity and sector-by-sector analyses of the emissions and emission reductions reported; and

(3) describes the atmospheric concentrations of greenhouse gases and tracks such information over time.

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**SA 3187.** Mr. BYRD (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 283, between lines 8 and 9, insert the following:

**SEC. 9___. INCREASED USE OF RECOVERED MATERIAL IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AGENCY HEAD.—The term ''agency head'' means—

(A) the Secretary of Transportation; and

(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

(3) CEMENT OR CONCRETE PROJECT.—The term ''cement or concrete project'' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

(A) involves the procurement of cement or concrete; and

(B) is carried out in whole or in part using Federal funds.

(4) RECOVERED MATERIAL.—The term ''recovered material'' means—

(A) ground granulated blast furnace slag;

(B) coal combustion fly ash; and

(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered material under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

(b) IMPLEMENTATION OF REQUIREMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this Act (including guidelines under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6963)) that provide for the use of cement and concrete incorporating recovered material in cement or concrete projects.

(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered material in cement or concrete projects for which recovered materials historically have not been used or have been used only minimally.

(c) FULL IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Administrator and the Secretary of Transportation, in cooperation with the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and greenhouse gas emission reduction benefits attainable with substitution of recovered material in cement used in cement or concrete projects.

(2) MATTERS TO BE ADDRESSED.—The study shall—

(A) quantify the extent to which recovered materials are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and greenhouse gas emission reduction benefits associated with that substitution;

(B) identify all barriers in procurement requirements to fuller realization of energy savings and greenhouse gas emission reduction benefits, including barriers resulting from exceptions from current law; and

(C)(i) identify potential mechanisms to achieve greater substitution of recovered material in types of cement or concrete projects for which recovered materials historically have not been used or have been used only minimally;

(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered material in those cement or concrete projects; and

(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered material in those cement or concrete projects.

(3) REPORT.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations and Committee on Energy and Commerce of the House of Representatives a report on the study.

(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—The Administrator and each agency head shall take additional actions authorized under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered material in the construction and maintenance of cement or concrete projects, so as to—

(1) realize more fully the energy savings and greenhouse gas emission reduction benefits associated with increased substitution; and

(2) eliminate barriers identified under subsection (c).

(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) (including the guidelines and specifications for implementing those requirements).

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**SA 3188.** Mr. GRAHAM (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, between lines 7 and 8, insert the following:

**SEC. 6___. REACQUISITION OF CERTAIN NONPRODUCING LEASES ON THE OUTER CONTINENTAL SHELF OFF THE COAST OF FLORIDA.**

(a) DEFINITIONS.—In this section:

(1) QUALIFIED LEASE.—The term ''qualified lease'' means any of the following leases in the Outer Continental Shelf Eastern Gulf of Mexico Planning Area: G06401, G06402, G08333, G08334, G06408, G06409, G08346, G10426, G10427, G06432, G06433, G06436, G06440, G06442, G06443, G06444, G10446, G10447, G10448, G10449, G10450, G10451, G10452, G10453, G10454, G10455, G10456, G10459, G10460, G06464, G06469, G10461, G06470, G10462, G10463, G06474, G06475, G10464, G06476, G06477, G10465, G10466, G10471, G10472, G10473, G10477, G10498, G10499, G10500, G10501, G10502, G10503, G10504, G10505, G10506, G10507, G10508, G10509, G10510, G10511, G10512, G10513, G10514, G10404, G10405, G08308, G08309, G08310, G10408, G10409, G10410, G10413, G10414, G10415, G10417, G08317, G08318, G08319, G10493, G10494, G10495, G10496, G10497, G10430, G10431, G10432, G10433, G10434, G10435, G10484, G10485, G08361, G08362, G08363, G08364, G08365, G08366, G08367, and G08368.

(2) QUALIFIED LESSEE.—The term ''qualified lessee'' means a person that, on the date of enactment of this section, holds an interest in a qualified lease that is recorded with the Minerals Management Service.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) LEASE CANCELLATION.—

(1) IN GENERAL.—The Secretary shall carry out a program under which the Secretary shall—

(A) issue credits to qualified lessees that elect to participate in the program in exchange for the cancellation of a qualified lease; and

(B) accept credits issued under this section—

(i) to pay royalties on oil or gas production conducted in any area outside the Eastern Gulf of Mexico; and

(ii) to pay rental fees on leases in existence on the date of enactment of this Act that are located outside the Eastern Gulf of Mexico.

(2) SUBMISSION OF FINANCIAL INFORMATION.—

(A) IN GENERAL.—During the period beginning on the January 1, 2003 and ending on March 30, 2008, a qualified lessee that seeks to receive credits in consideration for the cancellation of a qualified lease may do so by submitting to the Secretary the financial information and documentation relating to the amounts referred to in clauses (i) and (ii) of paragraph (4)(A), certified by a certified public accountant.

(B) NOTIFICATION OF FINAL OPPORTUNITY.—Between January 1, 2008 and January 31, 2008, the Secretary shall notify each qualified lessee that has not submitted the information and documentation required under subparagraph (A) in writing—

(i) of the opportunity to receive credits in consideration for the cancellation of a qualified lease;

(ii) of the financial information and documentation required under subparagraph (A); and

(iii) that the deadline for the submission of the financial information and documentation is March 30, 2008.

(3) REVIEW.—

(A) INITIAL REVIEW.—Not later than 60 days after the date on which the Secretary receives the financial information and documentation under paragraph (2)(A), the Secretary shall—

(i) complete an initial review of the information and documentation submitted; and

(ii) request any additional information that may be necessary to determine the value of credits to be offered under paragraph (4).

(B) FINAL REVIEW.—Not later than 90 days after the date on which the Secretary completes the initial review under subparagraph (B), the Secretary—

(i) shall complete a final review of the information and documentation provided by the qualified lessee under paragraph (2)(A) and any additional information submitted under subparagraph (A)(ii); and

(ii) in accordance with paragraph (4), determine the amount of credits to be offered to the qualified lessee.

(4) AMOUNT OF CREDITS.—

(A) IN GENERAL.—For each qualified lessee that complies with the requirements of paragraphs (2) and (3), the Secretary shall offer credits in an amount equal to—

(i) the amount of consideration paid by the qualified lessee to acquire the interest in the qualified lease; and

(ii) the amount of direct expenditures made by the qualified lessee in connection with the exploration and development of the qualified lease during the period from the date of acquisition of the qualified lease to the date of enactment of this Act.

(B) EXCLUSIONS.—In determining the amount of credits under subparagraph (A), the Secretary shall not consider the potential value of oil and gas resources associated with the qualified lease.

(5) OFFER.—Not later than 90 days after completing the final review under paragraph (3)(B), the Secretary shall make an offer to the qualified lessee to issue credits in an amount determined under paragraph (4) in exchange for the cancellation of the qualified lease.

(6) ACCEPTANCE.—To accept the offer of the Secretary under paragraph (5) with respect to a qualified lease, not later than 60 days after the date on which the offer is made under that paragraph, a qualified lessee shall submit to the Secretary a written agreement that if credits are issued under paragraph (7), the qualified lessee—

(A) consents to the cancellation of any qualified lease;

(B) will dismiss any civil or administrative action brought by the qualified lessee against the United States relating to the qualified lease that is pending as of the date of cancellation of the eligible lease; and

(C) waives the right to bring any further civil or administrative action relating to the qualified lease after that date.

(7) ISSUANCE OF CREDITS.—If, not later than 60 days after the date of the offer under paragraph (5), a qualified lessee accepts the offer in accordance with paragraph (6), the Secretary shall—

(A) cancel the qualified lease; and

(B) issue to the qualified lessee credits in the amount determined under paragraph (4).

(8) ACCEPTANCE OF CREDITS.—

(A) IN GENERAL.—On or after October 1, 2012, the Secretary shall accept credits issued under paragraph (7) in the same manner as rental fees and royalty payments on oil and gas production conducted in any area outside the Eastern Gulf of Mexico under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(B) EXCEPTION.—The Secretary shall not accept credits under subparagraph (A) for oil or gas production in an area—

(i) that is within 3 miles of the seaward boundary of a coastal State;

(ii) that is subject to an administrative or legislative leasing moratorium; or

(iii) in which leasing is otherwise prohibited on the date of enactment of this Act.

(C) ADJUSTMENT FOR INFLATION.—The Secretary shall adjust the amount of credits accepted under subparagraph (A) to reflect changes in the implicit Gross Domestic Product deflator during the period from the date on which the credits were issued under paragraph (7) to October 1, 2012.

(9) SALE OR TRANSFER.—

(A) IN GENERAL.—A qualified lessee may transfer or sell any credits issued under paragraph (7) to any other person qualified to hold leases under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).

(B) REQUIREMENTS.—A sale or transfer of credits under subparagraph (A) shall be subject to the requirements of this section.

(C) LIMITATIONS.—Credits transferred or sold under subparagraph (A) shall be accepted in accordance with paragraph (8).

(D) NOTIFICATION.—

(i) IN GENERAL.—Not later than 30 days after the date on which a qualified lessee transfers or sells any credits, the qualified lessee shall notify the Secretary of the transfer or sale.

(ii) VALIDITY.—The transfer or sale of a credit shall not be valid until the date on which the Secretary receives the notification required under clause (i).

(10) NO ADDITIONAL COMPENSATION.—A qualified lessee that participates in the cancellation of a qualified lease under this Act—

(A) shall be considered to be fully compensated for the value of the qualified lease; and

(B) shall not be eligible to seek additional compensation from the Federal Government for the qualified lease.

(11) EFFECT.—Nothing in this section constitutes a finding by Congress that—

(A) actions by the Federal Government involving the qualified leases before the date of enactment of this Act constituted a breach of contract or a taking of property under the Constitution of the United States; or

(B) the qualified leases have any particular value.

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**SA 3189.** Mr. TORRICELLI (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE ___—ENVIRONMENTAL CLEANUP FINANCING AND REINSURANCE AND CORPORATE INVERSION LIMITATIONS**

**Subtitle A—Environmental Cleanup Financing**

**SEC. ___01. EXTENSION OF SUPERFUND, OIL SPILL LIABILITY, AND LEAKING UNDERGROUND STORAGE TANK TAXES.**

(a) EXCISE TAXES.—

(1) SUPERFUND TAXES.—Section 4611(e) is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after the date of the enactment of the Energy Policy Act of 2002 and before October 1, 2007.''.

(2) OIL SPILL LIABILITY TAX.—Section 4611(f) is amended to read as follows:

''(f) APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—The Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1989, and before January 1, 1995, and after the date of the enactment of the Energy Policy Act of 2002 and before October 1, 2007.''.

(3) LEAKING UNDERGROUND STORAGE TANK RATE.—Section 4081(d)(3) is amended by striking ''April 1, 2005'' and inserting ''October 1, 2007.''.

(b) CORPORATE ENVIRONMENTAL INCOME TAX.—Section 59A is amended—

(1) by striking ''0.12 percent'' in subsection (a) and inserting ''0.06 percent'', and

(2) by striking subsection (e) and inserting the following:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after the date of the enactment of the Energy Policy Act of 2002 and before January 1, 2007.''.

(c) TECHNICAL AMENDMENTS.—

(1) Section 4611(b) is amended—

(A) by striking ''or exported from'' in paragraph (1)(A),

(B) by striking ''or exportation'' in paragraph (1)(B), and

(C) by striking ''AND EXPORTATION'' in the heading.

(2) Section 4611(d)(3) is amended—

(A) by striking ''or exporting the crude oil, as the case may be'' in the text and inserting ''the crude oil'', and

(B) by striking ''OR EXPORTS'' in the heading.

(d) EFFECTIVE DATES.—

(1) EXCISE TAXES.—The amendments made by subsections (a) and (c) shall take effect on the date of the enactment of this Act.

(2) INCOME TAX.—The amendment made by subsection (b) shall apply to taxable years beginning after the date of the enactment of this Act.

**Subtitle B—Reinsurance Inversion Limitations**

**SEC. ___11. PREVENTION OF EVASION OF UNITED STATES INCOME TAX ON NONLIFE INSURANCE COMPANIES THROUGH USE OF REINSURANCE WITH FOREIGN PERSONS.**

(a) IN GENERAL.—Subparagraph (A) of section 832(b)(4) (relating to insurance company taxable income) is amended to read as follows:

''(A) From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance (except as provided in paragraph (9)).''

(b) TREATMENT OF REINSURANCE WITH RELATED REINSURERS.—Subsection (b) of section 832 is amended by adding at the end the following new paragraph:

''(9) DENIAL OF DEDUCTION UNDER PARAGRAPH (4) FOR REINSURANCE OF U.S. RISKS WITH CERTAIN RELATED PERSONS.—

''(A) IN GENERAL.—No deduction shall be allowed under paragraph (4) for premiums paid for the direct or indirect reinsurance of United States risks with a related reinsurer.

''(B) EXCEPTIONS.—This paragraph shall not apply to any premium to the extent that—

''(i) the income attributable to the reinsurance to which such premium relates is includible in the gross income of—

''(I) such reinsurer, or

''(II) 1 or more domestic corporations or citizens or residents of the United States, or

''(ii) the related insurer establishes to the satisfaction of the Secretary that the taxable income (determined in accordance with this section 832) attributable to such reinsurance is subject to an effective rate of income tax imposed by a foreign country at a rate greater than 20 percent of the maximum rate of tax specified in section 11.

''(C) ELECTION BY REINSURER TO BE TAXED ON INCOME.—Income of a related reinsurer attributable to the reinsurance of United States risks which is not otherwise includible in gross income shall be treated as gross income which is effectively connected with the conduct of a trade or business in the United States if such reinsurer—

''(i) elects to so treat such income, and

''(ii) meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such income are paid.

''(D) DEFINITIONS.—For purposes of this paragraph—

''(i) UNITED STATES RISK.—The term 'United States risk' means any risk related to property in the United States, or liability arising out of activity in, or in connection with the lives or health of residents of, the United States.

''(ii) RELATED INSURER.—The term 'related insurer' means any reinsurer owned or controlled directly or indirectly by the same interests (within the meaning of section 482) as the person making the premium payment.''

(c) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(5) is amended by inserting after clause (iii) the following new clause:

''(iv) To the results so obtained, add reinsurance recovered from a related reinsurer to the extent a deduction for the premium paid for the reinsurance was disallowed under paragraph (9).''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums paid after the date that the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate votes to report this bill.

**Subtitle C—Corporate Inversion Limitations**

**SEC. ___21. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.**

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

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**SA 3190.** Mr. TORRICELLI (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendmnt SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE ____—ENVIRONMENTAL CLEANUP FINANCING AND REINSURANCE AND CORPORATE INVERSION LIMITATIONS**

**Subtitle A—Environmental Cleanup Financing**

**SEC. ____01. EXTENSION OF SUPERFUND, OIL SPILL LIABILITY, AND LEAKING UNDERGROUND STORAGE TANK EXCISE TAXES.**

(a) SUPERFUND TAXES.—Section 4611(e) is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after the date of the enactment of the Energy Policy Act of 2002 and before October 1, 2007.''.

(b) OIL SPILL LIABILITY TAX.—Section 4611(f) is amended to read as follows:

''(f) APPLICATION OF OIL SPILL LIABILITY TRUST FUND FINANCING RATE.—The Oil Spill Liability Trust Fund financing rate under subsection (c) shall apply after December 31, 1989, and before January 1, 1995, and after the date of the enactment of the Energy Policy Act of 2002 and before October 1, 2007.''.

(c) LEAKING UNDERGROUND STORAGE TANK RATE.—Section 4081(d)(3) is amended by striking ''April 1, 2005'' and inserting ''October 1, 2007.''.

(d) TECHNICAL AMENDMENTS.—

(1) Section 4611(b) is amended—

(A) by striking ''or exported from'' in paragraph (1)(A),

(B) by striking ''or exportation'' in paragraph (1)(B), and

(C) by striking ''AND EXPORTATION'' in the heading.

(2) Section 4611(d)(3) is amended—

(A) by striking ''or exporting the crude oil, as the case may be'' in the text and inserting ''the crude oil'', and

(B) by striking ''OR EXPORTS'' in the heading.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**Subtitle B—Reinsurance Inversion Limitations**

**SEC. ____11. PREVENTION OF EVASION OF UNITED STATES INCOME TAX ON NONLIFE INSURANCE COMPANIES THROUGH USE OF REINSURANCE WITH FOREIGN PERSONS.**

(a) IN GENERAL.—Subparagraph (A) of section 832(b)(4) (relating to insurance company taxable income) is amended to read as follows:

''(A) From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance (except as provided in paragraph (9)).''

(b) TREATMENT OF REINSURANCE WITH RELATED REINSURERS.—Subsection (b) of section 832 is amended by adding at the end the following new paragraph:

''(9) DENIAL OF DEDUCTION UNDER PARAGRAPH (4) FOR REINSURANCE OF U.S. RISKS WITH CERTAIN RELATED PERSONS.—

''(A) IN GENERAL.—No deduction shall be allowed under paragraph (4) for premiums paid for the direct or indirect reinsurance of United States risks with a related reinsurer.

''(B) EXCEPTIONS.—This paragraph shall not apply to any premium to the extent that—

''(i) the income attributable to the reinsurance to which such premium relates is includible in the gross income of—

''(I) such reinsurer, or

''(II) 1 or more domestic corporations or citizens or residents of the United States, or

''(ii) the related insurer establishes to the satisfaction of the Secretary that the taxable income (determined in accordance with this section 832) attributable to such reinsurance is subject to an effective rate of income tax imposed by a foreign country at a rate greater than 20 percent of the maximum rate of tax specified in section 11.

''(C) ELECTION BY REINSURER TO BE TAXED ON INCOME.—Income of a related reinsurer attributable to the reinsurance of United States risks which is not otherwise includible in gross income shall be treated as gross income which is effectively connected with the conduct of a trade or business in the United States if such reinsurer—

''(i) elects to so treat such income, and

''(ii) meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such income are paid.

''(D) DEFINITIONS.—For purposes of this paragraph—

''(i) UNITED STATES RISK.—The term 'United States risk' means any risk related to property in the United States, or liability arising out of activity in, or in connection with the lives or health of residents of, the United States.

''(ii) RELATED INSURER.—The term 'related insurer' means any reinsurer owned or controlled directly or indirectly by the same interests (within the meaning of section 482) as the person making the premium payment.''

(c) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(5) is amended by inserting after clause (iii) the following new clause:

''(iv) To the results so obtained, add reinsurance recovered from a related reinsurer to the extent a deduction for the premium paid for the reinsurance was disallowed under paragraph (9).''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums paid after the date that the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate votes to report this bill.

**Subtitle C—Corporate Inversion Limitations**

**SEC. ____21. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.**

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an

affiliated group (as defined in section 1504(a) without regard to section 1504(b)).''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

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**SA 3191.** Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . CUSTOMS USER FEES.**

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''2003'' and inserting ''2012''.

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**SA 3192.** Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE ___—CURB TAX ABUSES**

**Subtitle A—Tax Shelters**

**SEC. ___01. SHORT TITLE.**

This subtitle may be cited as the ''Abusive Tax Shelter Shutdown Act of 2002''.

**SEC. ___02. FINDINGS AND PURPOSE.**

(a) FINDINGS.—The Congress hereby finds that:

(1) Many corporate tax shelter transactions are complicated ways of accomplishing nothing aside from claimed tax benefits, and the legal opinions justifying those transactions take an inappropriately narrow and restrictive view of well-developed court doctrines under which—

(A) the taxation of a transaction is determined in accordance with its substance and not merely its form,

(B) transactions which have no significant effect on the taxpayer's economic or beneficial interests except for tax benefits are treated as sham transactions and disregarded,

(C) transactions involving multiple steps are collapsed when those steps have no substantial economic meaning and are merely designed to create tax benefits,

(D) transactions with no business purpose are not given effect, and

(E) in the absence of a specific congressional authorization, it is presumed that Congress did not intend a transaction to result in a negative tax where the taxpayer's economic position or rate of return is better after tax than before tax.

(2) Permitting aggressive and abusive tax shelters not only results in large revenue losses but also undermines voluntary compliance with the Internal Revenue Code of 1986.

(b) PURPOSE.—The purpose of this subtitle is to eliminate abusive tax shelters by denying tax attributes claimed to arise from transactions that do not meet a heightened economic substance requirement and by repealing the provision that permits legal opinions to be used to avoid penalties on tax underpayments resulting from transactions without significant economic substance or business purpose.

**PART I—CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE**

**SEC. ___11. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.**

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

''(1) GENERAL RULES.—

''(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction has economic substance shall be made as provided in this paragraph.

''(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—A transaction has economic substance only if—

''(I) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and

''(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

''(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

''(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

''(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

''(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

''(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

''(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction are substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

''(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

''(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

''(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

''(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

''(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

''(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

''(D) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease, the expected net tax benefits shall not include the benefits of depreciation, or any tax credit, with respect to the leased property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

''(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law referred to in section 6662(i)(2), and the requirements of this subsection shall be construed as being in addition to any such other rule of law.''

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

**PART II—PENALTIES**

**SEC. ___21. INCREASE IN PENALTY ON UNDERPAYMENTS RESULTING FROM FAILURE TO SATISFY CERTAIN COMMON LAW RULES.**

(a) IN GENERAL.—Section 6662 (relating to imposition of accuracy-related penalty) is amended by adding at the end the following new subsection:

''(i) INCREASE IN PENALTY IN CASE OF FAILURE TO SATISFY CERTAIN COMMON LAW RULES.—

''(1) IN GENERAL.—To the extent that an underpayment is attributable to a disallowance described in paragraph (2)—

''(A) subsection (a) shall be applied with respect to such portion by substituting '40 percent' for '20 percent', and

''(B) subsection (d)(2)(B) and section 6664(c) shall not apply.

''(2) DISALLOWANCES DESCRIBED.—A disallowance is described in this subsection if such disallowance is on account of—

''(A) a lack of economic substance (within the meaning of section 7701(m)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(m)(2),

''(B) a lack of business purpose for such transaction or because the form of the transaction does not reflect its substance, or

''(C) a failure to meet the requirements of any other similar rule of law.

''(3) INCREASE IN PENALTY NOT TO APPLY IF COMPLIANCE WITH DISCLOSURE REQUIREMENTS.—Paragraph (1)(A) shall not apply if the taxpayer discloses to the Secretary (as such time and in such manner as the Secretary shall prescribe) such information as the Secretary shall prescribe with respect to such transaction.''.

(b) MODIFICATIONS TO PENALTY ON SUBSTANTIAL UNDERSTATEMENT OF INCOME TAX.—

(1) MODIFICATION OF THRESHOLD.—Subparagraph (A) of section 6662(d)(1) is amended to read as follows:

''(A) IN GENERAL.—For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

''(i) $500,000, or

''(ii) the greater of 10 percent of the tax required to be shown on the return for the taxable year or $5,000.''

(2) MODIFICATION OF PENALTY ON TAX SHELTERS, ETC.—Clauses (i) and (ii) of section 6662(d)(2)(C) are amended to read as follows:

''(i) IN GENERAL.—Subparagraph (B) shall not apply to any item attributable to a tax shelter.''

''(ii) DETERMINATION OF UNDERSTATEMENTS WITH RESPECT TO TAX SHELTERS, ETC.—In any case in which there are one or more items attributable to a tax shelter, the amount of the understatement under subparagraph (A) shall in no event be less than the amount of understatement which would be determined for the taxable year if all items shown on the return which are not attributable to any tax shelter were treated as being correct. A similar rule shall apply in cases to which subsection (i) applies, whether or not the items are attributable to a tax shelter.''

(c) TREATMENT OF AMENDED RETURNS.—Subsection (a) of section 6664 is amended by adding at the end the following new sentence: ''For purposes of this subsection, an amended return shall be disregarded if such return is filed on or after the date the taxpayer is first contacted by the Secretary regarding the examination of the return.''

**SEC. ___22. PENALTY ON PROMOTERS OF TAX AVOIDANCE STRATEGIES WHICH HAVE NO ECONOMIC SUBSTANCE, ETC.**

(a) PENALTY.—

(1) IN GENERAL.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) PENALTY ON SUBSTANTIAL PROMOTERS FOR PROMOTING TAX AVOIDANCE STRATEGIES WHICH HAVE NO ECONOMIC SUBSTANCE, ETC.—

''(1) IMPOSITION OF PENALTY.—Any substantial promoter of a tax avoidance strategy shall pay a penalty in the amount determined under paragraph (2) with respect to such strategy if such strategy (or any similar strategy promoted by such promoter) fails to meet the requirements of any rule of law referred to in section 6662(i)(2).

''(2) AMOUNT OF PENALTY.—The penalty under paragraph (1) with respect to a promoter of a tax avoidance strategy is an amount equal to 100 percent of the gross income derived (or to be derived) by such promoter from such strategy.

''(3) TAX AVOIDANCE STRATEGY.—For purposes of this subsection, the term 'tax avoidance strategy' means any entity, plan, arrangement, or transaction a significant purpose of the structure of which is the avoidance or evasion of Federal income tax.

''(4) SUBSTANTIAL PROMOTER.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'substantial promoter' means, with respect to any tax avoidance strategy, any promoter if—

''(i) such promoter offers such strategy to more than 1 potential participant, and

''(ii) such promoter may receive fees in excess of $500,000 in the aggregate with respect to such strategy.

''(B) AGGREGATION RULES.—For purposes of this paragraph—

''(i) RELATED PERSONS.—A promoter and all persons related to such promoter shall be treated as 1 person who is a promoter.

''(ii) SIMILAR STRATEGIES.—All similar tax avoidance strategies of a promoter shall be treated as 1 tax avoidance strategy.

''(C) PROMOTER.—The term 'promoter' means any person who participates in the promotion, offering, or sale of the tax avoidance strategy.

''(D) RELATED PERSON.—Persons are related if they bear a relationship to each other which is described in section 267(b) or 707(b).

''(4) COORDINATION WITH SUBSECTION (a).—No penalty shall be imposed by this subsection on any promoter with respect to a tax avoidance strategy if a penalty is imposed under subsection (a) on such promoter with respect to such strategy.''

(2) CONFORMING AMENDMENT.—Subsection (d) of section 6700 is amended—

(A) by striking ''PENALTY'' and inserting ''PENALTIES'', and

(B) by striking ''penalty'' the first place it appears in the text and inserting ''penalties''.

(b) INCREASE IN PENALTY ON PROMOTING ABUSIVE TAX SHELTERS.—The first sentence of section 6700(a) is amended by striking ''a penalty equal to'' and all that follows and inserting ''a penalty equal to the greater of $1,000 or 100 percent of the gross income derived (or to be derived) by such person from such activity.''

**SEC. ___23. MODIFICATIONS OF PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY INVOLVING TAX SHELTERS.**

(a) IMPOSITION OF PENALTY.—Section 6701(a) (relating to imposition of penalty) is amended to read as follows:

''(a) IMPOSITION OF PENALTIES.—

''(1) IN GENERAL.—Any person—

''(A) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document,

''(B) who knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws, and

''(C) who knows that such portion (if so used) would result in an understatement of the liability for tax of another person,

shall pay a penalty with respect to each such document in the amount determined under subsection (b).

''(2) CERTAIN TAX SHELTERS.—If—

''(A) any person—

''(i) aids or assists in, procures, or advises with respect to the creation, organization, sale, implementation, management, or reporting of a tax shelter (as defined in section 6662(d)(2)(C)(iii)) or of any entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(i)(2), and

''(ii) opines, advises, represents, or otherwise indicates (directly or indirectly) that the taxpayer's tax treatment of items attributable to such tax shelter or such entity, plan, arrangement, or transaction and giving rise to an understatement of tax liability would more likely than not prevail or not give rise to a penalty,

''(B) such opinion, advice, representation, or indication is unreasonable,

then such person shall pay a penalty in the amount determined under subsection (b). If a standard higher than the more likely than not standard was used in any such opinion, advice, representation, or indication, then subparagraph (A)(ii) shall be applied as if such standard were substituted for the more likely than not standard.''

(b) AMOUNT OF PENALTY.—Section 6701(b) (relating to amount of penalty) is amended—

(1) by inserting ''or (3)'' after ''paragraph (2)'' in paragraph (1),

(2) by striking ''subsection (a)'' each place it appears and inserting ''subsection (a)(1)'', and

(3) by redesignating paragraph (3) as paragraph (4) and by adding after paragraph (2) the following:

''(3) TAX SHELTERS.—In the case of—

''(A) a penalty imposed by subsection (a)(1) which involves a return, affidavit, claim, or other document relating to a tax shelter or an entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(i)(2), and

''(B) any penalty imposed by subsection (a)(2),

the amount of the penalty shall be equal to 100 percent of the gross proceeds derived (or to be derived) by the person in connection with the tax shelter or entity, plan, arrangement, or transaction.''

(c) REFERRAL AND PUBLICATION.—If a penalty is imposed under section 6701(a)(2) of the Internal Revenue Code of 1986 (as added by subsection (a)) on any person, the Secretary of the Treasury shall—

(1) notify the Director of Practice of the Internal Revenue Service and any appropriate State licensing authority of the penalty and the circumstances under which it was imposed, and

(2) publish the identity of the person and the fact the penalty was imposed on the person.

(d) CONFORMING AMENDMENTS.—

(1) Section 6701(d) is amended by striking ''Subsection (a)'' and inserting ''Subsection (a)(1)''.

(2) Section 6701(e) is amended by striking ''subsection (a)(1)'' and inserting ''subsection (a)(1)(A)''.

(3) Section 6701(f) is amended by inserting '', tax shelter, or entity, plan, arrangement, or transaction'' after ''document'' each place it appears.

**SEC. ___24. FAILURE TO MAINTAIN LISTS.**

Section 6708(a) (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended by adding at the end the following: ''In the case of a tax shelter (as defined in section 6662(d)(2)(C)(iii)) or entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(i)(2), the penalty shall be equal to 50 percent of the gross proceeds derived (or to be derived) from each person with respect to which there was a failure and the limitation of the preceding sentence shall not apply.''

**SEC. ___25. PENALTY FOR FAILING TO DISCLOSE REPORTABLE TRANSACTION.**

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

**''SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE TAX SHELTER INFORMATION WITH RETURN.**

''(a) IMPOSITION OF PENALTY.—Any person who fails to include with its return of Federal income tax any information required to be included under section 6011 with respect to a reportable transaction shall pay a penalty in the amount determined under subsection (b). No penalty shall be imposed on any such failure if it is shown that such failure is due to reasonable cause.

''(b) AMOUNT OF PENALTY.—

''(1) IN GENERAL.—The amount of the penalty under subsection (a) shall be equal to the greater of—

''(A) 5 percent of any increase in Federal tax which results from a difference between the taxpayer's treatment (as shown on its return) of items attributable to the reportable transaction to which the failure relates and the proper tax treatment of such items, or

''(B) $100,000.

For purposes of subparagraph (A), the last sentence of section 6664(a) shall apply.

''(2) LISTED TRANSACTION.—If the failure under subsection (a) relates to a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011, paragraph (1)(A) shall be applied by substituting '10 percent' for '5 percent'.

''(c) REPORTABLE TRANSACTION.—For purposes of this section, the term 'reportable transaction' means any transaction with respect to which information is required under section 6011 to be included with a taxpayer's return of tax because, as determined under regulations prescribed under section 6011, such transaction has characteristics which may be indicative of a tax avoidance transaction.

''(d) COORDINATION WITH OTHER PENALTIES.—The penalty imposed by this section is in addition to any penalty imposed under section 6662.''

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

''Sec. 6707A. Penalty for failure to include tax shelter information on return.''

**SEC. ___26. REGISTRATION OF CERTAIN TAX SHELTERS WITHOUT CORPORATE PARTICIPANTS.**

Section 6111(d)(1)(A) (relating to certain confidential arrangements treated as tax shelters) is amended by striking ''for a direct or indirect participant which is a corporation''.

**SEC. ___27. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this part shall apply to transactions after the date of the enactment of this Act.

(b) SECTION ___21.—The amendments made by subsections (b) and (c) of section ___21 shall apply to taxable years ending after the date of the enactment of this Act.

(c) SECTION ___22.—The amendments made by subsection (a) of section ___22 shall apply to any tax avoidance strategy (as defined in section 6700(c) of the Internal Revenue Code of 1986, as amended by this part) interests in which are offered to potential participants after the date of the enactment of this Act.

(d) SECTION ___26.—The amendment made by section ___26 shall apply to any tax shelter interest which is offered to potential participants after the date of the enactment of this Act.

## PART III—LIMITATIONS ON IMPORTATION OR TRANSFER OF BUILT-IN LOSSES

**SEC. ___31. LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.**

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new subsection:

''(e) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

''(1) IN GENERAL.—If in any transaction described in subsection (a) or (b) there would (but for this subsection) be an importation of a net built-in loss, the basis of each property described in paragraph (2) which is acquired in such transaction shall (notwithstanding subsections (a) and (b)) be its fair market value immediately after such transaction.

''(2) PROPERTY DESCRIBED.—For purposes of paragraph (1), property is described in this paragraph if—

''(A) gain or loss with respect to such property is not subject to tax under this subtitle in the hands of the transferor immediately before the transfer, and

''(B) gain or loss with respect to such property is subject to such tax in the hands of the transferee immediately after such transfer.

In any case in which the transferor is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as holding such partner's proportionate share of the property of such partnership.

''(3) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of paragraph (1), there is an importation of a net built-in loss in a transaction if the transferee's aggregate adjusted bases of property described in paragraph (2) which is transferred in such transaction would (but for this subsection) exceed the fair market value of such property immediately after such transaction.''

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—Paragraph (1) of section 334(b) (relating to liquidation of subsidiary) is amended to read as follows:

''(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution—

''(A) in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, or

''(B) in any case in which the liquidating corporation is a foreign corporation, the corporate distributee is a domestic corporation, and the corporate distributee's aggregate adjusted bases of property described in section 362(e)(2) which is distributed in such liquidation would (but for this subparagraph) exceed the fair market value of such property immediately after such liquidation.''

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

**SEC. ___32. DISALLOWANCE OF PARTNERSHIP LOSS TRANSFERS.**

(a) TREATMENT OF CONTRIBUTED PROPERTY WITH BUILT-IN LOSS.—Paragraph (1) of section 704(c) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following:

''(C) if any property so contributed has a built-in loss—

''(i) such built-in loss shall be taken into account only in determining the amount of items allocated to the contributing partner, and

''(ii) except as provided in regulations, in determining the amount of items allocated to other partners, the basis of the contributed property in the hands of the partnership shall be treated as being equal to its fair market value immediately after the contribution.

For purposes of subparagraph (C), the term 'built-in loss' means the excess of the adjusted basis of the property over its fair market value immediately after the contribution.''

(b) ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY ON TRANSFER OF PARTNERSHIP INTEREST IF THERE IS SUBSTANTIAL BUILT-IN LOSS.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 743 (relating to optional adjustment to basis of partnership property) is amended by inserting before the period ''or unless the partnership has a substantial built-in loss immediately after such transfer''.

(2) ADJUSTMENT.—Subsection (b) of section 743 is amended by inserting ''or with respect to which there is a substantial built-in loss immediately after such transfer'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BUILT-IN LOSS.—Section 743 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BUILT-IN LOSS.—For purposes of this section, a partnership has a substantial built-in loss with respect to a transfer of an interest in a partnership if the transferee partner's proportionate share of the adjusted basis of the partnership property exceeds 110 percent of the basis of such partner's interest in the partnership.''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 743 is amended to read as follows:

**''SEC. 743. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS.''**

(B) The table of sections for subpart C of part II of subchapter K of chapter 1 is amended by striking the item relating to section 743 and inserting the following new item:

''Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss.''

(c) ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY IF THERE IS SUBSTANTIAL BASIS REDUCTION.—

(1) ADJUSTMENT REQUIRED.—Subsection (a) of section 734 (relating to optional adjustment to basis of undistributed partnership property) is amended by inserting before the period ''or unless there is a substantial basis reduction''.

(2) ADJUSTMENT.—Subsection (b) of section 734 is amended by inserting ''or unless there is a substantial basis reduction'' after ''section 754 is in effect''.

(3) SUBSTANTIAL BASIS REDUCTION.—Section 734 is amended by adding at the end the following new subsection:

''(d) SUBSTANTIAL BASIS REDUCTION.—For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds 10 percent of the aggregate adjusted basis of partnership property immediately after the distribution.''

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 734 is amended to read as follows:

**''SEC. 734. ADJUSTMENT TO BASIS OF UNDISTRIBUTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BASIS REDUCTION.''**

(B) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

''Sec. 734. Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction.''

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to contributions made after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

(3) SUBSECTION (c).—The amendments made by subsection (a) shall apply to distributions after the date of the enactment of this Act.

### Subtitle B—Reinsurance

**SEC. ___41. SHORT TITLE.**

This subtitle may be cited as the ''Reinsurance Tax Equity Act of 2002''.

**SEC. ___42. PREVENTION OF EVASION OF UNITED STATES INCOME TAX ON NONLIFE INSURANCE COMPANIES THROUGH USE OF REINSURANCE WITH FOREIGN PERSONS.**

(a) IN GENERAL.—Subparagraph (A) of section 832(b)(4) (relating to insurance company taxable income) is amended to read as follows:

''(A) From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance (except as provided in paragraph (9)).''

(b) TREATMENT OF REINSURANCE WITH RELATED REINSURERS.—Subsection (b) of section 832 is amended by adding at the end the following new paragraph:

''(9) DENIAL OF DEDUCTION UNDER PARAGRAPH (4) FOR REINSURANCE OF U.S. RISKS WITH CERTAIN RELATED PERSONS.—

''(A) IN GENERAL.—No deduction shall be allowed under paragraph (4) for premiums paid for the direct or indirect reinsurance of United States risks with a related reinsurer.

''(B) EXCEPTIONS.—This paragraph shall not apply to any premium to the extent that—

''(i) the income attributable to the reinsurance to which such premium relates is includible in the gross income of—

''(I) such reinsurer, or

''(II) 1 or more domestic corporations or citizens or residents of the United States, or

''(ii) the related insurer establishes to the satisfaction of the Secretary that the taxable income (determined in accordance with this section 832) attributable to such reinsurance is subject to an effective rate of income tax imposed by a foreign country at a rate greater than 20 percent of the maximum rate of tax specified in section 11.

''(C) ELECTION BY REINSURER TO BE TAXED ON INCOME.—Income of a related reinsurer attributable to the reinsurance of United States risks which is not otherwise includible in gross income shall be treated as gross income which is effectively connected with the conduct of a trade or business in the United States if such reinsurer—

''(i) elects to so treat such income, and

''(ii) meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such income are paid.

''(D) DEFINITIONS.—For purposes of this paragraph—

''(i) UNITED STATES RISK.—The term 'United States risk' means any risk related to property in the United States, or liability arising out of activity in, or in connection with the lives or health of residents of, the United States.

''(ii) RELATED INSURER.—The term 'related insurer' means any reinsurer owned or controlled directly or indirectly by the same interests (within the meaning of section 482) as the person making the premium payment.''

(c) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(5) is amended by inserting after clause (iii) the following new clause:

''(iv) To the results so obtained, add reinsurance recovered from a related reinsurer to the extent a deduction for the premium paid for the reinsurance was disallowed under paragraph (9).''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums paid after the date that the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate votes to report this bill.

**Subtitle C—Corporate Inversions**

**SEC. ___51. SHORT TITLE.**

This subtitle may be cited as the ''Corporate Patriot Enforcement Act of 2002''.

**SEC. ___52. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.**

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

''(4) DOMESTIC.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'domestic' when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

''(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

''(i) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

''(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term 'corporate expatriation transaction' means any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation, and

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation.

''(iii) LOWER STOCK OWNERSHIP REQUIREMENT IN CERTAIN CASES.—Subclause (II) of clause (ii) shall be applied by substituting '50 percent' for '80 percent' with respect to any nominally foreign corporation if—

''(I) such corporation does not have substantial business activities (when compared to the total business activities of the expanded affiliated group) in the foreign country in which or under the law of which the corporation is created or organized, and

''(II) the stock of the corporation is publicly traded and the principal market for the public trading of such stock is in the United States.

''(iv) PARTNERSHIP TRANSACTIONS.—The term 'corporate expatriation transaction' includes any transaction if—

''(I) a nominally foreign corporation (referred to in this subparagraph as the 'acquiring corporation') acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership,

''(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former partners of the domestic partnership (determined without regard to stock of the acquiring corporation which is sold in a public offering related to the transaction), and

''(III) the acquiring corporation meets the requirements of subclauses (I) and (II) of clause (iii).

''(v) SPECIAL RULES.—For purposes of this subparagraph—

''(I) a series of related transactions shall be treated as 1 transaction, and

''(II) stock held by members of the expanded affiliated group which includes the acquiring corporation shall not be taken into account in determining ownership.

''(vi) OTHER DEFINITIONS.—For purposes of this subparagraph—

''(I) NOMINALLY FOREIGN CORPORATION.—The term 'nominally foreign corporation' means any corporation which would (but for this subparagraph) be treated as a foreign corporation.

''(II) EXPANDED AFFILIATED GROUP.—The term 'expanded affiliated group' means an affiliated group (as defined in section 1504(a) without regard to section 1504(b)).''

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply to corporate expatriation transactions completed after September 11, 2001.

(2) SPECIAL RULE.—The amendment made by this section shall also apply to corporate expatriation transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring corporation beginning after December 31, 2003.

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**SA 3193.** Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, between lines 7 and 8, insert the following:

**SEC. 608. STATE REFERENDA TO LIFT MORATORIA ON OFFSHORE OIL AND GAS DRILLING.**

(a) IN GENERAL.—Notwithstanding any moratorium or executive order temporarily suspending or permanently prohibiting offshore oil or gas drilling on submerged land off the coast of a State—

(1) the State may hold a referendum on whether to allow production of oil or gas on the submerged land, including whether to impose any restrictions on the proximity of such drilling to the shore; and

(2) if such production is approved by the referendum, the President shall authorize a lease sale for the submerged land.

(b) ROYALTIES.—

(1) NEW LEASES UNDER SUBSECTION (a).—Of any royalties collected after the date of enactment of this Act from drilling conducted under subsection (a), 30 percent shall be distributed to the State off the shore of which oil or gas is produced.

(2) NEW DEEP WATER LEASES.—For fiscal year 2007, and each fiscal year thereafter, of any royalties collected during the fiscal year from leases in water 800 or more meters deep that are issued after the date of enactment of this Act, 30 percent shall be distributed to the States offshore of which the leases lie.

(3) EXISTING LEASES.—Notwithstanding section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1338(g)(2)), on and after the date that is 10 years after the date of enactment of this Act, 30 percent of amounts collected from leases issued before, on, or after the date of enactment of this Act shall be distributed to the States offshore of which the leases lie.

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**SA 3194.** Ms. LANDRIEU (for herself and Mr. DOMENICI) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title V, add the following:

**SEC. 5___. NEW NUCLEAR REACTOR TECHNOLOGY PROGRAM.**

(a) IN GENERAL.—Chapter 19 of the Atomic Energy Act of 1954 is amended by inserting

after section 276 (42 U.S.C. 2023) the following:

**"SEC. 277. NEW NUCLEAR REACTOR TECHNOLOGY PROGRAM.**

''(a) IN GENERAL.—The Commission shall develop and maintain a program to identify and address safety and environmental issues associated with designs for nuclear power plants that would incorporate new reactor technologies, as identified by the Department of Energy and the nuclear power industry.

''(b) ACTIVITIES.—In carrying out the program under subsection (a), the Commission shall—

''(1) conduct modeling and analyses of, and tests and experiments on, designs for nuclear power plants to determine total system behavior and the response of the nuclear power plants to hypothetical accidents; and

''(2) consider—

''(A) new reactor technologies that may affect—

''(i) risk-informed licensing of new nuclear power plants;

''(ii) the behavior of advanced fuels; and

''(iii) environmental considerations relating to—

''(I) spent fuel management; and

''(II) standards for limiting negative health effects;

''(B) other new technologies (including advanced sensors, digital instrumentation, and digital controls) and human factors that affect the application of new reactor technology to nuclear power plants in existence as of the date of enactment of this section; and

''(C) any other emerging technical issue relating to new reactor technologies, as determined by the Commission.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums are necessary to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. prec. 2011) is amended by inserting after the item relating to section 276 the following:

''Sec. 277. New nuclear reactor technology program.''.

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**SA 3195.** Mr. HARKIN (for himself, Mr. COCHRAN, Mr. GRASSLEY, and Mrs. LINCOLN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 293, strike line 5 and all that follows through page 294 and insert the following:

Section 325(d)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295)d)) is amended by adding at the end the following:

''(C) REVISION OF STANDARDS.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall amend the standards established under paragraph (1).''.

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**SA 3196.** Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In the appropriate place in subtitle A of title II, insert the following:

**SEC. 2 . SENSE OF THE SENATE RESOLUTION CONCERNING ELECTRIC POWER TRANSMISSION SYSTEMS.**

It is the sense of the Senate that the development of regional energy markets and the magnitude of constraints in electric power transmission systems require that the Federal Government be attentive to electric power transmission issues, particularly issues that can be addressed through policies that facilitate investment in, the enhancement of, and the efficiency of electric power transmission systems.

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**SA 3197.** Mr. CARPER (for himself, Ms. COLLINS, Mr. LEVIN, Ms. LANDRIEU, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 47, strike line 23 and all that follows through page 48, line 20, and insert the following:

''(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

''(1) OBLIGATION TO PURCHASE.— After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has access to independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy.

''(2) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if competing retail electric suppliers are able to provide electric energy to the qualifying cogeneration facility or qualifying small power production facility.

''(3) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

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**SA 3198.** Mr. CARPER (for himself, Mr. SPECTER, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 177, before line 1, insert the following:

**SEC. 811. REQUIREMENT FOR REGULATIONS TO REDUCE OIL CONSUMPTION.**

(a) OIL SAVINGS.—

(1) IN GENERAL.—The new regulations required by section 801 shall include regulations that apply to passenger and non-passenger automobiles manufactured after model year 2006 and are designed to result in a reduction in the amount of oil (including oil refined into gasoline) used by automobiles of at least 1,000,000 barrels per day by 2015.

(2) CALCULATION OF REDUCTION.—To determine the amount of the reduction in oil used by passenger and non-passenger automobiles, the Secretary of Transportation shall make calculations based on the number of barrels of oil projected by the Energy Information Administration of the Department of Energy in table A7 of the report entitled ''Annual Energy Outlook 2002'' (report no. DOE/EIA-0383(2002)) to be consumed by light-duty vehicles in 2015 without the regulations required by paragraph (1).

(3) CONSIDERATION OF ALTERNATIVE FUEL TECHNOLOGIES.—The Secretary of Transportation shall consult with the Secretary of Energy to identify alternative fuel technologies that could be utilized in the transportation sector to reduce dependence on crude-oil-derived fuels. The Secretary of Transportation shall take those technologies into consideration in prescribing the regulations under this section.

(4) FINAL REGULATIONS.—The Secretary of Transportation shall issue the final regulations required by this subsection after carrying out the consultation described in paragraph (3), but not later than 15 months after the date of the enactment of this Act.

(b) REPORTS TO CONGRESS.—

(1) REQUIREMENT.—Beginning in 2007, the Secretary of Transportation shall, after consulting with the Administrator of the Environmental Protection Agency, submit to Congress in January of every odd-numbered year through 2015 a report on the implementation of the requirements of this section.

(2) CONTENT.—The report required by paragraph (1) shall explain and assess the progress in reducing oil consumption by automobiles as required by this section.

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**SA 3199.** Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 204, strike line 14 and all that follows through page 205, line 8.

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**SA 3200.** Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 191, strike lines 8 through 11 and insert the following:

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2)—

''(A) except as provided in subparagraph (B), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallons of renewable fuel; and

''(B) 1 gallon of cellulosic biomass ethanol shall be considered the equivalent of 2 gallons of renewable fuel if the cellulosic biomass ethanol is derived from agricultural residues.''.

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**SA 3201.** Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . FERC STUDY ON EFFECTS OF JUST AND REASONABLE ELECTRICITY RATES.**

Not later than August 15, 2002, the Federal Energy Regulatory Commission shall submit a report to the Senate Energy and Natural Resources Committee and the House Energy and Commerce Committee detailing how the order of June 18, 2001, ''Addressing Price Mitigation in California and the Western United States'', helped establish just and reasonable electricity prices in the 11 states, including California, that comprise the Western Systems Coordinating Council.

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**SA 3202.** Mr. JEFFORDS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 568, strike line 6 and all that follows through page 570, line 7 and insert the following:

**SEC. 1701. REGULATORY REVIEWS.**

(a) REGULATORY REVIEWS.—Not later than one year after the date of enactment of this section, each Federal agency shall review relevant regulations and standards to identify—

(1) existing regulations and standards that act as barriers to market entry for emerging energy technologies (including fuel cells, combined heat and power, distributed power generation, small-scale renewable energy, geothermal heat pump technology, and energy recovery in industrial processes), and

(2) actions the agency is taking or could take to, consistent with the purposes of the regulations the agency administers—

(A) remove barriers to market entry for emerging energy technologies,

(B) increase energy efficiency and conservation, or

(C) encourage the use of new and existing processes to meet energy and environmental goals.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this section, the Director of the Office of Science and Technology Policy shall report to the Congress on the results of the agency reviews conducted under subsection (a).

(c) CONTENTS OF THE REPORT.—The report shall identify—

(1) all regulatory barriers to—

(A) the development and commercialization of emerging energy technologies and processes, and

(B) the further development and expansion of existing energy conservation technologies and processes, and

(2) actions taken, or proposed to be taken, to remove such barriers.

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**SA 3203.** Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 119, between lines 10 and 11, insert the following:

Subtitle B—Nuclear Security

**SEC. 511. REPORT ON NUCLEAR SECURITY.**

REPORT TO CONGRESS.—Not later than 60 days after the date of enactment of this section, the Nuclear Regulator Commission shall report to the relevant committees of Congress on any changes and on-going review of the design basis threat since September 11, 2001.

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**SA 3204.** Mrs. CARNAHAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 294, after line 18, insert the following:

''(6) Small duct, high velocity air conditioners and heat pumps, a niche product with external static pressures several times those of conventional products, are exempt from paragraphs (1) through (4). No later than January 1, 2004, the Secretary shall, in accordance with subsections (o) and (p), prescribe a standard for small duct, high velocity equipment.''

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**SA 3205.** Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, between lines 7 and 8, insert the following:

**SEC. ___. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179D the following new section:

**''SEC. 179E. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.**

''(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an eligible resupplier, there shall be allowed as a deduction an amount equal to the cost of each qualified water submetering device placed in service during the taxable year.

''(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified water submetering device shall not exceed $30.

''(c) ELIGIBLE RESUPPLIER.—For purposes of this section, the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.

''(d) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any tangible property to which section 168 applies if such property is a submetering device (including ancillary equipment)—

''(1) which is purchased and installed by the taxpayer to enable consumers to manage their purchase or use of water in response to water price and usage signals, and

''(2) which permits reading of water price and usage signals on at least a daily basis.

''(e) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

''(f) BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

''(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting '', or'', and by inserting after subparagraph (K) the following new subparagraph:

''(L) expenditures for which a deduction is allowed under section 179E.''.

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking ''or 179D'' each place it appears in the heading and text and inserting '', 179D, or 179E''.

(3) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', and'', and by adding at the end the following new paragraph:

''(36) to the extent provided in section 179E(f)(1).''.

(4) Section 1245(a), as amended by this Act, is amended by inserting ''179E,'' after ''179D,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179D the following new item:

''Sec. 179E. Deduction for qualified new or retrofitted water submetering devices.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified water submetering devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. ___. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.**

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) any qualified water submetering device.''.

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

''(16) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any qualified water submetering device (as defined in section 179E(d)) which is placed in service by a taxpayer who is an eligible resupplier (as defined in section 179E(c)).''.

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

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**SA 3206.** Mr. TORRICELLI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 574, between lines 11 and 12, insert the following:

**SEC. 17___. STUDY OF ETHANOL-FROM-SOLID WASTE LOAN GUARANTEE PROGRAM.**

The Secretary of Energy shall—

(1) conduct a study of the feasibility of providing guarantees of loans by private banking and investment institutions for facilities for the processing and conversion of municipal solid waste and sewage sludge into fuel ethanol and other commercial byproducts; and

(2) not later than 90 days after the date of enactment of this Act, submit to Congress a report on the results of the study.

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**SA 3207.** Mr. BAUCUS (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 126, strike line 2 and all that follows through line 14 and insert the following:

''the States; and

(3) improve the collection, storage, and retrieval of information related to such leasing activities.

(b) IMPROVED ENFORCEMENT.—The Secretary shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill.

(c) REPORT.—No later than 180 days after enactment of this Act, the Secretary shall report to Congress describing the actions she has taken to comply with subsections (a) and (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2003 through 2006, in addition to amounts otherwise authorized to be appropriated for the purpose of carrying out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary of the Interior.

(1) $40,000,000 for the purpose of carrying out paragraphs (1) through (3) of subsection (a); and

(2) $20,000,000 for the purpose of carrying out subsection (b).''

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**SA 3208.** Mr. BAUCUS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

**SEC. . ENHANCED DOMESTIC PRODUCTION OF OIL AND GAS THROUGH EXCHANGE OF NONPRODUCING LEASES.**

(a) DEFINITION.—For purposes of this section:

(1) the term ''Badger-two Medicine Area'' means federal lands, owned by the United States Forest Service, located in: T 31 N, R 12–13 W; T 30 N, R 11–13 W; T 29 N, R 10–16 W; and, T 28 N, R 10–14 W.

(2) the term ''Blacklead Area'' means federal lands, owned by the United States Forest Service lands and Bureau of Land Management, located in: T 27 N, R 9 W; T 26 N, R 9–10 W, T 25 N, R 8–10 W, T 24 N, R 8–9 W.

(3) the term ''noproducing leases'' means authorized Federal oil and gas leases that are in existence and in good standing as of the date of enactment of this Act and are located in the Badger-Two Medicine Area or the Blackleaf Area.

(4) the term ''Secretary'' means the Secretary of the Interior.

(b) EVALUATION.—The Secretary is directed to undertake an evaluation of opportunities to enhance domestic production through the exchange of the nonproducing leases in the Badger-Two Medicine Area and the Blackleaf Area. In undertaking the evaluation, the Secretary shall consult with the Governor of Montana, the lessees holding the nonproducing leases, and interested members of the public. The evaluation shall include—

(1) A discussion of opportunities to enhance domestic production of oil and gas through an exchange of the nonproducing leases for oil and gas lease tracts of comparable value in Montana or in the Central and Western Gulf of Mexico Planning Areas on the Outer Continental Shelf;

(2) A discussion of opportunities to enhance domestic production of oil and gas through the issuance of bidding, royalty, or rental credits for use on federal onshore oil and gas leases in Montana or in the Central and Western Gulf of Mexico Planning Areas on the Outer Continental Shelf in exchange for the cancellation of the nonproducing leases:

(3) A discussion of any other appropriate opportunities to exchange the nonproducing leases or provide compensation for their cancellation with the consent of the lessee.

(4) Views of interested parties, including the written views of the State of Montana;

(5) A discussion of the level of interest of the holders of the nonproducing lessees in the exchange of such interest;

(6) Recommendations regarding the advisability of pursuing such exchanges; and

(7) Recommendations regarding changes in law and regulation needed to enable the Secretary to undertake such an exchange.

The Secretary shall transmit the evaluation to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives within two years after the date of enactment of this Act.

(c) VALUATION OF NONPRODUCING LEASES.—For purposes of the evaluation, the value of each nonproducing lease shall be an amount equal to—

(1) consideration paid by the current lessee for each nonproducing lease; plus

(2) all direct expenditures made by the current lessee prior to the date of enactment of this Act in connection with the exploration or development, or both, of such lease (plus interest on such consideration and such expenditures from the date of payment to date of issuance of the credits); minus

(3) the sum of the revenues from the nonproducing lease.

(d) SUSPENSION OF LEASES.—In order to allow for the evaluation under this section and review by the Congress, nonproducing leases in the Badger-Two Medicine Area shall be suspended for a period of three years commencing from the date of enactment of this Act.

(e) LIMITATION ON SUSPENSION OF LEASES.—The suspension referred to in subsection (d) shall not apply to nonproducing leases located in the Blackleaf Area.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

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**SA 3209.** Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 373, strike lines 3 and 4 and insert the following:

sources;

(3) take into account the findings of the initial report developed under section 1317(a); and

(4) provide for the comprehensive collection and

On page 476, between lines 16 and 17, insert the following:

**PART I—CARBON SEQUESTRATION RESEARCH, DEMONSTRATION PROJECTS, AND OUTREACH**

On page 487, between lines 18 and 19, insert the following:

**PART II—FOUNDATIONS FOR A NATIONAL CARBON SEQUESTRATION BASELINE AND ACCOUNTING SYSTEM**

**SEC. 1315. PURPOSE.**

The purpose of this part is to establish foundations for a national carbon sequestration baseline and accounting system to support development and assessment of programs and policies that encourage environmentally beneficial carbon sequestration and carbon storage practices.

**SEC. 1316. DEFINITIONS.**

In this part:

(1) ACCOUNTING SYSTEM.—

(A) IN GENERAL.—The term ''accounting system'' means a system for quantifying increases or decreases, relative to a comprehensive baseline and a reference case, in

carbon release, carbon sequestration, or carbon storage in biomass and soil (excluding carbon release, carbon sequestration, or carbon storage resulting from the planting or harvesting of annual crops) that result from natural or human-caused changes in natural resources or land uses, practices, or activities.

(B) INCLUSION.—The term ''accounting system'' includes parameters that are sufficient to provide a basis for spatial or georeferenced tracking of changes in levels of carbon storage that can be measured and assessed over time.

(2) BASELINE.—The term ''baseline'' means a quantification of the carbon stored in biomass and soil that is associated with all natural resources, or land uses, practices, or activities, within a specific land area at a specific point in time.

(3) BIOMASS.—The term ''biomass'' means roots, stems, or foliage of vegetation.

(4) CARBON RELEASE.—

(A) IN GENERAL.—The term ''carbon release'' means a release of carbon as a result of a natural cause or a change in a land or resource use, practice, or activity.

(B) EXCLUSION.—The term ''carbon release'' does not include a release of carbon as a result of the burning of fossil fuel.

(5) CARBON SEQUESTRATION.—The term ''carbon sequestration'' means the process of increasing the carbon content in biomass and soil through a biological method (such as photosynthesis) that captures or removes carbon from the atmosphere.

(6) CARBON STORAGE.—The term ''carbon storage'' means the quantity of carbon stored in biomass and soil.

(7) CARBON STORAGE PERFORMANCE INDICATOR.—The term ''carbon storage performance indicator'' means a set of scientifically based computations (including a model and a reference table) that can be used by landowners and others to easily extrapolate a quantification of carbon storage independent from or in combination with sampling.

(8) FEDERAL AGENCY.—The term ''Federal agency'' includes—

(A) the Environmental Protection Agency;

(B) the National Air and Space Administration; and

(C) appropriate agencies in—

(i) the Department of Agriculture;

(ii) the Department of Commerce;

(iii) the Department of Energy; and

(iv) the Department of the Interior.

(9) PILOT AREA.—The term ''pilot area'' means an area consisting of 1 or more States in which a pilot program under section 1318 is carried out.

(10) REFERENCE CASE.—The term ''reference case'' means a quantified projection of carbon release, carbon sequestration, or carbon storage reflecting a typical scenario against which the effects of a program, policy, or project can be assessed.

(11) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

**SEC. 1317. ESTABLISHMENT OF FOUNDATIONS FOR A NATIONAL BASELINE AND ACCOUNTING SYSTEM.**

(a) ANNUAL REPORTS ON ESTABLISHMENT.—Not later than 1 year after the date of enactment of this Act, the Secretary, in collaboration with other Federal agencies and in consultation with eligible entities carrying out pilot programs under section 1318, shall submit to Congress a report, and in each of the 4 years thereafter shall submit an updated report, on the technical, information, and administrative requirements, institutional relationships, infrastructure, and funding (including funding of startup costs and maintenance costs) needed to establish a national baseline and accounting system, including—

(1) methodologies for quantification and measurement of carbon release, carbon sequestration, and carbon storage, and release and sequestration of other greenhouse gases, including methodologies—

(A) to develop reference cases for various types of activities and geographic locations;

(B) to cover subsequent releases under the accounting system; and

(C) to track or estimate changes in carbon release, carbon sequestration, or carbon storage in land outside an area that are caused by changes in activities in another area;

(2) institutional relationships necessary to collect information, including the role that States may fulfill;

(3) means of determining the adequacy of information and the necessary level of precision;

(4) alternative approaches for developing a national baseline and accounting system in the most cost-effective manner while maintaining necessary levels of precision and accuracy;

(5) an assessment of the appropriate uses for, and the feasibility of developing, carbon storage performance indicators for carbon release, carbon sequestration, and carbon storage, and performance indicators for other greenhouse gases, for various land and resource uses and forest, agricultural, and cropland management practices (including an evaluation of associated economic and financial costs);

(6) the extent to which a national baseline and accounting system could support a range of policy and program initiatives to encourage environmentally beneficial carbon sequestration and carbon storage practices, including practices that result in the benefits described in section 1318(c)(2)(D);

(7) requirements for the management and access to data by the public;

(8) issues, options, and methodologies relating to accounting for carbon content in wood products and annual crops;

(9) an assessment of national, State, and local policies and programs—

(A) to encourage carbon sequestration and carbon storage practices that also have other beneficial impacts on the environment; and

(B) to discourage those practices that have harmful impacts;

(10) innovative methods for financing the continued development of a national baseline and accounting system; and

(11) recommendations to Congress on appropriate considerations in carrying out the purposes of this part.

(b) DEVELOPMENT OF CARBON STORAGE PERFORMANCE INDICATORS.—

(1) IN GENERAL.—During the 5-year period beginning on the date of enactment of this Act, the Secretary, in collaboration with other Federal agencies, shall conduct research on, develop, and publish as appropriate, carbon storage performance indicators that assist landowners and others in cost-effective and reliable quantification of the carbon release, carbon sequestration, and carbon storage expected to result from various land and resource uses, practices, or activities over various periods of time.

(2) REQUIRED ELEMENTS.—In carrying out paragraph (1), the Secretary shall—

(A) review relevant information, including information developed under the pilot programs under section 1318;

(B) determine the extent to which carbon storage performance indicators should vary according to—

(i) region of the United States;

(ii) biological, ecological, or physiological criterion; or

(iii) type of management practice;

(C) consider—

(i) various levels of precision for quantification and measurement based on a range of uses; and

(ii) implications for potential uses of the carbon storage performance indicators, including such uses as—

(I) communications to encourage beneficial practices;

(II) initial screening for potential benefits from certain practices;

(III) quantification of a national baseline and accounting system and reference case, including uses—

(aa) to augment sampling to reduce costs;

(bb) to ensure inclusion of subsequent releases of quantified carbon storage and carbon sequestration to address permanence and long-term trends in carbon storage; and

(cc) to simplify assessment of impacts within and outside a specific area; and

(IV) project-level quantification of carbon release, carbon sequestration, and carbon storage;

(D) consider the implications of establishing performance indicators for greenhouse gases other than carbon;

(E)(i) identify practices that—

(I) consistently store, release, or sequester carbon over a specified period of time; and

(II) offer additional environmental benefits, including practices that result in the benefits described in section 1318(c)(2)(D); and

(ii) identify factors that may serve to affect the performance of the practices described in clause (i) with respect to carbon sequestration and environmental impacts; and

(F) provide information on methods by which landowners and others may evaluate costs and return on investment over time.

(3) PEER REVIEW.—The carbon storage performance indicators developed under paragraph (1) shall be subjected to peer review by members of the public and private science and policy communities and potential user groups, including eligible entities carrying out pilot programs under section 1318.

(c) REPORT ON DESIGN OPTIONS FOR NATIONAL BASELINE AND ACCOUNTING SYSTEM.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(1) assesses and describes options for the design and development of a publicly accessible national baseline and accounting system; and

(2) summarizes and synthesizes relevant findings of the annual reports submitted under subsection (a).

**SEC. 1318. PILOT PROGRAMS TO ESTABLISH BASELINES AND ACCOUNTING SYSTEMS.**

(a) GRANTS.—

(1) IN GENERAL.—The Secretary, in consultation with other Federal agencies, shall make competitive grants to not more than 5 eligible entities to carry out pilot programs to demonstrate and assess the feasibility of publicly accessible, automated baselines and accounting systems that are designed—

(A) to assess trends; and

(B) to assist in developing and assessing carbon sequestration and storage policies and programs.

(2) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be—

(A) a State entity or consortium of State entities;

(B) a research institution with a demonstrated capacity for research relating to this part, such as—

(i) an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)); and

(ii) a land-grant college or university (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103));

(C) an intergovernmental entity;

(D) a nonprofit entity; or

(E) a consortium of entities described in any of subparagraphs (A) through (D).

(b) APPLICATIONS.—

(1) IN GENERAL.—To receive a grant to carry out a pilot program, an eligible entity shall submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require.

(2) REQUIRED ELEMENTS.—An application by an eligible entity to carry out a pilot program shall contain, at a minimum, a description of—

(A) sources, level of detail, aggregation, and plans for filling gaps in information that the eligible entity would use to carry out the pilot program;

(B) proposed management of, and access by the public to, the information described in subparagraph (A), including—

(i) design of automation support; and

(ii) reporting and quality control of data submissions and data entry in a manner that protects confidentiality;

(C) means by which recommendations for cost-effective mechanisms for a national, multistate, or State baseline and accounting system may result from the pilot program;

(D) means by which a baseline and accounting system, including a reference case, may be developed;

(E) institutional arrangements that the eligible entity will use to collect and manage relevant information from various sources and levels of government;

(F) the participation of the governmental and nongovernmental interests that would be affected by the pilot program;

(G) a sampling plan to provide for the measurement of carbon at the beginning and end of the pilot program; and

(H) information on how the pilot program could—

(i) support improved agricultural and forest management practices to reduce greenhouse gas emissions and offer other environmental, social, and economic benefits;

(ii) recognize long-term commitment of land to uses that store rather than release carbon and that offer other environmental benefits; and

(iii) lead to development of new mechanisms for improved institutional coordination, cooperation, and communication among Federal, State, and local governmental organizations involved in public and private land management, policy, and practice.

(c) PRIORITIES IN FUNDING.—

(1) IN GENERAL.—In selecting pilot programs for grants under this section, the Secretary shall give priority to pilot programs that have the greatest potential for advancing the purpose of this part.

(2) CONSIDERATIONS.—In carrying out paragraph (1), the Secretary shall consider—

(A) the percentage of land in a pilot area that is forest and the percentage of land in a pilot area that is cropland, as determined under the National Resources Inventory for 1997 conducted by the Natural Resources Conservation Service;

(B) the regional distribution of pilot areas to reflect a wide variety of forest, agriculture, and ecosystem settings;

(C) innovations in regulations, policies, programs, or voluntary incentives adopted or proposed by the eligible entity to encourage legal, financial, and other mechanisms that would create incentives for environmentally beneficial carbon sequestration and carbon storage on public and private land; and

(D) the potential for beneficial environmental, social, and economic results through—

(i) reduction of threats from global climate change; and

(ii) ancillary benefits such as—

(I) prevention of erosion;

(II) flood control;

(III) soil conservation, fertility, and productivity;

(IV) improved water quality;

(V) protection and restoration of ecosystems and fish and wildlife habitat;

(VI) management and conservation of forests, including through reforestation practices; and

(VII) management of water resources.

(d) GUIDELINES FOR PILOT PROGRAMS.—Not later than 1 year after the date of enactment of this Act, the Secretary, in collaboration with other Federal agencies and eligible entities desiring to carry out pilot programs, shall develop guidelines for the pilot programs.

(e) ACCESS TO INFORMATION.—To assist States in developing baselines and accounting systems, the Secretary shall facilitate access to the most up-to-date information on carbon sequestration and carbon storage from—

(1) the Department of Agriculture, through involvement of the Agricultural Research Service, the Cooperative State Research, Education, and Extension Service, the Forest Service, and the Natural Resources Conservation Service;

(2) the Environmental Protection Agency;

(3) the National Aeronautics and Space Administration; and

(4) other agencies and Federal, State, or private sources of information.

(f) REPORTS.—An eligible entity that receives a grant under this section shall submit to the Secretary such reports as the Secretary may require.

**SEC. 1319. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to carry out this part $20,000,000 for the period of fiscal years 2003 through 2007, of which—

(1) $5,000,000 shall be used—

(A) to carry out section 1317; and

(B) to pay administrative expenses incurred in carrying out section 1318; and

(2) $15,000,000 shall be used for grants under section 1318.

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**SA 3210.** Mr. CORZINE (for himself and Mr. FITZGERALD) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 143, between lines 22 and 23, insert the following:

(d) FINANCIAL PROTECTION OF GOVERNMENT.—

(1) IN GENERAL.—To the extent practicable, the Secretary of Energy shall ensure that the Government is compensated for the risk assumed in making loan guarantees under this section.

(2) GOVERNMENT PARTICIPATION IN GAINS.—To the extent to which any entity accepts financial assistance under this section by accepting the proceeds of a loan guaranteed by the Government under this section, the Secretary of Energy may enter into a contract under which the Government, contingent on the financial success of the entity, will participate in the gains of the entity or of holders of securities of the entity through the use of such instruments as warrants, stock options, common or preferred stock, or other appropriate equity instruments.

(3) DEPOSIT IN TREASURY.—All amounts collected by the Secretary of the Treasury under this section shall be deposited in the Treasury as miscellaneous receipts.

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**SA 3211.** Mrs. FEINSTEIN (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VIII, insert the following:

**SEC. 820a. ADDITIONAL REQUIREMENTS FOR VEHICLE FUEL ECONOMY.**

(a) RELATIONSHIP TO PROVISION ON FUEL ECONOMY STANDARDS FOR PICKUP TRUCKS.—Section 811 (relating to fuel economy standards for pickup trucks) shall not take effect.

(b) INCREASED AVERAGE FUEL ECONOMY STANDARD FOR LIGHT TRUCKS.—

(1) DEFINITION OF LIGHT TRUCK.—Section 32901(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

''(17) 'light truck' has the meaning given that term in regulations prescribed by the Secretary of Transportation in the administration of this chapter.''.

(2) REQUIREMENT FOR INCREASED STANDARD.—Section 32902(a) of title 49, United States Code, is amended—

(A) by inserting ''(1)'' after ''AUTOMOBILES.—'';

(B) by inserting before the period at the end of the third sentence the following: '', subject to paragraph (2)''; and

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

''(2) The average fuel economy standard for light trucks manufactured by a manufacturer may not be less than 27.5 miles per gallon, except that the average fuel economy standard for—

''(A) light trucks manufactured by a manufacturer in a model year after model year 2005 and before model year 2008 may not be less than 22.5 miles per gallon; and

''(B) light trucks manufactured by a manufacturer in a model year after model year 2007 and before model year 2012 may not be less than 25 miles per gallon.''.

(3) APPLICABILITY.—Paragraph (2) of section 32902(a) of such title does not apply with respect to light trucks manufactured before model year 2003.

(c) FUEL ECONOMY STANDARDS FOR AUTOMOBILES UP TO 10,000 POUNDS GROSS VEHICLE WEIGHT.—

(1) VEHICLES DEFINED AS AUTOMOBILES.—Section 32901(a)(3) of title 49, United States Code, is amended by striking ''is rated at—'' and all that follows through the end and inserting ''is rated at not more than 10,000 pounds gross vehicle weight.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 2007.

(d) FUEL ECONOMY OF THE FEDERAL FLEET OF VEHICLES.—

(1) BASELINE AVERAGE FUEL ECONOMY.—The head of each executive agency shall determine, for each class of vehicles that are in the agency's fleet of vehicles in fiscal year 2002, the average fuel economy for all of the vehicles in that class that are in the agency's fleet of vehicles for that fiscal year. For the purposes of this section, the average fuel economy so determined for the agency's vehicles in a class of vehicles shall be the baseline average fuel economy for the agency's fleet of vehicles in that class.

(2) INCREASE OF AVERAGE FUEL ECONOMY.—The head of an executive agency shall manage the procurement of vehicles in each class of vehicles for that agency in such a manner that—

(A) not later than September 30, 2003, the average fuel economy of the new vehicles in the agency's fleet of vehicles in each class of vehicles is not less than 3 miles per gallon higher than the baseline average fuel economy determined for that class; and

(B) not later than September 30, 2005, the average fuel economy of the new vehicles in the agency's fleet of vehicles in each class of vehicles is not less than 6 miles per gallon higher than the baseline average fuel economy determined for that class.

(3) CALCULATION OF AVERAGE FUEL ECONOMY.—Average fuel economy shall be calculated for the purposes of this section in accordance with guidance which the Secretary of Transportation shall prescribe for the implementation of this section.

(4) DEFINITIONS.—In this subsection:

(A) The term ''class of vehicles'' means a class of vehicles for which an average fuel economy standard is in effect under chapter 329 of title 49, United States Code.

(B) The term ''executive agency'' has the meaning given the term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(C) The term ''new vehicle'', with respect to the fleet of vehicles of an executive agency, means a vehicle procured by or for the agency after September 30, 2002.

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**SA 3212.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . SUSPENSION OF DUTIES ON ETHANOL.**

Notwithstanding any other provision of law, no duty shall be imposed on ethanol entered, or withdrawn from warehouse for consumption, beginning on the date that is 15 days after the date of enactment of this Act.

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**SA 3213.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 188, line 15, insert ''(excluding California, New York, and any other State that demonstrates to the satisfaction of the Administrator that the State is in compliance with all requirements of this Act)'' after ''United States''.

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**SA 3214.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 188, line 15, insert ''(excluding California and New York)'' after ''United States''.

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**SA 3215.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

shall be 1.62 in 2007.

''(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2007 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2007 through 2012 shall be determined in accordance with the following table:

**Applicable volume of renewable fuel**

| ''Calendar year: | (In billions of gallons) |
|---|---|
| 2007 | 3.2 |
| 2008 | 3.5 |
| 2009 | 3.9 |
| 2010 | 4.3 |
| 2011 | 4.7 |
| 2012 | 5.0. |

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5.0 billion gallons of renewable fuels; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2006 through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each of calendar years 2008 through 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2007 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

''(D) PERIODS.—The two periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2007 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

''(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

''(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2007, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2007. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

''(9) SMALL REFINERIES.—

''(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2008. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

''(B) ECONOMIC HARDSHIP.—

''(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

''(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

''(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2007, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2007. This provision

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**SA 3216.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

shall be 1.62 in 2008.

''(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2008 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2008 through 2012 shall be determined in accordance with the following table:

**Applicable volume of renewable fuel**

| ''Calendar year: | (In billions of gallons) |
|---|---|
| 2008 | 3.5 |
| 2009 | 3.9 |
| 2010 | 4.3 |
| 2011 | 4.7 |
| 2012 | 5.0. |

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5.0 billion gallons of renewable fuels; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2007 through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each of calendar years 2007 through 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2008 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information

Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

''(D) PERIODS.—The two periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2008 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

''(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

''(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2008, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2008. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

''(9) SMALL REFINERIES.—

''(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2008. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

''(B) ECONOMIC HARDSHIP.—

''(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

''(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

''(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2008, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2007. This provision shall be 1.62 in 2009.

''(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2009 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2009 through 2012 shall be determined in accordance with the following table:

**Applicable volume of renewable fuel**

| ''Calendar year: | (In billions of gallons) |
|---|---|
| 2009 | 3.9 |
| 2010 | 4.3 |
| 2011 | 4.7 |
| 2012 | 5.0. |

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5.0 billion gallons of renewable fuels; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2008 through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each of calendar years 2008 through 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

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**SA 3217.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2009 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

''(D) PERIODS.—The two periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2009 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

''(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

''(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2009, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2008. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

''(9) SMALL REFINERIES.—

''(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2009. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

''(B) ECONOMIC HARDSHIP.—

''(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

''(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

''(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2009, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2008. This provision

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**SA 3218.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

shall be 1.62 in 2010.

''(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2010 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2010 through 2012 shall be determined in accordance with the following table:

**Applicable volume of renewable fuel**

| ''Calendar year: | (In billions of gallons) |
|---|---|
| 2010 | 4.3 |
| 2011 | 4.7 |
| 2012 | 5.0. |

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5.0 billion gallons of renewable fuels; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2009 through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each of calendar years 2009 through 2011 determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines,

blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2010 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

''(D) PERIODS.—The two periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2010 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

''(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

''(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2010, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2010. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

''(9) SMALL REFINERIES.—

''(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2010. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

''(B) ECONOMIC HARDSHIP.—

''(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

''(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

''(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2010, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2009. This provision''.

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**SA 3219.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

shall be 1.62 in 2011.

''(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2011 AND 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2011 and 2012 shall be determined in accordance with the following table:

**Applicable volume of renewable fuel**

| ''Calendar year: | (In billions of gallons) |
|---|---|
| 2011 | 4.7 |
| 2012 | 5.0. |

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5.0 billion gallons of renewable fuels; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2010 and 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall

by November 30 of each of calendar years 2010 and 2011 determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2011 and 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

''(D) PERIODS.—The two periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2011 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

''(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

''(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2011, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2011. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

''(9) SMALL REFINERIES.—

''(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2011. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

''(B) ECONOMIC HARDSHIP.—

''(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

''(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

''(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2011, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2011. This provision

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**SA 3220.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

''shall be 1.62 in 2012.

''(B) APPLICABLE VOLUME.—

''(i) CALENDAR YEAR 2012.—For the purpose of subparagraph (A), the applicable volume for calendar year 2012 shall be determined in accordance with the following table:

| **"Applicable volume of renewable fuel** | |
|---|---|
| **"Calendar year:** | **(In billions of gallons)** |
| 2012 | 5.0. |

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A),

the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5.0 billion gallons of renewable fuels; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—Not later than October 31 of calendar year 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of calendar year 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For calendar year 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

''(D) PERIODS.—The two periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2012 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

''(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

''(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2012, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2012. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

''(9) SMALL REFINERIES.—

''(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2012. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

''(B) ECONOMIC HARDSHIP.—

''(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

''(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

''(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2012, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2012. This provision''.

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**SA 3221.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and

for other purposes; which was ordered to lie on the table; as follows:

On page 199, strike line 21 and insert the following: pertaining waivers.

''(11) EXCLUSION OF CERTAIN STATES.—Notwithstanding any other provision of this subsection, this subsection shall not apply to the States of California and New York.''.

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**SA 3222.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 199, strike line 21 and insert the following: pertaining waivers.

''(11) EXCLUSION OF CERTAIN STATES.—Notwithstanding any other provision of this subsection, this subsection shall not apply to the States of California and New York, or any other State.''.

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**SA 3223.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 188, strike line 10 and all that follows through page 190, line 11, and insert the following:

''(2) RENEWABLE FUEL PROGRAM.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall promulgate regulations ensuring that gasoline sold or dispensed to consumers in the United States in any of calendar years 2004 through 2012, on an annual average basis, contains the applicable volume of renewable fuel as specified in subparagraph (B). Regardless of the date of promulgation, the regulations shall contain compliance provisions for refiners, blenders, distributors and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where renewables can be used, or impose any per-gallon obligation for the use of renewables. If the Administrator does not promulgate such regulations, the applicable percentage, on a volume percentage of gasoline basis, shall be 1.62 in 2004.

''(B) APPLICABLE VOLUME.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2004 through 2012 shall be determined in accordance with the following table:

**''Applicable volume of renewable fuel**

| ''Calendar year: | (In billions of gallons) |
|---|---|
| 2004 | 2.3 |
| 2005 | 2.6 |
| 2006 | 2.9 |
| 2007 | 3.2 |
| 2008 | 3.5 |
| 2009 | 3.9 |
| 2010 | 4.3 |
| 2011 | 4.7 |
| 2012 | 5.0.'' |

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**SA 3224.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

''shall be 1.62 in 2006.

''(B) APPLICABLE VOLUME.—

''(i) CALENDAR YEARS 2006 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2006 through 2012 shall be determined in accordance with the following table:

**''Applicable volume of renewable fuel**

| ''Calendar year: | (In billions of gallons) |
|---|---|
| 2006 | 2.9 |
| 2007 | 3.2 |
| 2008 | 3.5 |
| 2009 | 3.9 |
| 2010 | 4.3 |
| 2011 | 4.7 |
| 2012 | 5.0. |

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5.0 billion gallons of renewable fuels; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2005 through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each of calendar years 2005 through 2011 determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2006 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

''(D) PERIODS.—The two periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2006 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

''(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

''(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2006, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2006. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

''(9) SMALL REFINERIES.—

''(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2008. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

''(B) ECONOMIC HARDSHIP.—

''(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

''(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

''(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2006, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2006. This provision''.

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**SA 3225.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

''shall be 1.62 in 2005.

''(B) APPLICABLE VOLUME.—

''(i) CALENDAR YEARS 2005 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2005 through 2012 shall be determined in accordance with the following table:

**''Applicable volume of renewable fuel**

| ''Calendar year: | (In billions of gallons) |
|---|---|
| 2005 | 2.6 |
| 2006 | 2.9 |
| 2007 | 3.2 |
| 2008 | 3.5 |
| 2009 | 3.9 |
| 2010 | 4.3 |
| 2011 | 4.7 |
| 2012 | 5.0. |

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5.0 billion gallons of renewable fuels; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each calendar year, through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each calendar year, through 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2005 through 2012, the Administrator of the Energy Information Administration, shall

conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

''(D) PERIODS.—The two periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2005 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

''(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

''(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2005, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2005. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

''(9) SMALL REFINERIES.—

''(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2008. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

''(B) ECONOMIC HARDSHIP.—

''(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

''(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

''(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2005, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2005. This provision''.

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**SA 3226.** Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . FINGER LAKES NATIONAL FOREST.**

Notwithstanding any other provision of law, all Federal land within the boundary of Finger Lakes National Forest in the State of New York is withdrawn from—

(a) all forms of entry, appropriation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) disposition under all laws relating to mineral and geothermal leasing (including the Act of July 31, 1947 (commonly known as the ''Materials Act of 1947'') (30 U.S.C. 601)).

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**SA 3227.** Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Title VI, insert the following:

**SEC. 610. NORTHEAST HOME HEATING OIL RESERVE.**

''Section 6250b(b)(1) of the Energy and Conservation Policy Act (42 U.S.C. 6250b(b)(1)) is amended by inserting the following ''(considered as a heating season average)'' after the words ''mid-October through March''.

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**SA 3228.** Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike Title III and insert the following:

**SEC. 301. STREAMLINING HYDROELECTRIC RELICENSING PROCEDURES.**

(a) REVIEW OF LICENSING PROCESS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture, in consultation with the affected states, shall undertake a review of the process for issuance of a license under Part I of the Federal Power Act in order to: (1) improve coordination of their respective responsibilities; (2) coordinate the schedule for all major actions by the applicant, the Commission, affected Federal and State agencies, Indian Tribes, and other affected parties; (3) ensure resolution at an early stage of the process of the scope and type of reasonable and necessary information, studies, data, and analysis to be provided by the license applicant; (4) facilitate coordination between the Commission and the resource agencies of analysis under the National Environmental Policy Act; and (5) provide for streamlined procedures.

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section and reviewing the responsibilities and procedures of each agency involved in the licensing process. The report

shall contain any legislative or administrative recommendations to improve coordination and streamline procedures for the issuance of licenses under Part I of the Federal Power Act. The Commission and each Secretary shall set forth a plan and schedule to implement any administrative recommendations contained in the report, which shall also be contained in the report.

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**SA 3229.** Mr. WYDEN (for himself, Ms. CANTWELL, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Section 202(a)(4) of the amendment (No. 2917) proposed by Mr. Daschle (as modified by the Thomas Amendment #3000) is amended by striking ''and'' following subparagraph (D), renumbering ''(D)'' as ''(E)'' and inserting the following:

''(D) will include employee protective arrangements, defined as a provision that may be necessary for (i) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (ii) the continuation of collective bargaining rights; (iii) the protection of individual employees against a worsening of their positions related to employment; (iv) assurances of employment to employees of acquired companies; (v) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and (vi) paid training or retraining programs, that the Commission concludes will fairly and equitably protect the interests of employees affected by the proposed transaction; and''.

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**SA 3230.** Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 62, between lines 3 and 4, insert the following:

**SEC. 2___. BONNEVILLE POWER ADMINISTRATION BONDS.**

Section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k) is amended—

(1) by striking the section heading and all that follows through ''(a) The Administrator'' and inserting the following:

**''SEC. 13. BONNEVILLE POWER ADMINISTRATION BONDS.**

''(a) BONDS.—

''(1) IN GENERAL.—The Administrator''; and

(2) by adding at the end the following:

''(2) ADDITIONAL BORROWING AUTHORITY.—In addition to the borrowing authority of the Administrator authorized under paragraph (1) or any other provision of law, an additional $1,300,000,000 is made available, to remain outstanding at any 1 time—

''(A) to provide funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration; and

''(B) to implement the authorities of the Administrator under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.).''.

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**SA 3231.** Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table as follows:

On page 470, beginning with line 10, strike through line 7 on page 532 and insert the following:

TITLE XIII—CLIMATE CHANGE SCIENCE AND TECHNOLOGY

Subtitle A—Department of Energy Programs

**SEC. 1301. DEPARTMENT OF ENERGY GLOBAL CHANGE RESEARCH.**

(a) PROGRAM DIRECTION.—The Secretary, acting through the Office of Science, shall conduct a comprehensive research program to understand and address the effects of energy production and use on the global climate system.

(b) PROGRAM ELEMENTS.—

(1) CLIMATE MODELING.—The Secretary shall—

(A) conduct observational and analytical research to acquire and interpret the data needed to describe the radiation balance from the surface of the Earth to the top of the atmosphere;

(B) determine the factors responsible for the Earth's radiation balance and incorporate improved understanding of such factors in climate models;

(C) improve the treatment of aerosols and clouds in climate models;

(D) reduce the uncertainty in decade-to-century model-based projections of climate change; and

(E) increase the availability and utility of climate change simulations to researchers and policy makers interested in assessing the relationship between energy and climate change.

(2) CARBON CYCLE.—The Secretary shall—

(A) carry out field research and modeling activities—

(i) to understand and document the net exchange of carbon dioxide between major terrestrial ecosystems and the atmosphere; or

(ii) to evaluate the potential of proposed methods of carbon sequestration;

(B) develop and test carbon cycle models; and

(C) acquire data and develop and test models to simulate and predict the transport, transformation, and fate of energy-related emissions in the atmosphere.

(3) ECOLOGICAL PROCESSES.—The Secretary shall carry out long-term experiments of the response of intact terrestrial ecosystems to—

(A) alterations in climate and atmospheric composition; or

(B) land-use changes that affect ecosystem extent and function.

(4) INTEGRATED ASSESSMENT.—The Secretary shall develop and improve methods and tools for integrated analyses of the climate change system from emissions of aerosols and greenhouse gases to the consequences of these emissions on climate and the resulting effects of human-induced climate change on economic and social systems, with emphasis on critical gaps in integrated assessment modeling, including modeling of technology innovation and diffusion and the development of metrics of economic costs of climate change and policies for mitigating or adapting to climate change.

(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1251(b), there are authorized to be appropriated to the Secretary for carrying out activities under this section—

(1) $150,000,000 for fiscal year 2003;

(2) $175,000,000 for fiscal year 2004;

(3) $200,000,000 for fiscal year 2005; and

(4) $230,000,000 for fiscal year 2006.

(d) LIMITATION ON FUNDS.—Funds authorized to be appropriated under this section shall not be used for the development, demonstration, or deployment of technology to reduce, avoid, or sequester greenhouse gas emissions.

**SEC. 1302. AMENDMENTS TO THE FEDERAL NONNUCLEAR RESEARCH AND DEVELOPMENT ACT OF 1974.**

Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) in paragraph (3) by striking the period at the end and inserting '', and''; and

(C) by adding at the end the following:

''(4) solutions to the effective management of greenhouse gas emissions in the long term by the development of technologies and practices designed to—

''(A) reduce or avoid anthropogenic emissions of greenhouse gases;

''(B) remove and sequester greenhouse gases from emissions streams; and

''(C) remove and sequester greenhouse gases from the atmosphere.'' and

(2) in subsection (b)—

(A) in paragraph (2), by striking ''subsection (a)(1) through (3)'' and inserting ''paragraphs (1) through (4) of subsection (a)''; and

(B) in paragraph (3)—

(i) in subparagraph (R), by striking ''and'' at the end;

(ii) in subparagraph (S), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(T) to pursue a long-term climate technology strategy designed to demonstrate a variety of technologies by which stabilization of greenhouse gases might be best achieved, including accelerated research, development, demonstration and deployment of—

''(i) renewable energy systems;

''(ii) advanced fossil energy technology;

''(iii) advanced nuclear power plant design;

''(iv) fuel cell technology for residential, industrial and transportation applications;

''(v) carbon sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon;

''(vi) efficient electrical generation, transmission and distribution technologies; and

''(vii) efficient end use energy technologies.''.

Subtitle B—Department of Agriculture Programs

**SEC. 1311. CARBON SEQUESTRATION BASIC AND APPLIED RESEARCH.**

(a) BASIC RESEARCH.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out research in the areas of soil science that promote understanding of—

(A) the net sequestration of organic carbon in soil; and

(B) net emissions of other greenhouse gases from agriculture.

(2) AGRICULTURAL RESEARCH SERVICE.—The Secretary of Agriculture, acting through the Agricultural Research Service, shall collaborate with other Federal agencies in developing data and carrying out research addressing soil carbon fluxes (losses and gains)

and net emissions of methane and nitrous oxide from cultivation and animal management activities.

(3) COOPRERATIVE STATE RESEARCH, EXTENSION, AND EDUCATION SERVICE.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall establish a competitive grant program to carry out research on the matters described in paragraph (1) in land grant universities and other research institutions.

(B) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for basic research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the Agricultural research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.

(b) APPLIED RESEARCH.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out applied research in the areas of soil science, agronomy, agricultural economics and other agricultural sciences to—

(A) promote understanding of—

(i) how agricultural and forestry practices affect the sequestration of organic and inorganic carbon in soil and net emissions of other greenhouse gases;

(ii) how changes in soil carbon pools are cost-effectively measured, monitored, and verified; and

(iii) how public programs and private market approaches can be devised to incorporate carbon sequestration in a broader societal greenhouse gas emission reduction effort;

(B) develop methods for establishing baselines for measuring the quantities of carbon and other greenhouse gased sequestered; and

(C) evaluate leakage and performance issues.

(2) REQUIREMENTS.—To the maximum extent practicable, applied research under paragraph (1) shall—

(A) draw on existing technologies and methods; and

(B) strive to provide methodologies that are accessible to a nontechnical audience.

(3) MINIMIZATION OF ADVERSE ENVIRONMENTAL IMPACTS.—All applied research under paragraph (1) shall be conducted with an emphasis on minimizing adverse environmental impacts.

(4) NATURAL RESOURCES CONSERVATION SERVICES.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service, shall collaborate with other Federal agencies, including the National Institute of Standards and Technology, in developing new measuring techniques and equipment or adapting existing techniques and equipment to enable cost-effective and accurate monitoring and verification, for a wide range of agricultural and forestry practices, of—

(A) changes in soil carbon content in agricultural soils, plants, and trees; and

(B) net emissions of other greenhouse gases.

(5) COOPERATIVE STATE RESEARCH, EXTENSION, AND EDUCATION SERVICE.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall establish a competitive grant program to encourage research on the matters described in paragraph (1) by land grant universities and other research institutions.

(B) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for applied research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the National Resources Conservation Service and the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.

(c) RESEARCH CONSORTIA.—

(1) IN GENERAL.—The Secretary of Agriculture may designate not more than two research consortia to carry out research projects under this section, with the requirement that the consortia propose to conduct basic research under subsection (a) and applied research under subsection (b).

(2) SELECTION.—The consortia shall be selected in a competitive manner by the Cooperative State Research, Extension, and Education Service.

(3) ELIGIBLE CONSORTIUM PARTICIPANTS.—Entities eligible to participate in a consortium include—

(A) land grant colleges and universities;

(B) private research institutions;

(C) State geological surveys;

(D) agencies of the Department of Agriculture;

(E) research centers of the National Aeronautics and Space Administration and the Department of Energy;

(F) other Federal agencies;

(G) representatives of agricultural businesses and organizations with demonstrated expertise in these areas; and

(H) representatives of the private sector with demonstrated expertise in these areas.

(4) RESERVATION OF FUNDING.—If the Secretary of Agriculture designates one or two consortia, the Secretary of Agriculture shall reserve for research projects carried out by the consortium or consortia not more than 25 percent of the amounts made available to carry out this section for a fiscal year.

(d) STANDARDS OF PRECISION.—

(1) CONFERENCE.—Not later than 3 years after the date of enactment of this subtitle, the Secretary of Agriculture, acting through the Agricultural Research Service and in consultation with the Natural Resources Conservation Service, shall convene a conference of key scientific experts on carbon sequestration and measurement techniques from various sectors (including the Government, academic, and private sectors) to—

(A) discuss benchmark standards of precision for measuring soil carbon content and net emissions of other greenhouse gases;

(B) designate packages of measurement techniques and modeling approaches to achieve a level of precision agreed on by the participants in the conference; and

(C) evaluate results of analyses on baseline, permanence, and leakage issues.

(2) DEVELOPMENT OF BENCHMARK STANDARDS.—

(A) IN GENERAL.—The Secretary shall develop benchmark standards for measuring the carbon content of soils and plants (including trees) based on—

(i) information from the conference under paragraph (1);

(ii) research conducted under this section; and

(iii) other information available to the Secretary.

(B) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall provide an opportunity for the public to comment on benchmark standards developed under subparagraph (A).

(3) REPORT.—Not later than 180 days after the conclusion of the conference under paragraph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry, of the Senate a report on the results of the conference.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2003 through 2006.

(2) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for competitive grants by the Cooperative State Research, Extension, and Education Service.

**SEC. 1312. CARBON SEQUESTRATION DEMONSTRATION PROJECTS AND OUTREACH.**

(a) DEMONSTRATION PROJECTS.—

(1) DEVELOPMENT OF MONITORING PROGRAMS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service and in cooperation with local extension agents, experts from land grant universities, and other local agricultural or conservation organizations, shall develop user-friendly programs that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestering benefits of conservation practices and net changes in greenhouse gas emissions.

(B) BENCHMARK LEVELS OF PRECISION.—The programs developed under subparagraph (A) shall strive to achieve benchmark levels of precision in measurement in a cost-effective manner.

(2) PROJECTS.—

(A) IN GENERAL.—The Secretary of Agriculture, acting through the Farm Service Agency, shall establish a program under which projects use the monitoring programs developed under paragraph (1) to demonstrate the feasibility of methods of measuring, verifying, and monitoring—

(i) changes in organic carbon content and other carbon pools in agricultural soils, plants, and trees; and

(ii) net changes in emissions of other greenhouse gases.

(B) EVALUATION OF IMPLICATIONS.—The projects under subparagraph (A) shall include evaluation of the implications for reassessed baselines, carbon or other greenhouse gas leakage, and permanence of sequestration.

(C) SUBMISSION OF PROPOSALS.—Proposals for projects under subparagraph (A) shall be submitted by the appropriate agency of each State, in cooperation with interested local jurisdictions and State agricultural and conservation organizations.

(D) LIMITATION.—Not more than 10 projects under subparagraph (A) may be approved in conjunction with applied research projects under section 1311(b) until benchmark measurement and assessment standards are established under section 1311(d).

(E) NATIONAL FOREST SYSTEM LAND.—The Secretary of Agriculture shall consider the use of National Forest System land as sites to demonstrate the feasibility of monitoring programs developed under paragraph (1).

(b) OUTREACH.—

(1) IN GENERAL.—The Cooperative State Research, Extension, and Education Service shall widely disseminate information about the economic and environmental benefits that can be generated by adoption of conservation practices (including benefits from increased sequestration of carbon and reduced emission of other greenhouses gases).

(2) PROJECT RESULTS.—The Cooperative State Research, Extension, and Education Service shall inform farmers, ranchers, and State agricultural and energy offices in each State of—

(A) the results of demonstration projects under subsection (a)(2) in the State; and

(B) the ways in which the methods demonstrated in the projects might be applicable to the operations of those farmers and ranchers.

(3) POLICY OUTREACH.—On a periodic basis, the Cooperative State Research, Extension,

and Education Service shall disseminate information on the policy nexus between global climate change mitigation strategies and agriculture, so that farmers and ranchers may better understand the global implications of the activities of farmers and ranchers.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2003 through 2006.

(2) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for demonstration projects under subsection (a)(2).

Subtitle C—International Energy Technology Transfer

**SEC. 1321. CLEAN ENERGY TECHNOLOGY EXPORTS PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) CLEAN ENERGY TECHNOLOGY.—The term ''clean energy technology'' means an energy supply or end-use technology that, over its lifecycle and compared to a similar technology already in commercial use in developing countries, countries in transition, and other partner countries—

(A) emits substantially lower levels of pollutants or greenhouse gases; and

(B) may generate substantially smaller or less toxic volumes of solid or liquid waste.

(2) INTERAGENCY WORKING GROUP.—The term ''interagency working group'' means the Interagency Working Group on Clean Energy Technology Exports established under subsection (b).

(b) INTERAGENCY WORKING GROUP.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Energy, the Secretary of Commerce, and the Administrator of the U.S. Agency for International Development shall jointly establish a Interagency Working Group on Clean Energy Technology Exports. The interagency working group will focus on opening and expanding energy markets and transferring clean energy technology to the developing countries, countries in transition, and other partner countries that are expected to experience, over the next 20 years, the most significant growth in energy production and associated greenhouse gas emissions, including through technology transfer programs under the Framework Convention on Climate Change, other international agreements, and relevant Federal efforts.

(2) MEMBERSHIP.—The interagency working group shall be jointly chaired by representatives appointed by the agency heads under paragraph (1) and shall also include representatives from the Department of State, the Department of Treasury, the Environmental Protection Agency, the Export-Import Bank, the Overseas Private Investment Corporation, the Trade and Development Agency, and other Federal agencies as deemed appropriate by all three agency heads under paragraph (1).

(3) DUTIES.—The interagency working group shall—

(A) analyze technology, policy, and market opportunities for international development, demonstration, and development of clean energy technology;

(B) investigate issues associated with building capacity to deploy clean energy technology in developing countries, countries in transition, and other partner countries, including—

(i) energy-sector reform;

(ii) creation of open, transparent, and competitive markets for energy technologies,

(iii) availability of trained personnel to deploy and maintain the technology; and

(iv) demonstration and cost-buydown mechanisms to promote first adoption of the technology;

(C) examine relevant trade, tax, international, and other policy issues to asses what policies would help open markets and improve U.S. clean energy technology exports in support of the following areas—

(i) enhancing energy innovation and cooperation, including energy sector and market reform, capacity building, and financing measures;

(ii) improving energy end-use efficiency technologies, including buildings and facilities, vehicle, industrial, and co-generation technology initiatives; and

(iii) promoting energy supply technologies, including fossil, nuclear, and renewable technology initiatives;

(D) establish an advisory committee involving the private sector and other interested groups on the export and deployment of clean energy technology;

(E) monitor each agency's progress towards meeting goals in the 5-year strategic plan submitted to Congress pursuant to the Energy and Water Development Appropriations Act, 2001, and the Energy and Water Development Appropriations Act, 2002;

(F) make recommendations to heads of appropriate Federal agencies on ways to streamline Federal programs and policies to improve each agency's role in the international development, demonstration, and deployment of clean energy technology;

(G) make assessments and recommendations regarding the distinct technological, market, regional, and stakeholder challenges necessary to carry out the program; and

(H) recommend conditions and criteria that will help ensure that United States funds promote sound energy policies in participating countries while simultaneously opening their markets and exporting United States energy technology.

(c) FEDERAL SUPPORT FOR CLEAN ENERGY TECHNOLOGY TRANSFER.—Notwithstanding any other provision of law, each Federal agency or Government corporation carrying out an assistance program in support of the activities of United States persons in the environment or energy sector of a developing country, country in transition, or other partner country shall support, to the maximum extent practicable, the transfer of United States clear energy technology as part of that program.

(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act, and on the April 1st of each year thereafter, 2002, and each year thereafter, the Interagency Working Group shall submit a report to Congress on its activities during the preceding calendar year. The report shall include a description of the technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technology investigated by the Interagency Working Group in that year, as well as any policy recommendations to improve the expansion of clean energy markets and U.S. clean energy technology exports.

(e) REPORT ON USE OF FUNDS.—Not later than October 1, 2002, and each year thereafter, the Secretary of State, in consultation with other Federal agencies, shall submit a report to Congress indicating how United States funds appropriated for clean energy technology exports and other relevant Federal programs are being directed in a manner that promotes sound energy policy commitments in developing countries, countries in transition, and other partner countries, including efforts pursuant to multilateral environmental agreements.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the departments, agencies, and entities of the United States described in subsection (b) such sums as may be necessary to support the transfer of clean energy technology, consistent with the subsidy codes of the World Trade Organization, as part of assistance programs carried out by those departments, agencies, and entities in support of activities of United States persons in the energy sector of a developing country, country in transition, or other partner country.

**SEC. 1322. INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.**

Section 1608 of the Energy Policy Act of 1992 (42 U.S.C. 13387) is amended by striking subsection (1) and inserting the following:

''(l) INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term 'international energy deployment project' means a project to construct an energy production facility outside the United States—

''(i) the output of which will be consumed outside the United States; and

''(ii) the deployment of which will result in a greenhouse gas reduction per unit of energy produced when compared to the technology that would otherwise be implemented—

''(I) 10 percentage points or more, in the case of a unit placed in service before January 1, 2010;

''(II) 20 percentage points or more, in the case of a unit placed in service after December 31, 2009, and before January 1, 2020; or

''(III) 30 percentage points or more, in the case of a unit placed in service after December 31, 2019, and before January 1, 2030.

''(B) QUALIFYING INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term 'qualifying international energy deployment project' means an international energy deployment project that—

''(i) is submitted by a United States firm to the Secretary in accordance with procedures established by the Secretary by regulation;

''(ii) uses technology that has been successfully developed or deployed in the United States;

''(iii) meets the criteria of subsection (k);

''(iv) is approved by the Secretary, with notice of the approval being published in the Federal Register; and

''(v) complies with such terms and conditions as the Secretary establishes by regulation.

''(C) UNITED STATES.—For purposes of this paragraph, the term 'United States', when used in a geographical sense, means the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(2) PILOT PROGRAM FOR FINANCIAL ASSISTANCE.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall, by regulation, provide for a pilot program for financial assistance for qualifying international energy deployment projects.

''(B) SELECTION CRITERIA.—After consultation with the Secretary of State, the Secretary of Commerce, and the United States Trade Representative, the Secretary shall select projects for participation in the program based solely on the criteria under this title and without regard to the country in which the project is located.

''(C) FINANCIAL ASSISTANCE.—

''(i) IN GENERAL.—A United States firm that undertakes a qualifying international energy deployment project that is selected to participate in the pilot program shall be eligible to receive a loan or a loan guarantee from the Secretary.

''(ii) RATE OF INTEREST.—The rate of interest of any loan made under clause (i) shall be equal to the rate for Treasury obligations then issued for periods of comparable maturities.

''(iii) AMOUNT.—The amount of a loan or loan guarantee under clause (i) shall not exceed 50 percent of the total cost of the qualified international energy deployment project.

''(iv) DEVELOPED COUNTRIES.—Loans or loan guarantees made for projects to be located in a developed country, as listed in Annex I of the United Nations Framework Convention on Climate Change, shall require at least a 50 percent contribution towards the total cost of the loan or loan guarantee by the host country.

''(v) DEVELOPING COUNTRIES.—Loans or loan guarantees made for projects to be located in a developing country (those countries not listed in Annex I of the United Nations Framework Convention on Climate Change) shall require at least a 50 percent contribution towards the total cost of the loan or loan guarantee by the host country.

''(vi) CAPACITY BUILDING RESEARCH.—Proposals made for projects to be located in a developing country may include a research component intended to build technological capacity within the host country. Such research must be related to the technologies being deployed and must involve both an institution in the host country and an industry, university or national laboratory participant from the United States. The host institution shall contribute at least 50 percent of funds provided for the capacity building research.

''(D) COORDINATION WITH OTHER PROGRAMS.—A qualifying international energy deployment project funded under this section shall not be eligible as a qualifying clean coal technology under section 415 of the Clean Air Act (42 U.S.C. 7651n).

''(E) REPORT.—Not later than 5 years after the date of enactment of this subsection, the Secretary shall submit to the President a report on the results of the pilot projects.

''(F) RECOMMENDATION.—Not later than 60 days after receiving the report under subparagraph (E), the President shall submit to Congress a recommendation, based on the results of the pilot projects as reported by the Secretary of Energy, concerning whether the financial assistance program under this section should be continued, expanded, reduced, or eliminated.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $100,000,000 for each of fiscal years 2003 through 2011, to remain available until expended.''.

## Subtitle D—Climate Change Science and Information

## PART I—AMENDMENT TO THE GLOBAL CHANGE RESEARCH ACT OF 1990

### SEC. 1331. AMENDMENT OF GLOBAL CHANGE RESEARCH ACT OF 1990.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

### SEC. 1332. CHANGES IN DEFINITIONS.

Paragraph (1) of section 2 (15 U.S.C. 2921) is amended by striking ''Earth and Environmental Sciences'' inserting ''Global Change Research''.

### SEC. 1333. CHANGE IN COMMITTEE NAME AND STRUCTURE.

Section 102 (15 U.S.C. 2932) is amended—

(1) by striking ''**EARTH AND ENVIRONMENT SCIENCES**'' in section heading and inserting ''**GLOBAL CHANGE RESEARCH**'';

(2) by striking ''Earth and Environmental Sciences'' in subsection (a) and inserting ''Global Change Research'';

(3) by striking the last sentence of subsection (b) and inserting ''The representatives shall be the Deputy Secretary or the Deputy Secretary's designee (or, in the case of an agency other than a department, the deputy head of that agency or the deputy's designee).'';

(4) by striking ''Chairman of the Council,'' in subsection (c) and inserting ''Director of the Office of National Climate Change Policy with advice from the Chairman of the Council, and'';

(5) by redesignating subsection (d) and (e) as subsections (e) and (f), respectively; and

(6) by inserting after subsection (c) the following:

''(d) SUBCOMMITTEES AND WORKING GROUPS.—

''(1) IN GENERAL.—There shall be a Subcommittee on Global Change Research, which shall carry out such functions of the Committee as the Committee may assign to it.

''(2) MEMBERSHIP.—The membership of the Subcommittee shall consist of—

''(A) the membership of the Subcommittee on Global Change Research of the Committee on Environment and Natural Resources (the functions of which are transferred to the Subcommittee established by this subsection) established by the National Science and Technology Council; and

''(B) such additional members as the Chair of the Committee may, from time to time, appoint.

''(3) CHAIR.—A high ranking official of one of departments or agencies described in subsection (b), appointed by the Chair of the Committee with advice from the Chairman of the Council, shall chair the subcommittee. The Chairperson shall be knowledgeable and experienced with regard to the administration of the scientific research programs, and shall be a representative of an agency that contributes substantially, in terms of scientific research capability and budget, to the Program.''.

''(4) OTHER SUBCOMMITTEES AND WORKING GROUPS.—The Committee may establish such additional subcommittees and working groups as it sees fit.''.

### SEC. 1334. CHANGE IN NATIONAL GLOBAL CHANGE RESEARCH PLAN.

Section 104 (15 U.S.C. 2934) is amended—

(1) by inserting ''short-term and long-term'' before ''goals'' in subsection (b)(1);

(2) by striking ''usable information on which to base policy decisions related to'' in subsection (b)(1) and inserting ''information relevant and readily usable by local, State, and Federal decision-makers, as well as other end-users, for the formulation of effective decisions and strategies for measuring, predicting, preventing, mitigation, and adapting to'';

(3) by adding at the end of subsection (c) the following:

''(6) Methods for integration information to provide predictive and other tools for planning and decision making by governments, communities and the private sector.'';

(4) by striking subsection (d)(3) and inserting the following:

''(3) combine and interpret data from various sources to produce information readily usable by local, State, and Federal policy makers, and other end-users, attempting to formulate effective decisions and strategies for preventing, mitigating, and adapting to the effects of global change.'';

(5) by striking ''and'' in subsection (d)(2);

(6) by striking ''change.'' in subsection (d)(3) and inserting ''change; and'';

(7) by adding at the end of subsection (d) the following:

''(4) establish a common assessment and modeling framework that may be used in both research and operations to predict and assess the vulnerability of natural and managed ecosystems and of human society in the context of other environmental and social changes.''; and

(8) by adding at the end the following:

''(g) STRATEGIC PLAN; REVISED IMPLEMENTATION PLAN.—The Chairman of the Council, through the Committee, shall develop a strategic plan for the United States Global Climate Change Research Program for the 10-year period beginning in 2002 and submit the plan to the Congress within 180 days after the date of enactment of the Global Climate Change Act of 2002. The Chairman, through the Committee, shall also submit revised implementation plans as required under subsection (a).''.

### SEC. 1335. INTEGRATED PROGRAM OFFICE.

Section 105 (15 U.S.C. 2935) is amended—

(1) by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively; and

(2) inserting before subsection (b), as redesignated, the following:

''(a) INTEGRATED PROGRAM OFFICE.—

''(1) ESTABLISHMENT.—There is established in the Office of Science and Technology Policy an integrated program office for the global change research program.

''(2) ORGANIZATION.—The integrated program office established under paragraph (1) shall be headed by the associate director with responsibility for climate change science and technology and shall include, to the maximum extent feasible, a representative from each Federal agency participating in the global change research program.

''(3) FUNCTION.—The integrated program office shall—

''(A) manage, working in conjunction with the Committee, interagency coordination and program integration of global change research activities and budget requests;

''(B) ensure that the activities and programs of each Federal agency or department participating in the program address the goals and objectives identified in the strategic research plan and interagency implementation plans;

''(C) ensure program and budget recommendations of the Committee are communicated to the President and are integrated into the climate change action strategy;

''(D) review, solicit, and identify, and allocate funds for, partnership projects that address critical research objectives or operational goals of the program, including projects that would fill research gaps identified by the program, and for which project resources are shared among at least two agencies participating in the program; and

''(E) review and provide recommendations on, in conjunction with the Committee, all annual appropriations requests from Federal agencies or departments participating in the program.'';

(3) by striking ''Committee.'' in paragraph (2) of subsection (c), as redesignated, and inserting ''Committee and the Integrated Program Office.''; and

(4) by inserting ''and the Integrated Program Office'' after ''Committee'' in paragraph (1) of subsection (d), as redesignated.

### SEC. 1336. RESEARCH GRANTS.

Section 105 (15 U.S.C. 2935) is amended—

(1) by redesignating subsection (c) as (d); and

(2) by inserting after subsection (b) the following:

''(c) RESEARCH GRANTS.—

''(1) COMMITTEE TO DEVELOP LIST OF PRIORITY RESEARCH AREAS.—The Committee shall develop a list of priority areas for research and development on climate change

that are not being addressed by Federal agencies.

''(2) DIRECTOR OF OSTP TO TRANSMIT LIST TO NSF.—The Director of the Office of Science and Technology Policy shall transmit the list to the National Science Foundation.

''(3) FUNDING THROUGH NSF.—

''(A) BUDGET REQUEST.—The National Science Foundation shall include, as part of the annual request for appropriations for the Science and Technology Policy Institute, a request for appropriations to fund research in the priority areas on the list developed under paragraph (1).

''(B) AUTHORIZATION.—For fiscal year 2003 and each fiscal year thereafter, there are authorized to be appropriated to the National Science Foundation not less than $17,000,000, to be made available through the Science and Technology Policy Institute, for research in those priority areas.''.

**SEC. 1337. EVALUATION OF INFORMATION.**

Section 106 (15 U.S.C. 2936) is amended—

(1) by striking ''**Scientific**'' in the section heading;

(2) by striking ''and'' after the semicolon in paragraph (2); and

(3) by striking ''years.'' in paragraph (3) and inserting ''years; and''; and

(4) by adding at the end the following:

''(4) evaluates the information being developed under this title, considering in particular its usefulness to local, State, and national decisionmakers, as well as to other stakeholders such as the private sector, after providing a meaningful opportunity for the consideration of the views of such stakeholders on the effectiveness of the Program and the usefulness of the information.''.

PART II—NATIONAL CLIMATE SERVICES AND MONITORING

**SEC. 1341. AMENDMENT OF NATIONAL CLIMATE PROGRAM ACT.**

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Climate Program Act (15 U.S.C. 2901 et seq.).

**SEC. 1342. CHANGES IN FINDINGS.**

Section 2 (15 U.S.C. 2901) is amended—

(1) by striking ''Weather and climate change affect'' in paragraph (1) and inserting ''Weather, climate change, and climate variability affect public safety, environmental security, human health,'';

(2) by striking ''climate'' in paragraph (2) and inserting ''climate, including seasonal and decadal fluctuations,'';

(3) by striking ''changes.'' in paragraph (5) and inserting ''changes and providing free exchange of meteorological data.''; and

(4) by adding at the end the following:

''(7) The present rate of advance in research and development and application of such advances is inadequate and new developments must be incorporated rapidly into services for the benefit of the public.

''(8) The United States lacks adequate infrastructure and research to meet national climate monitoring and prediction needs.''.

**SEC. 1343. TOOLS FOR REGIONAL PLANNING.**

Section 5(d) (15 U.S.C. 2904(d)) is amended—

(1) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(2) by inserting after paragraph (3) the following:

''(4) methods for improving modeling and predictive capabilities and developing assessment methods to guide national, regional, and local planning and decision-making on land use, water hazards, and related issues;'';

(3) by inserting ''sharing,'' after ''collection,'' in paragraph (5), as redesignated;

(4) by striking ''experimental'' each place it appears in paragraph (9), as redesignated;

(5) by striking ''preliminary'' in paragraph (10), as redesignated;

(6) by striking ''this Act,'' the first place it appears in paragraph (10), as redesignated, and inserting ''the Global Climate Change Act of 2002,''; and

(7) by striking ''this Act,'' the second place it appears in paragraph (10), as redesignated, and inserting ''that Act,''.

**SEC. 1344. AUTHORIZATION OF APPROPRIATIONS.**

Section 9 (15 U.S.C. 2908) is amended—

(1) by striking ''1979,'' and inserting ''2002,'';

(2) by striking ''1980,'' and inserting ''2003,'';

(3) by striking ''1981,'' and inserting ''2004,''; and

(4) by striking ''$25,500,000'' and inserting ''$75,500,000''.

**SEC. 1345. NATIONAL CLIMATE SERVICE PLAN.**

The Act (15 U.S.C. 2901 et seq.) is amended by inserting after section 5 the following:

**SEC. 6. NATIONAL CLIMATE SERVICE PLAN.**

''Within 1 year after the date of enactment of the Global Climate Change Act of 2002, the Secretary of Commerce shall submit to the Senate Committee on Commerce, Science, and Transportation and the House Science Committee a plan of action for a National Climate Service under the National Climate Program. The plan shall set forth recommendations and funding estimates for—

''(1) a national center for operational climate monitoring and predicting with the functional capacity to monitor and adjust observing systems as necessary to reduce bias;

''(2) the design, deployment, and operation of an adequate national climate observing system that builds upon existing environmental monitoring systems and closes gaps in coverage by existing systems;

''(3) the establishment of a national coordinated modeling strategy, including a national climate modeling center to provide a dedicated capability for climate modeling and a regular schedule of projections on a long and short term time schedule and at a range of spatial scales;

''(4) improvements in modeling and assessment capabilities needed to integrate information to predict regional and local climate changes and impacts;

''(5) in coordination with the private sector, improving the capacity to assess the impacts of predicted and projected climate changes and variations;

''(6) a program for long term stewardship, quality control, development of relevant climate products, and efficient access to all relevant climate data, products, and critical model simulations; and

''(7) mechanisms to coordinate among Federal agencies, State, and local government entities and the academic community to ensure timely and full sharing and dissemination of climate information and services, both domestically and internationally.''.

**SEC. 1346. INTERNATIONAL PACIFIC RESEARCH AND COOPERATION.**

The Secretary of Commerce, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall conduct international research in the Pacific region that will increase understanding of the nature and predictability of climate variability in the Asia-Pacific sector, including regional aspects of global environmental change. Such research activities shall be conducted in cooperation with other nations of the region. There are authorized to be appropriated for purposes of this section $1,500,000 to the National Oceanic and Atmospheric Administration, $1,500,000 to the National Aeronautics and Space Administration, and $500,000 for the Pacific ENSO Applications Center.

**SEC. 1347. REPORTING ON TRENDS.**

(a) ATMOSPHERIC MONITORING AND VERIFICATION PROGRAM.—The Secretary of Commerce, in coordination with relevant Federal agencies, shall, as part of the National Climate Service, establish an atmospheric monitoring and verification program utilizing aircraft, satellite, ground sensors, and modeling capabilities to monitor, measure, and verify atmospheric greenhouse gas levels, dates, and emissions. Where feasible, the program shall measure emissions from identified sources participating in the reporting system for verification purposes. The program shall use measurements and standards that are consistent with those utilized in the greenhouse gas measurement and reporting system established under subsection (a) and the registry established under section 1102.

(b) ANNUAL REPORTING.—The Secretary of Commerce shall issue an annual report that identifies greenhouse emissions and trends on a local, regional, and national level. The report shall also identify emissions or reductions attributable to individual or multiple sources covered by the greenhouse gas measurement and reporting system established under section 1102.

**SEC. 1348. ARCTIC RESEARCH AND POLICY.**

(a) ARCTIC RESEARCH COMMISSION.—Section 103(d) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4102(d)) is amended—

(1) by striking ''exceed 90 days'' in the second sentence of paragraph (1) and inserting ''exceed, in the case of the chairperson of the Commission, 120 days, and, in the case of any other member of the Commission, 90 days,'';

((2) by striking ''Chairman'' in paragraph (2) and inserting ''chairperson''.

(b) GRANTS.—Section 104 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4103) is amended by adding at the end the following:

''(c) FUNDING FOR ARCTIC RESEARCH.—

''(1) IN GENERAL.—With the prior approval of the commission, or under authority delegated by the Commission, and subject to such conditions as the Commission may specify, the Executive Director appointed under section 106(a) may—

''(A) make grants to persons to conduct research concerning the Arctic; and

''(B) make funds available to the National Science Foundation or to Federal agencies for the conduct of research concerning the Arctic.

''(2) EFFECT OF ACTION BY EXECUTIVE DIRECTOR.—An action taken by the executive director under paragraph (1) shall be final and binding on the Commission.

''(3) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this section.''.

**SEC. 1349. ABRUPT CLIMATE CHANGE RESEARCH.**

(a) IN GENERAL.—The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall carry out a program of scientific research on potential abrupt climate change designed—

(1) to develop a global array of terrestrial and oceanographic indicators of paleoclimate in order sufficiently to identify and describe past instances of abrupt climate change;

(2) to improve understanding of thresholds and nonlinearities in geophysical systems related to the mechanisms of abrupt climate change;

(3) to incorporate these mechanisms into advanced geophysical models of climate change; and

(4) to test the output of these models against an improved global array of records of past abrupt climate changes.

(b) ABRUPT CLIMATE CHANGE DEFINED.—In this section, the term ''abrupt climate change'' means a change in climate that occurs so rapidly or unexpectedly that human or natural systems may have difficulty adapting to it.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $10,000,000 for each of the fiscal years 2003 through 2008, and such sums as may be necessary for fiscal years after fiscal year 2008, to carry out subsection (a).

PART III—OCEAN AND COASTAL OBSERVING SYSTEM

**SEC. 1351. OCEAN AND COASTAL OBSERVING SYSTEM.**

(a) ESTABLISHMENT.—The President, through the National Ocean Research Leadership Council, established by section 7902(a) of title 10, United States Code, shall establish and maintain an integrated ocean and coastal observing system that provides for long-term, continuous, and real-time observations of the oceans and coasts for the purposes of—

(1) understanding, assessing and responding to human-induced and natural processes of global change;

(2) improving weather forecasts and public warnings;

(3) strengthening national security and military preparedness;

(4) enhancing the safety and efficiency of marine operations;

(5) supporting efforts to restore the health of and manage coastal and marine ecosystems and living resources;

(6) monitoring and evaluating the effectiveness of ocean and coastal environmental policies;

(7) reducing and mitigating ocean and coastal pollution; and

(8) providing information that contributes to public awareness of the Sate and importance of the oceans.

(b) COUNCIL FUNCTIONS.—In addition to its responsibilities under section 7902(a) of such title, the Council shall be responsible for planning and coordinating the observing system and in carrying out this responsibility shall—

(1) develop and submit to the Congress, within 6 months after the date of enactment of this Act, a plan for implementing a national ocean and coastal observing system that—

(A) uses an end-to-end engineering and development approach to develop a system design and schedule for operational implementation;

(B) determines how current and planned observing activities can be integrated in a cost-effective manner;

(C) provides for regional and concept demonstration projects;

(D) describes the role and estimated budget of each Federal agency in mplementing the plan;

(E) contributes, to the extent practicable, to the National Global Change Research Plan under section 104 of the Global Change Research Act of 1990 (15 U.S.C. 2934); and

(F) makes recommendations for coordination of ocean observing activities of the United States with those of other nations and international organizations;

(2) serve as the mechanism for coordinating Federal ocean observing requirements and activities;

(3) work with academic, State, industry and other actual and potential users of the observing system to make effective use of existing capabilities and incorporate new technologies;

(4) approve standards and protocols for the administration of the system, including—

(A) a common set of measurements to be collected and distributed routinely and by uniform methods;

(B) standards for quality control and assessment of data;

(C) design, testing and employment of forecast models for ocean conditions;

(D) data management, including data transfer protocols and archiving; and

(E) designation of coastal ocean observing regions; and

(5) in consultation with the Secretary of State, provide representation at international meetings on ocean observing programs and coordinate relevant Federal activities with those of other nations.

(c) SYSTEM ELEMENTS.—The integrated ocean and coastal observing system shall include the following elements:

(1) A nationally coordinated network of regional coastal ocean observing systems that measure and disseminate a common set of ocean observations and related products in a uniform manner and according to sound scientific practice, but that are adapted to local and regional needs.

(2) Ocean sensors for climate observations, including the Arctic Ocean and sub-polar seas.

(3) Coastal, relocatable, and cabled sea floor observatories.

(4) Broad bandwidth communications that are capable of transmitting high volumes of data from open ocean locations at low cost and in real time.

(5) Ocean data management and assimilation systems that ensure full use of new sources of data from space-borne and in situ sensors.

(6) Focused research programs.

(7) Technology development program to develop new observing technologies and techniques, including data management and dissemination.

(8) Public outreach and education.

**SEC. 1352. AUTHORIZATION OF APPROPRIATIONS.**

For development and implementation of an integrated ocean and coastal observation system under this title, including financial assistance to regional coastal ocean observing systems, there are authorized to be appropriated $235,000,000 in fiscal year 2003, $315,000,000 in fiscal year 2004, $390,000,000 in fiscal year 2005, and $445,000,000 in fiscal year 2006.

Subtitle E—Climate Change Technology

**SEC. 1361. NIST GREENHOUSE GAS FUNCTIONS.**

Section 2(c) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)) is amended—

(1) striking ''and'' after the semicolon in paragraph (21);

(2) by redesignating paragraph (22) as paragraph (23); and

(3) by inserting after paragraph (21) the following:

''(22) perform research to develop enhanced measurements, calibrations, standards, and technologies which will enable the reduced production in the United States of greenhouse gases associated with global warming, including carbon dioxide, methane, nitrous oxide, ozone, perfluorocarbons, hydrofluorocarbons, and sulfur hexafluoride; and''.

**SEC. 1362. DEVELOPMENT OF NEW MEASUREMENT TECHNOLOGIES.**

(a) IN GENERAL.—The Secretary of Commerce shall initiate a program to develop, with technical assistance from appropriate Federal agencies, innovative standards and measurement technologies (including technologies to measure carbon changes due to changes in land use cover) to calculate—

(1) greenhouse gas emissions and reductions from agriculture, forestry, and other land use practices;

(2) non-carbon dioxide greenhouse gas emissions from transportation;

(3) greenhouse gas emissions from facilities or sources using remote sensing technology; and

(4) any other greenhouse gas emission or reductions for which no accurate or reliable measurement technology exists.

**SEC. 1363. ENHANCED ENVIRONMENTAL MEASUREMENTS AND STANDARDS**

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) by redesignating sections 17 through 32 as sections 18 through 33, respectively; and

(2) by inserting after section 16 the following:

**''SEC. 17. CLIMATE CHANGE STANDARDS AND PROCESSES.**

''(a) IN GENERAL.—The Director shall establish within the Institute a program to perform and support research on global climate change standards and processes, with the goal of providing scientific and technical knowledge applicable to the reduction of greenhouse gases (as defined in section 4 of the Global Climate Change Act of 2002).

''(b) RESEARCH PROGRAM.—

''(1) IN GENERAL.—The Director is authorized to conduct, directly or through contracts or grants, a global climate change standards and processes research program.

''(2) RESEARCH PROJECTS.—The specific contents and priorities of the research program shall be determined in consultation with appropriate Federal agencies, including the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration. The program generally shall include basic and applied research—

''(A) to develop and provide the enhanced measurements, calibrations, data, models, and reference material standards which will enable the monitoring of greenhouse gases;

''(B) to assist in establishing of a baseline reference point for future trading in greenhouse gases and the measurement of progress in emissions reduction;

''(C) that will be exchanged internationally as scientific or technical information which has the stated purpose of developing mutually recognized measurements, standards, and procedures for reducing greenhouses gases; and

''(D) to assist in developing improved industrial processes designed to reduce or eliminate greenhouse gases.

''(c) NATIONAL MEASUREMENT LABORATORIES.—

''(1) IN GENERAL.—In carrying out this section, the Director shall utilize the collective skills of the National Measurement Laboratories of the National Institute of Standards and Technology to improve the accuracy of measurements that will permit better understanding and control of these industrial chemical processes and result in the reduction or elimination of greenhouse gases.

''(2) MATERIAL, PROCESS, AND BUILDING RESEARCH.—The National Measurement Laboratories shall conduct research under this subsection that includes—

''(A) developing material and manufacturing processes which are designed for energy efficiency and reduced greenhouse gas emissions into the environment;

''(B) developing environmentally-friendly, 'green' chemical processes to be used by industry; and

''(C) enhancing building performance with a focus in developing standards or tools which will help incorporate low or no-emission technologies into building designs.

''(3) STANDARDS AND TOOLS.—The National Measurement Laboratories shall develop

standards and tools under this subsection that include software to assist designers in selecting alternate building materials, performance data on materials, artificial intelligence-aided design procedures for building sub-systems and 'smart buildings', and improve test methods and rating procedures for evaluating the energy performance of residential and commercial appliances and products.

''(d) NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM.—The Director shall utilize the National Voluntary Laboratory Accreditation Program under this section to establish a program to include specific calibration or test standards and related methods and protocols assembled to satisfy the unique needs for accreditation in measuring the production of greenhouse gases. In carrying out this subsection the Director may cooperate with other departments and agencies of the Federal Government, State and local governments, and private organizations.''.

**SEC. 1364. TECHNOLOGY DEVELOPMENT AND DIFFUSION.**

The Director of the National Institute of Standards and Technology, through the Manufacturing Extension Partnership Program, may develop a program to support the implementation of new ''green'' manufacturing technologies and techniques by the more than 380,000 small manufacturers.

**SEC. 1365. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Director to carry out functions pursuant to sections 1345, 1351, and 1361 through 1363, $10,000,000 for fiscal years 2002 through 2006.

Subtitle F—Climate Adaptation and Hazards Prevention

PART I—ASSESSMENT AND ADAPTATION

**SEC. 1371. REGIONAL CLIMATE ASSESSMENT AND ADAPTATION PROGRAM.**

(a) IN GENERAL.—The President shall establish within the Department of Commerce a National Climate Change Vulnerability and Adaptation Program for regional impacts related to increasing concentrations of greenhouse gases in the atmosphere and climate variability.

(b) COORDINATION.—In designing such program the Secretary shall consult with the Federal Emergency Management Agency, the environmental Protection Agency, the Army Corps of Engineers, the Department of Transportation, and other appropriate Federal, State, and local government entities.

(c) VULNERABILITY ASSESSMENTS.—The program shall—

(1) evaluate, based on predictions and other information developed under this Act and the National Climate Program Act (15 U.S.C. 2901 et seq.), regional vulnerability to phenomena associated with climate change and climate variability, including—

(A) increases in severe weather events;

(B) sea level rise and shifts in the hydrological cycle;

(C) natural hazards, including tsunami, drought, flood and fire; and

(D) alteration of ecological communities including at the ecosystem or watershed levels; and

(2) build upon predictions and other information developed in the National Assessments prepared under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).

(d) PREPAREDNESS RECOMMENDATIONS.—The program shall submit a report to Congress within 2 years after the date of enactment of this Act that identifies and recommends implementation and funding strategies for short- and long-term actions that may be taken at the national, regional, State, and local level—

(1) to reduce vulnerability of human life and property;

(2) to improve resilience to hazards;

(3) to minimize economic impacts; and

(4) to reduce threats to critical biological ecological processes.

(e) INFORMATION AND TECHNOLOGY.—The Secretary shall make available appropriate information and other technologies and products that will assist national, regional, State, and local efforts, as well as efforts by other end-users, to reduce loss of life and property, and coordinate dissemination of such technologies and products

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $4,500,000 to implement the requirements of this section.

**SEC. 1372. COASTAL VULNERABILITY AND ADAPTATION.**

(a) COASTAL VULNERABILITY.—Within 2 years after the date of enactment of this Act, the Secretary shall, in consultation with the appropriate Federal, State, and local governmental entities, conduct regional assessments of the vulnerability of coastal areas to hazards associated with climate change, climate variability, sea level rise, and fluctuation of Great Lakes water levels. The Secretary may also establish, as warranted, longer term regional assessment programs. The Secretary may also consult with the governments of Canada and Mexico as appropriate in developing such regional assessments. In preparing the regional assessments, the Secretary shall collect and compile current information on climate change, sea level rise, natural hazards, and coastal erosion and mapping, and specifically address impacts on Arctic regions and the Central, Western, and South Pacific regions. The regional assessments shall include an evaluation of—

(1) social impacts associated with threats to and potential losses of housing, communities, and infrastructure;

(2) physical impacts such as coastal erosion, flooding and loss of estuarine habitat, saltwater intrusion of aquifers and saltwater encroachment, and species migration; and

(3) economic impact on local, State, and regional economics, including the impact on abundance or distribution of economically important living marine resources.

(b) COASTAL ADAPTATION PLAN.—The Secretary shall, within 3 years after the date of enactment of this Act, submit to the Congress a national coastal adaptation plan, composed of individual regional adaption plans that recommend targets and strategies to address coastal impacts. associated with climate change, sea level rise, or climate variability. The plan shall be developed with the participation of other Federal, State, and local government agencies that will be critical in the implementation of the plan at the State and local levels. The regional plans that will make up the national coastal adaptation plan shall be based on the information contained in the regional assessments and shall identify special needs associated with Arctic areas and the Central, Western, and South Pacific regions. The Plan shall recommend both short- and long-term adaptation strategies and shall include recommendations regarding—

(1) Federal flood insurance program modifications;

(2) areas that have been identified as high risk through mapping and assessment;

(3) mitigation incentives such as rolling easements, strategic retreat, State or Federal acquisition in fee simple or other interest in land, construction standards, and zoning;

(4) land and property owner education;

(5) economic planning for small communities dependent upon affected coastal resources, including fisheries; and

(6) funding requirements and mechanisms.

(c) TECHNICAL PLANNING ASSISTANCE.—The Secretary, through the National Ocean Service, shall establish a coordinated program to provide technical planning assistance and products to coastal States and local governments as they develop and implement adaptation or mitigation strategies and plans. Products, information, tools and technical expertise generated from the development of the regional assessments and the regional adaptation plans will be made available to coastal States for the purposes of developing their own State and local plans.

(d) COASTAL ADAPTATION GRANTS.—The Secretary shall provide grants of financial assistance to coastal States with federally approved coastal zone management programs to develop and begin implementing coastal adaptation programs if the State provides a Federal-to-State match of 4 to 1 in the first fiscal year, 2.3 to 1 in the second fiscal year, 2 to 1 in the third fiscal year, and 1 to 1 thereafter. Distribution of these funds to coastal States shall be based upon the formula established under section 306(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)), adjusted in consultation with the States as necessary to provide assistance to particularly vulnerable coastlines.

(e) COASTAL RESPONSE PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a 4-year pilot program to provide financial assistance to coastal communities most adversely affected by the impact of climate change or climate variability that are located in States with federally approved coastal zone management programs.

(2) ELIGIBLE PROJECTS.—A project is eligible for financial assistance under the pilot program if it—

(A) will restore or strengthen coastal resources, facilities, or infrastructure that have been damaged by such an impact, as determined by the Secretary;

(B) meets the requirements of the Coastal Zone Management Act (16 U.S.C. 1451 et seq.) and is consistent with the coastal zone management plan of the State in which it is located; and

(C) will not cost more than $100,000.

(3) FUNDING SHARE.—The Federal funding share of any project under this subsection may not exceed 75 percent of the total cost of the project. In the administration of this paragraph—

(A) the Secretary may take into account in-kind contributions and other non-cash support or any project to determine the Federal funding share for that project; and

(B) the Secretary may waive the requirements of this paragraph for a project in a community if—

(i) the Secretary determines that the project is important; and

(ii) the economy and available resources of the community in which the project is to be conducted are insufficient to meet the non-Federal share of the project's costs.

(f) DEFINITIONS.—Any term used in this section that is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) has the meaning given it by that section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 annually for regional assessments under subsection (a), and $3,000,000 annually for coastal adaptation grants under subsection (d).

**SEC. 1373. ARCTIC RESEARCH CENTER.**

(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility, to be known as the Barrow

Arctic Research Center, to support climate change and other scientific research activities in the Arctic.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, $35,000,000 for the planning, design, construction, and support of the Barrow Arctic Research Center.

PART II—FORECASTING AND PLANNING PILOT PROGRAMS

**SEC. 1381. REMOTE SENSING PILOT PROJECTS.**

(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration shall establish, through the National Oceanic and Atmospheric Administration's Coastal Services Center, a program of grants for competitively awarded pilot projects to explore the integrated use of sources of remote sensing and other geospatial information to address State, local, regional, and tribal agency needs to forecast a plan for adaptation to coastal zone and land use changes that may result as a consequence of global climate change or climate variability.

(B) PREFERRED PROJECTS.—In awarding grants under this section, the Center shall give preference to projects that—

(1) focus on areas that are most sensitive to the consequences of global climate change or climate variability;

(2) make use of existing public or commercial data sets;

(3) integrate multiple sources of geospatial information, such as geographic information system data, satellite-provided positioning data, and remotely sensed data, in innovative ways;

(4) offer diverse, innovative approaches that may serve as models for establishing a future coordinated framework for planning strategies for adaptation to coastal zone and land use changes related to global climate change or climate variability;

(5) include funds or in-kind contributions from non-Federal sources;

(6) involve the participation of commercial entities that process raw or lightly processed data, often merging that data with other geospatial information, to create data products that have significant value added to the original data; and

(7) taken together demonstrate as diverse a set of public sector applications as possible.

(c) OPPORTUNITIES.—In carrying out this section, the Center shall seek opportunities to assist—

(1) in the development of commercial applications potentially available from the remote sensing industry; and

(2) State, local, regional, and tribal agencies in applying remote sensing and other geospatial information technologies for management and adaption to coastal and land use consequences of global climate change or climate variability.

(d) DURATION.—Assistance for a pilot project under subsection (a) shall be provided for a period of not more than 3 years.

(e) RESPONSIBILITIES OF GRANTEES.—Within 180 days after completion of a grant project, each recipient of a grant under subsection (a) shall transmit a report to the Center on the results of the pilot project and conduct at least one workshop for potential users to disseminate the lessons learned from the pilot project as widely as feasible.

(f) REGULATIONS.—The Center shall issue regulations establishing application, selection, and implementation procedures for pilot projects, and guidelines for reports and workshops require by this section.

**SEC. 1382. DATABASE ESTABLISHMENT.**

The Center shall establish and maintain an electronic, Internet-accessible database of the results of each pilot project completed under section 1381.

**SEC. 1383. DEFINITIONS.**

In this subtitle:

(1) CENTER.—The term ''Center'' means the Coastal Services Center of the National Oceanic and Atmospheric Administration.

(2) GEOSPATIAL INFORMATION.—The term ''geospatial information'' means knowledge of the nature and distribution of physical and cultural features on the landscape based on analysis of data from airborne or spaceborne platforms or other types and sources of data.

(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

**SEC. 1384. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Administrator to carry out the provisions of this subtitle—

(1) $17,500,000 for fiscal year 2003;

(2) $20,000,000 for fiscal year 2004;

(3) $22,500,000 for fiscal year 2005; and

(4) $25,000,000 for fiscal year 2006.

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**SA 3232.** Mr. BINGAMAN (for himself, Mr. MURKOWSKI, Mr. BYRD, Mr. LIEBERMAN, Mr. THOMPSON, Mr. HOLLINGS, Mr. KERRY, Mr. HAGEL, and Ms. SNOWE) submitted and amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 307, strike line 3 and all that follows through page 369, line 22 and insert the following:

DIVISION D—INTEGRATION OF ENERGY POLICY AND CLIMATE CHANGE POLICY

TITLE X—NATIONAL CLIMATE CHANGE POLICY

Subtitle A—Sense of Congress

**SEC. 1001. SENSE OF CONGRESS ON CLIMATE CHANGE.**

(a) FINDINGS.—The Congress makes the following findings:

(1) Evidence continues to build that increases in atmospheric concentrations of man-made greenhouse gases are contributing to global climate change.

(2) The Intergovernmental Panel on Climate Change (IPCC) has concluded that ''there is new and stronger evidence that most of the warming observed over the last 50 years is attributable to human activities'' and that the Earth's average temperature can be expected to rise between 2.5 and 10.4 degrees Fahrenheit in this century.

(3) The National Academy of Sciences confirmed the findings of the IPCC, stating that ''the IPPCC's conclusion that most of the observed warming of the last 50 years is likely to have been due to the increase of greenhouse gas concentrations accurately reflects the current thinking of the scientific community on this issue'' and that ''there is general agreement that the observed warming is real and particularly strong within the past twenty years.'' The National Academy of Sciences also noted that ''because there is considerable uncertainty in current understanding of how the climate system varies naturally and reacts to emissions of greenhouse gases and aerosols, current estimates of the magnitude of future warming should be regarded as tentative and subject to future adjustments upward or downward.''

(4) The IPCC has stated that in the last 40 years, the global average sea level has risen, ocean heat content has increased, and snow cover and ice extent have decreased, which threatens to inundate low-lying island nations and coastal regions throughout the world.

(5) In October 2000, a U.S. government report found that global climate change may harm the United States by altering crop yields, accelerating sea-level rise, and increasing the spread of tropical infectious diseases.

(6) In 1992, the United States ratified the United Nations Framework Convention on Climate Change (UNFCCC), the ultimate objective of which is the ''stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.''

(7) The UNFCCC stated in part that the Parties to the Convention are to implement policies ''with the aim of returning . . . to their 1990 levels anthropogenic emissions of carbon dioxide and other greenhouse gases'' under the principle that ''policies and measures . . . should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change.''

(8) There is a shared international responsibility to address this problem, as industrial nations are the largest historic and current emitters of greenhouse gases and developing nations' emissions will significantly increase in the future.

(9) The UNFCCC further stated that ''developed country Parties should take the lead in combating climate change and the adverse effects thereof,'' as these nations are the largest historic and current emitters of greenhouse gases. The UNFCCC also stated that ''steps required to understand and address climate change will be environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas.''

(10) Senate Resolution 98 of the 105th Congress, which expressed that developing nations must also be included in any future, binding climate change treaty and such a treaty must not result in serious harm to the United States economy, should not cause the United States to abandon its shared responsibility to help reduce the risks of climate change and its impacts. Future international efforts in this regard should focus on recognizing the equitable responsibilities for addressing climate change by all nations, including commitments by the largest developing country emitters in a future, binding climate change treaty.

(11) It is the position of the United States that it will not interfere with the plans of any nation that chooses to ratify and implement the Kyoto Protocol to the UNFCCC.

(12) American businesses need to know how governments worldwide will address the risks of climate change.

(13) The United States benefits from investments in the research, development and deployment of a range of clean energy and efficiency technologies that can reduce the risks of climate change and its impacts and that can make the United States economy

more productive, bolster energy security, create jobs, and protect the environment.

(b) SENSE OF CONGRESS.—It is the sense of the United States Congress that the United States should demonstrate international leadership and responsibility in reducing the health, environmental, and economic risks posed by climate change by:

(1) taking responsible action to ensure significant and meaningful reductions in emissions of greenhouse gases from all sectors:

(2) creating flexible international and domestic mechanisms, including joint implementation, technology deployment, tradable credits for emissions reductions and carbon sequestration projects that will reduce, avoid, and sequester greenhouse gas emissions; and

(3) participating in international negotiations, including putting forth a proposal to the Conference of the Parties, with the objective of securing United States' participation in a future binding climate change Treaty in a manner that is consistent with the environmental objectives of the UNFCCC, that protects the economic interests of the United States, and recognizes the shared international responsibility for addressing climate change, including developing country participation.

Subtitle B—Climate Change Strategy

**SEC. 1011. SHORT TITLE.**

This subtitle may be cited as the ''Climate Change Strategy and Technology Innovation Act of 2002''.

**SEC. 1012. DEFINITIONS.**

In this subtitle:

(1) CLIMATE-FRIENDLY TECHNOLOGY.—The term ''climate-friendly technology'' means any energy supply or end-use technology that, over the life of the technology and compared to similar technology in commercial use as of the date of enactment of this Act—

(A) results in reduced emissions of greenhouse gases;

(B) may substantially lower emissions of other pollutants; and

(C) may generate substantially smaller or less hazardous quantities of solid or liquid waste.

(2) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(3) DEPARTMENT OFFICE.—The term ''Department Office'' means the Office of Climate Change Technology of the Department established by section 1015(a).

(4) FEDERAL AGENCY.—The term ''Federal agency'' has the meaning given the term ''agency'' in section 551 of title 5, United States Code.

(5) GREENHOUSE GAS.—The term ''greenhouse gas'' means—

(A) an anthropogenic gaseous constituent of the atmosphere (including carbon dioxide, methane, nitrous oxide, chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and tropospheric ozone) that absorbs and re-emits infrared radiation and influences climate; and

(B) an anthropogenic aerosol (such as black soot) that absorbs solar radiation and influences climate.

(6) INTERAGENCY TASK FORCE.—The term ''Interagency Task Force'' means the Interagency Task Force established under section 1014(e).

(7) KEY ELEMENT.—The term ''key element'', with respect to the Strategy, means—

(A) definition of interim emission mitigation levels, that, coupled with specific mitigation approaches and after taking into account actions by other nations (if any), would result in stabilization of greenhouse gas concentrations;

(B) technology development, including—

(i) a national commitment to double energy research and development by the United States public and private sectors; and

(ii) in carrying out such research and development, a national commitment to provide a high degree of emphasis on bold, breakthrough technologies that will make possible a profound transformation of the energy, transportation, industrial, agricultural, and building sectors of the United States;

(C) climate adaptation research that focuses on actions necessary to adapt to climate change—

(i) that may have already occurred; or

(ii) that may occur under future climate change scenarios;

(D) climate science research that—

(i) builds on the substantial scientific understanding of climate change that exists as of the date of enactment of this subtitle; and

(ii) focuses on reducing the remaining scientific, technical, and economic uncertainties to aid in the development of sound response strategies.

(8) LONG-TERM GOAL OF THE STRATEGY.—The term ''long-term goal of the Strategy'' means the long-term goal in section 1013(a)(1).

(9) MITIGATION.—The term ''mitigation'' means actions that reduce, avoid, or sequester greenhouse gases.

(10) NATIONAL ACADEMY OF SCIENCES.—The term ''National Academy of Sciences'' means the National Academy of Sciences, the National Academy of Engineering, the Institute of Medicine, and the National Research Council.

(11) QUALIFIED INDIVIDUAL.—

(A) IN GENERAL.—The term ''qualified individual'' means an individual who has demonstrated expertise and leadership skills to draw on other experts in diverse fields of knowledge that are relevant to addressing the climate change challenge.

(B) FIELDS OF KNOWLEDGE.—The fields of knowledge referred to in subparagraph (A) are—

(i) the science of climate change and its impacts;

(ii) energy and environmental economics;

(iii) technology transfer and diffusion;

(iv) the social dimensions of climate change;

(v) climate change adaptation strategies;

(vi) fossil, nuclear, and renewable energy technology;

(vii) energy efficiency and energy conservation;

(viii) energy systems integration;

(ix) engineered and terrestrial carbon sequestration;

(x) transportation, industrial, and building sector concerns;

(xi) regulatory and market-based mechanisms for addressing climate change;

(xii) risk and decision analysis;

(xiii) strategic planning; and

(xiv) the international implications of climate change strategies.

(12) SECRETRY.—The term ''Secretary'' means the Secretary of Energy.

(13) STABILIZATION OF GREENHOUSE GAS CONCENTRATIONS.—The term ''stabilization of greenhouse gas concentrations'' means the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, recognizing that such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner, as contemplated by the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

(14) STRATEGY.—The term ''Strategy'' means the National Climate Change Strategy developed under section 1013.

(15) WHITE HOUSE OFFICE.—The term ''White House Office'' means the Office of National Climate Change Policy established by section 1014(a).

**SEC. 1013. NATIONAL CLIMATE CHANGE STRATEGY.**

(a) IN GENERAL.—The President, through the director of the White House Office and in consultation with the Interagency Task Force, shall develop a National Climate Change Strategy, which shall—

(1) have the long-term goal of stabilization of greenhouse gas concentrations through actions taken by the United States and other nations;

(2) recognize that accomplishing the long-term goal of the Strategy will take from many decades to more than a century, but acknowledging that significant actions must begin in the near term;

(3) incorporate the 4 key elements;

(4) be developed on the basis of an examination of a broad range of emissions levels and dates for achievement of those levels (including those evaluated by the Intergovernmental Panel on Climate Change and those consistent with U.S. treaty commitments) that, after taking into account actions by other nations, would achieve the long-term goal of the Strategy;

(5) consider the broad range of activities and actions that can be taken by United States entities to reduce, avoid, or sequester greenhouse gas emissions both within the United States and in other nations through the use of market mechanisms, which may include, but not be limited to, mitigation activities, terrestrial sequestration, earning offsets through carbon capture or project-based activities, trading of emissions credits in domestic and international markets, and the application of the resulting credits from any of the above within the United States;

(6) minimize any adverse short-term and long-term social, economic, national security, and environmental impacts, including ensuring that the strategy is developed in an economically and environmentally sound manner.

(7) incorporate mitigation approaches leading to the development and deployment of advanced technologies and practices that will reduce, avoid, or sequester greenhouse gas emissions;

(8) be consistent with the goals of energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States;

(9) take into account—

(A) the diversity of energy sources and technologies;

(B) supply-side and demand-side solutions; and

(C) national infrastructure, energy distribution, and transportation systems;

(10) be based on an evaluation of a wide range of approaches for achieving the long-term goal of the Strategy, including evaluation of—

(A) a variety of cost-effective Federal and State policies, programs, standards, and incentives;

(B) policies that integrate and promote innovative, market-based solutions in the United States and in foreign countries; and

(C) participation in other international institutions, or in the support of international activities, that are established or conducted to achieve the long-term goal of the Strategy;

(11) in the final recommendations of the Strategy—

(A) emphasize policies and actions that achieve the long-term goal of the Strategy; and

(B) provide specific recommendations concerning—

(i) measures determined to be appropriate for short-term implementation, giving preference to cost-effective and technologically feasible measures that will—

(I) produce measurable net reductions in United States emissions, compared to expected trends, that lead toward achievement of the long-term goal of the Strategy; and

(II) minimize any adverse short-term and long-term economic, environmental, national security, and social impacts on the United States;

(ii) the development of technologies that have the potential for long-term implementation—

(I) giving preference to technologies that have the potential to reduce significantly the overall cost of achieving the long-term goal of the Strategy; and

(II) considering a full range of energy sources, energy conversion and use technologies, and efficiency options;

(iii) such changes in institutional and technology systems are necessary to adapt to climate change in the short-term and the long-term;

(iv) such review, modification, and enhancement of the scientific, technical, and economic research efforts of the United States, and improvements to the data resulting from research, as are appropriate to improve the accuracy of predictions concerning climate change and the economic and social costs and opportunities relating to climate change; and

(v) changes that should be made to project and grant evaluation criteria under other Federal research and development programs so that those criteria do not inhibit development of climate-friendly technologies;

(12) recognize that the Strategy is intended to guide the nation's effort to address climate change, but it shall not create a legal obligation on the part of any person or entity other than the duties of the Director of the White House Office and Interagency Task Force in the development of the Strategy;

(13) have a scope that considers the totality of United States public, private, and public-private sector actions that bear on the long-term goal;

(14) be developed in a manner that provides for meaningful participation by, and consultation among, Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties in accordance with subsections (b)(3)(C)(iv)(II) and (e)(3)(B)(ii) of section 1014;

(15) address how the United States should engage State, tribal, and local governments in developing and carrying out a response to climate change;

(16) promote, to the maximum extent practicable, public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues;

(17) provide a detailed explanation of how the measures recommended by the Strategy will ensure that they do not result in serious harm to the economy of the United States;

(18) provide a detailed explanation of how the measures recommended by the Strategy will achieve its long-term goal;

(19) include any recommendations for legislative and administrative actions necessary to implement the Strategy;

(20) serve as a framework for climate change actions by all Federal agencies;

(21) recommend which Federal agencies are, or should be, responsible for the various aspects of implementation of the Strategy and any budgetary implications;

(22) address how the United States should engage foreign governments in developing an international response to climate change; and

(23) incorporate initiatives to open markets and promote the deployment of a range of climate-friendly technologies developed in the United States and abroad.

(b) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this section, the President, through the Interagency Task Force and the Director, shall submit to Congress the Strategy, in the form of a report that includes—

(1) a description of the Strategy and its goals, including how the Strategy addresses each of the 4 key elements;

(2) an inventory and evaluation of Federal programs and activities intended to carry out the Strategy;

(3) a description of how the Strategy will serve as a framework of climate change response actions by all Federal agencies, including a description of coordination mechanisms and interagency activities;

(4) evidence that the Strategy is consistent with other energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States;

(5) a description of provisions in the Strategy that ensure that it minimizes any adverse short-term and long-term social, economic, national security, and environmental impacts, including ensuring that the Strategy is developed in an economically and environmentally sound manner;

(6) evidence that the Strategy has been developed in a manner that provides for participation by, and consultation among, Federal, State, tribal, and local government agencies, non-governmental organizations, academia, scientific bodies, industry, the public, and other interested parties;

(7) a description of Federal activities that promote, to the maximum extent practicable, public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues; and

(8) recommendations for legislative or administrative changes to Federal programs or activities implemented to carry out this Strategy, in light of new knowledge of climate change and its impacts and costs or benefits, or technological capacity to improve mitigation or adaption activities.

(c) UPDATES.—Not later than 4 years after the date of submission of the Strategy to Congress under subsection (b), and at the end of each 4-year period thereafter, the President shall submit to Congress an updated version of the Strategy.

(d) PROGRESS REPORTS.—Not later than 1 year after the date of submission of the Strategy to Congress under subsection (b), and annually thereafter at the time that the President submits to the Congress the budget of the United States Government under section 1105 of title 21, United States Code, the President shall submit to Congress a report that—

(1) describes the Strategy, its goals, the Federal programs and activities intended to carry out the Strategy through technological, scientific, mitigation, and adaption activities;

(2) evaluates the Federal programs and activities implemented as part of this Strategy against the goals and implementation dates outlined in the Strategy;

(3) assesses the progress in implementation of the Strategy;

(4) incorporates the technology program reports required pursuant to section 1015(a)(3) and subsections (d) and (e) of section 1321;

(5) describes any changes to Federal programs or activities implemented to carry out this Strategy, in light of new knowledge of climate change and its impacts and costs or benefits, or technological capacity to improve mitigation or adaptation activities;

(6) describes all Federal spending on climate change for the current fiscal year and each of the five years previous; categorized by Federal agency and program function (including scientific research, energy research and development, regulation, education, and other activities);

(7) estimates the budgetary impact for the current fiscal year and each of the five years previous of any Federal tax credits, tax deductions or other incentives claimed by taxpayers that are directly or indirectly attributable to greenhouse gas emissions reduction activities;

(8) estimates the amount, in metric tons, of net greenhouse gas emissions reduced, avoided, or sequestered directly or indirectly as a result of the implementation of the Strategy;

(9) evaluates international research and development and market-based activities and the mitigation actions taken by the United States and other nations to achieve the long-term goal of the Strategy; and

(10) makes recommendations for legislative or administrative actions or adjustments that will accelerate progress towards meeting the near-term and long-term goals contained in the Strategy.

(e) NATIONAL ACADEMY OF SCIENCES REVIEW.—

(1) IN GENERAL.—Not later than 90 days after the date of publication of the Strategy under subsection (b) and each update under subsection (c), the Director of the National Science Foundation, on behalf of the Director of the White House Office and the Interagency Task Force, shall enter into appropriate arrangements with the National Academy of Sciences to conduct a review of the Strategy or update.

(2) CRITERIA.—The review by the National Academy of Sciences shall evaluate the goals and recommendations contained in the Strategy or update, taking into consideration—

(A) the adequacy of effort and the appropriateness of focus of the totality of all public, private, and public-private sector actions of the United States with respect to the Strategy, including the 4 key elements;

(B) the adequacy of the budget and the effectiveness with which each Federal agency is carrying out its responsibilities;

(C) current scientific knowledge regarding climate change and its impacts;

(D) current understanding of human social and economic responses to climate change, and responses of natural ecosystems to climate change;

(E) advancements in energy technologies that reduce, avoid, or sequester greenhouse gases or otherwise mitigate the risks of climate change;

(F) current understanding of economic costs and benefits of mitigation or adaptation activities;

(G) the existence of alternative policy options that could achieve the Strategy goals at lower economic, environmental, or social cost; and

(H) international activities and the actions taken by the United States and other nations to achieve the long-term goal of the Strategy.

(3) REPORT.—Not later than 1 year after the date of submittal to the Congress of the Strategy or update, as appropriate, the National Academy of Sciences shall prepare and submit to the Congress and the President a report concerning the results of its review, along with any recommendations as appropriate. Such report shall also be made available to the public.

(4) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this subsection, there are

authorized to be appropriated to the National Science Foundation such sums as may be necessary.

**SEC. 1014. OFFICE OF NATIONAL CLIMATE CHANGE POLICY.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established, within the Executive Office of the President, the Office of National Climate Change Policy.

(2) FOCUS.—The White House Office shall have the focus of achieving the long-term goal of the Strategy while minimizing adverse short-term and long-term economic and social impacts.

(3) DUTIES.—Consistent with paragraph (2), the White House Office shall—

(A) establish policies, objectives, and priorities for the Strategy;

(B) in accordance with subsection (d), establish the Interagency Task Force to serve as the primary mechanism through which the heads of Federal agencies shall assist the Director of the White House Office in developing and implementing the Strategy;

(C) to the maximum extent practicable, ensure that the Strategy is based on objective, quantitative analysis, drawing on the analytical capabilities of Federal and State agencies, especially the Department Office;

(D) advise the President concerning necessary changes in organization, management, budgeting, and personnel allocation of Federal agencies involved in climate change response activities; and

(E) advise the President and notify a Federal agency if the policies and discretionary programs of the agency are not well aligned with, or are not contributing effectively to, the long-term goal of the Strategy.

(b) DIRECTOR OF THE WHITE HOUSE OFFICE.—

(1) IN GENERAL.—The White House Office shall be headed by a Director, who shall report directly to the President, and shall consult with the appropriate economic, environmental, national security, domestic policy, science and technology and other offices with the Executive Office of the President.

(2) APPOINTMENT.—The Director of the White House Office shall be a qualified individual appointed by the President, by and with the advice and consent of the Senate.

(3) DUTIES OF THE DIRECTOR OF THE WHITE HOUSE OFFICE.—

(A) STRATEGY.—In accordance with section 1013, the Director of the White House Office shall coordinate the development and updating of the Strategy.

(B) INTERAGENCY TASK FORCE.—The Director of the White House Office shall serve as Chair of the Interagency Task Force.

(C) ADVISORY DUTIES.—

(i) ENERGY, ECONOMIC, ENVIRONMENTAL, TRANSPORTATION, INDUSTRIAL, AGRICULTURAL, BUILDING, FORESTRY, AND OTHER PROGRAMS.—The Director of the White House Office, using an integrated perspective considering the totality of actions in the United States, shall advise the President and the heads of Federal agencies on—

(I) the extent to which United States energy, economic, environmental, transportation, industrial, agricultural, forestry, building, and other relevant programs are capable of producing progress on the long-term goal of the Strategy; and

(II) the extent to which proposed or newly created energy, economic, environmental, transportation, industrial, agricultural, forestry, building, and other relevant programs positively or negatively affect the ability of the United States to achieve the long-term goal of the Strategy.

(ii) TAX, TRADE, AND FOREIGN POLICIES.—The Director of the White House Office, using an integrated perspective considering the totality of actions in the United States, shall advise the President and the heads of Federal agencies on—

(I) the extent to which the United States tax policy, trade policy, and foreign policy are capable of producing progress on the long-term goal of the Strategy; and

(II) the extent to which proposed or newly created tax policy, trade policy, and foreign policy positively or negatively affect the ability of the United States to achieve the long-term goal of the Strategy.

(iii) INTERNATIONAL TREATIES.—The Secretary of State, acting in conjunction with the Interagency Task Force and using the analytical tools available to the White House Office, shall provide to the Director of the White House Office an opinion that—

(I) specifies, to the maximum extent practicable, the economic and environmental costs and benefits of any proposed international treaties or components of treaties that have an influence on greenhouse gas management; and

(II) assesses the extent to which the treaties advance the long-term goal of the Strategy, while minimizing adverse short-term and long-term economic and social impacts and considering other impacts.

(iv) CONSULTATION.—

(I) WITH MEMBERS OF INTERAGENCY TASK FORCE.—To the extent practicable and appropriate, the Director of the White House Office shall consult with all members of the Interagency Task Force before providing advice to the President.

(II) WITH OTHER INTERESTED PARTIES.—The Director of the White House Office shall establish a process for obtaining the meaningful participation of Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties in the development and updating of the Strategy.

(D) PUBLIC EDUCATION, AWARENESS, OUTREACH, AND INFORMATION-SHARING.—The Director of the White House Office, to the maximum extent practicable, shall promote public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues.

(4) ANNUAL REPORTS.—The Director of the White House Office, in consultation with the Interagency Task Force and other interested parties, shall prepare the annual reports for submission by the President to Congress under section 1013(d).

(5) ANALYSIS.—During development of the Strategy, preparation of the annual reports submitted under paragraph (4), and provision of advice to the President and the heads of Federal agencies, the Director of the White House Office shall place significant emphasis on the use of objective, quantitative analysis, taking into consideration any uncertainties associated with the analysis.

(c) STAFF.—

(1) IN GENERAL.—The Director of the White House Office shall employ a professional staff, including the staff appointed under paragraph (2), of not more than 25 individuals to carry out the duties of the White House Office.

(2) INTERGOVERNMENTAL PERSONNEL AND FELLOWSHIPS.—The Director of the White House Office may use the authority provided by the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and subchapter VI of chapter 33 of title 5, United States Code, and fellowships, to obtain staff from Federal agencies, academia, scientific bodies, or a National Laboratory (as that term is defined in section 1203), for appointments of a limited term.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies for the fiscal year in which this Title is enacted, the President shall provide such sums as are necessary to carry out the duties of the White House Office under this title until the date on which funds are made available under paragraph (2).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Executive Office of the President to carry out the duties of the White House Office under this subtitle, $5,000,000 for each of fiscal years 2003 through 2011, to remain available through September 30, 2011.

(e) INTERAGENCY TASK FORCE.—

(1) IN GENERAL.—The Director of the White House Office shall establish the Interagency Task Force.

(2) COMPOSITION.—The Interagency Task Force shall be composed of—

(A) the Director off the White House Office, who shall serve as Chair;

(B) the Secretary of State;

(C) the Secretary of Energy;

(D) the Secretary of Commerce;

(E) the Secretary of Transportation;

(F) the Secretary of Agriculture;

(G) the Administrator of the Environmental Protection Agency;

(H) the Chairman of the Council of Economic Advisers;

(I) the Chairman of the Council on Environmental Quality;

(J) the Director of the Office of Science and Technology Policy;

(K) the Director of the Office of Management and Budget; and

(L) the heads of such other Federal agencies as the President considers appropriate.

(3) STRATEGY.—

(A) IN GENERAL.—The Interagency Task Force shall serve as the primary forum through which the Federal agencies represented on the Interagency Task Force jointly assist the Director of the White House Office in—

(i) developing and updating the Strategy; and

(ii) preparing annual reports under section 1013(d).

(B) REQUIRED ELEMENTS.—In carrying out subparagraph (A), the Interagency Task Force shall—

(i) take into account the long-term goal and other requirements of the Strategy specified in section 1013(a);

(A) manage an energy technology research and development program that directly supports the Strategy by—

(i) focusing on high-risk, bold, breakthrough technologies that—

(I) have significant promise of contributing to the long-term goal of the Strategy by—

(aa) mitigating the emissions of greenhouse gases;

(bb) removing and sequestering greenhouse gases from emission streams; or

(cc) removing and sequestering greenhouse gases from the atmosphere;

(II) are not being addressed significantly by other Federal programs; and

(III) would represent a substantial advance beyond technology available on the date of enactment of this subtitle;

(ii) forging fundamentally new research and development partnerships among various Department, other Federal, and State programs, particularly between basic science and energy technology programs, in cases in which such partnerships have significant potential to affect the ability of the United States to achieve the long-term goal of the Strategy at the lowest possible cost;

(iii) forging international research and development partnerships that are in the interests of the United States and make progress on achieving the long-term goal of the Strategy;

(iv) making available, through monitoring, experimentation, and analysis, data that are essential to proving the technical and economic viability of technology central to addressing climate change; and

(v) transferring research and development programs to other program offices of the Department once such a research and development program crosses the threshold of high-risk research and moves into the realm of more conventional technology development;

(B) through active participation in the Interagency Task Force and utilization of the analytical capabilities of the Department Office, share analyses of alternative climate change strategies with other agencies represented on the Interagency Task Force to assist them in understanding—

(i) the scale of the climate change challenge; and

(ii) how actions of the Federal agencies on the Interagency Task Force postively or negatively contribute to climate change solutions;

(C) provide analytical support to the White House Office, particularly in support of the development of the Strategy and associated progress reporting;

(D) foster the development of tools, data, and capabilities to ensure that—

(i) the United States has a robust capability for evaluating alternative climate change response scenarios; and

(ii) the Department Office provides long-term analytical continuity during the terms of service of successive Presidents.

(E) identify the total contribution of all Department programs to the Strategy; and

(F) advise the Secretary on all aspects of climate change-related issues, including necessary changes in Department organization, management, budgeting, and personnel allocation in the programs involved in climate change response-related activities.

(3) ANNUAL REPORTS.—The Department Office shall prepare an annual report for submission by the Secretary to Congress and the White House Office that—

(A) assesses progress toward meeting the goals of the energy technology research and development program described in this section;

(B) assesses the activities of the Department Office;

(C) assesses the contributions of all energy technology research and development programs of the Department (including science programs) to the long-term goal and other requirements of the Strategy; and

(D) make recommendations for actions by the Department and other Federal agencies to address the components of technology development that are necessary to support the Strategy.

(b) DIRECTOR OF THE DEPARTMENT OFFICE.—

(1) IN GENERAL.—The Department Office shall be headed by a Director, who shall be a qualified individual appointed by the President, and who shall be compensated at a rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) REPORTING.—The Director of the Department Office shall report directly to the Under Secretary for Energy and Science.

(3) VACANCIES.—A vacancy in the position of the Director of the Department Office shall be filled in the same manner as the original appointment was made.

(c) INTERGOVERNMENTAL PERSONNEL.—The Department Office may use the authority provided by the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.), subchapter VI of chapter 33 of title 5, United States Code, and other Departmental personnel authorities, to obtain staff for appointments of a limited term.

(d) RELATIONSHIP TO OTHER DEPARTMENT PROGRAMS.—Each project carried out by the Department Office shall be—

(1) initiated only after consultation with 1 or more other appropriate program offices of the Department that support research and development in the areas relating to the project;

(2) managed by the Department Office; and

(3) in the case of a project that reaches a sufficient level of maturity, with the concurrence of the Department Office and the appropriate office described in paragraph (1), transferred to the appropriate office, along with the funds necessary to continue the project to the point at which non-Federal funding can provide substantial support for the project.

(e) COLLABORATION AND COST SHARING.—

(1) WITH OTHER FEDERAL AGENCIES.—Projects supported by the Department Office may include participation of, and be supported by, other Federal agencies that have a role in the development, commercialization, or transfer of energy, transportation, industrial, agricultural, forestry, or other change-related technology.

(2) WITH THE PRIVATE SECTOR.—

(A) IN GENERAL.—Notwithstanding section 1403, the Department Office shall create an operating model that allows for collaboration, division of effort, and cost sharing with industry on individual climate change response projects.

(B) REQUIREMENTS.—Although cost sharing in some cases may be appropriate, the Department Office shall focus on long-term high-risk research and development and should not make industrial partnerships or cost sharing a requirement, if such a requirement would bias the activities of the Department Office toward incremental innovations.

(C) REEVALUATION ON TRANSFER.—At such time as any bold, breakthrough research and development program reaches a sufficient level of technological maturity such that the program is transferred to a program office of the Department other than the Department Office, the cost-sharing requirements and criteria applicable to the program shall be reevaluated.

(D) PUBLICATION IN FEDERAL REGISTER.—Each cost-sharing agreement entered into under this paragraph shall be published in the Federal Register.

(f) ANALYSIS OF CLIMATE CHANGE STRATEGY.—

(1) IN GENERAL.—The Department Office shall foster the development and application of advanced computational tools, data, and capabilities that, together with the capabilities of other federal agencies, support integrated assessment of alternative climate change response scenarios and implementation of the Strategy.

(2) PROGRAMS.—

(A) IN GENERAL.—The Department Office shall—

(i) develop and maintain core analytical competencies and complex, integrated computational modeling capabilities that, together with the capabilities of other federal agencies, are necessary to support the design and implementation of the Strategy; and

(ii) track United States and international progress toward the long-term goal of the Strategy.

(B) INTERNATIONAL CARBON DIOXIDE SEQUESTRATION MONITORING AND DATA PROGRAM.—In consultation with Federal, State, academic, scientific, private sector, nongovernmental, tribal, and international carbon capture and sequestration technology programs, the Department Office shall design and carry out an international carbon dioxide sequestration monitoring and data program to collect, analyze, and make available the technical and economic data to ascertain—

(i) whether engineered sequestration and terrestrial sequestration will be acceptable technologies from regulatory, economic, and international perspectives;

(ii) whether carbon dioxide sequestered in geological formations or ocean systems is stable and has inconsequential leakage rates on a geologic time-scale; and

(iii) the extent to which forest, agricultural, and other terrestrial systems are suitable carbon sinks.

(3) AREAS OF EXPERTISE.—

(A) IN GENERAL.—The Department Office shall develop and maintain expertise in integrated assessment, modeling, and related capabilities necessary—

(i) to understand the relationship between natural, agricultural, industrial, energy, and economic systems;

(ii) to design effective research and development programs; and

(iii) to assist with the development and implementation of the Strategy.

(B) TECHNOLOGY TRANSFER AND DIFFUSION.—The expertise described in clause (i) shall include knowledge of technology transfer and technology diffusion in United States and foreign markets.

(4) DISSEMINATION OF INFORMATION.—The Department Office shall ensure, to the maximum extent practicable, that technical and scientific knowledge relating to greenhouse gas emission reduction, avoidance, and sequestration is broadly disseminated through publications, fellowships, and training programs.

(5) ASSESSMENTS.—In a manner consistent with the Strategy, the Department shall conduct assessments of deployment of climate-friendly technology.

(6) ANALYSIS.—During development of the Strategy, annual reports submitted under subsection (a)(3), and advice to the Secretary, the Director of the Department Office shall place significant emphasis on the use of objective, quantitative analysis, taking into consideration any associated uncertainties.

(g) AUTHORIZATION OF APPROPORIATIONS.—

(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies for the fiscal year in which this subtitle is enacted, the President shall provide such sums as are necessary to carry out the duties of the Department Office under this subtitle until the date on which funds are made available under paragraph (2).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, to carry out the duties of the Department Office under this subtitle, $4,750,000,000 for the period of fiscal years 2003 through 2011, to remain available through September 30, 2011.

(3) ADDITONAL AMOUNTS.—Amounts authorized to be appropriated under this section shall be in addition to—

(A) amounts made available to carry out the United States Global Change Research Program under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.); and

(B) amounts made available under other provisions of law for energy research and development.

**SEC. 1016. ADDITIONAL OFFICES AND ACTIVITIES.**

The Secretary of Agriculture, the Secretary of Transportation, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies may establish such offices and carry out such activities, in addition to those established or authorized by this Act, as are necessary to carry out this Act.

Subtitle C—Science and Technology Policy

**SEC. 1021. GLOBAL CLIMATE CHANGE IN THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.**

Section 101(b) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601(b)) is amended—

(1) by redesignating paragraphs (7) through (13) as paragraphs (8) through (14), respectively; and

(2) by inserting after paragraph (6) the following:

''(7) improving efforts to understand, assess, predict, mitigate, and respond to global climate change;''.

**SEC. 1022. DIRECTOR OF OFFICE OF SCIENCE AND TECHNOLOGY POLICY FUNCTIONS.**

(a) ADVISE PRESIDENT ON GLOBAL CLIMATE CHANGE.—Section 204(b)(1) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6613(b)(1)) is amended by inserting ''global climate change'' after ''to,''

(b) ADVISE DIRECTOR OF OFFICE OF NATIONAL CLIMATE CHANGE POLICY.—Section 207 of that Act (42 U.S.C. 6616) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

''(b) ADVISE DIRECTOR OF OFFICE OF NATIONAL CLIMATE CHANGE POLICY.—In carrying out this Act, the Director shall advise the Director of the Office of National Climate Change Policy on matters concerning science and technology as they relate to global climate change.''.

Subtitle D—Miscellaneous Provisions

**SEC. 1031. ADDITIONAL INFORMATION FOR REGULATORY REVIEW.**

In each case that an agency prepares and submits a Statement of Energy Effects pursuant to Executive Order 13211 of May 18, 2001 (relating to actions concerning regulations that significantly affect energy supply, distribution, or use), the agency shall also submit an estimate of the change in net annual greenhouse gas emissions resulting from the proposed significant energy action and any reasonable alternatives to the action.

**SEC. 1032. GREENHOUSE GAS EMISSIONS FROM FEDERAL FACILITIES.**

(a) METHODOLOGY.—Not later than one year after the date of enactment of this section, the Secretary of Energy, Secretary of Agriculture, Secretary of Commerce, and Administrator of the Environmental Protection Agency shall publish a jointly developed methodology for preparing estimates of annual net greenhouse gas emissions from all Federally owned, leased, or operated facilities and emission sources, including stationary, mobile, and indirect emissions as may be determined to be feasible.

(b) PUBLICATION.—Not later than 18 months after the date of enactment of this section, and annually thereafter, the Secretary of Energy shall publish an estimate of annual net greenhouse gas emissions from all Federally owned, leased, or operated facilities and emission sources, using the methodology published under subsection (a).

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**SA 3233.** Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, Mr. JEFFORDS, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517 to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 28 strike line 17 and all that follows through page 36, line 4, and insert the following:

**SEC. 2. ELECTRIC UTILITY MERGER PROVISIONS.**

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

''(4) APPROVAL.—

''(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will serve the public interest, the Commission shall approve the transaction.

''(B) MINIMUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to proposed transaction, the Commission shall at a minimum, find that the proposed transaction will—

''(i)(I) enhance competition in wholesale electricity markets; and

''(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retain electricity markets;

''(ii) produce significant gains in operational and economic efficiency;

''(iii) include employee protective arrangements, as defined in Sec. 222 of the Public Utility Holding Company Act of 2002, that the Commission concludes will fairly and equitably protect the interests of employees affected by the proposed transaction; and

''(iv) result in a corporate and capital structure that facilities effective regulatory oversight.''.

**SEC. 2. WHOLESALE MARKETS AND MARKET POWER.**

(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS;

(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

(g) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

''(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the commission determines are necessary to define and determine the conditions necessary—

''(A) to maintain competitive wholesale markets;

''(B) to effectively monitor market conditions and trends;

''(C) to prevent the abuse of market power and market manipulation;

''(D) to protect the public interests; and

''(E) to ensure the maintenance of just and reasonable wholesale rates.

''(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

''(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

''(B) establish and impose applicable to a public utility that—

''(i) violates a rule or procedures adopted under paragraph (1); or

''(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

''(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request or authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.''.

''(2) INEFFFECTIVENESS OF OTHER PROVISION.—

Section 203 of this Act (relating to market-based rates) shall be of no effect.

''(b) REMEDIAL MEASURES FOR MARKET POWER.—

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by Section 209) is amended by adding at the end the following:

**''SEC. 218 REMEDIAL MEASURES FOR MARKET POWER.**

''(a) DEFINITION OF MARKET POWER.—In this section, the term 'market power' with respect to public utility, means the ability of the public utility to maintain energy prices above competitive levels.

''(b) COMMISSION JURISDICTIONAL SALES.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.''.

Subtitle B—Amendments to the Public Utility Holding Company Act

**SEC. 221. SHORT TITLE.**

This subtitle may be cited as the ''Public Utility Holding Company Act of 2002''.

**SEC. 222. DEFINITIONS.**

In this subtitle:

(1) AFFILIATE.—The term ''affiliate'' of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term ''associate company'' of a company means any company in the same holding company system with such company.

(3) COMMISSION. The term ''Commission'' means the Federal Energy Regulatory Commission.—

(4) COMPANY.—The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EMPLOYEE PROTECTIVE ARRANGEMENT.—The term ''employee protective arrangement'' means a provision that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired companies;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(7) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5B), as those sections existed on the day before the effective date of this subtitle.

(8) GAS UTILITY COMPANY.—The term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the

company operating such facilities for their won use and not for resale) of natural or manufactured gas for heat, light, or power.

(9) HOLDING COMPANY.—The term ''holding company'' means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent of more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(10) HOLDING COMPANY SYSTEM.—The term ''holding company system'' means a holding company, together with its subsidiary companies.

(11) JURISDICTIONAL RATES.—The term ''jurisdictional rates'' means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(12) NATURAL GAS COMPANY.—The term ''natural gas company'' means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(13) PERSON.—The term ''person'' means an individual or company.

(14) PUBLIC UTILITY.—The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(15) PUBLIC UTILITY COMPANY.—The term ''public utility company'' means an electric utility company or a gas utility company.

(16) STATE COMMISSION.—The term ''State commission'' means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(17) SUBSIDIARY COMPANY.—The term ''subsidiary company'' of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(18) VOTING SECURITY.—The term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

**SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.**

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) Is repealed.

**SEC. 224. ACCESS TO BOOKS AND RECORDS.**

(a) IN GENERAL.—Each holding company and each affiliate or associate company thereof shall produce for examination such personnel, books, accounts, memoranda, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will assist the Commission or the State commission in carrying out its responsibilities.

(b) COURT JURISDICTION.—Any United States district court located within the State in which the State commission is seeking to examine personnel or materials described in subsection (a), or within the District of Columbia or within any State in which the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(c) COST RECOVERY.—The cost of any audit of a holding company or any affiliate or associate company ordered by the Commission or a State commission under this section shall be borne by the holding company and the associate or affiliate company thereof.

(d) CONFIDENTIALITY.—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) AUDITING.—The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(f) PREEMPTION.—Nothing in this section shall preempt any State law obligating a holding company or any associate or affiliate company thereof to produce books and records.

**SEC. 225. TRANSACTION TRANSPARENCY.**

(a) PROHIBITED ACTIVITIES.—No holding company or affiliate thereof, shall enter into any—

(1) transaction for the purchase, sale, lease, or other transfer of assets, goods, or services (other than the sale of electricity or gas) or into any financial transaction (including the issuance of securities, loans or guarantees of indebtedness or value) with a public utility company that is an affiliate of that holding company, unless—

(A) the transaction is clearly and fully disclosed by the public utility company in a financial statement or other report that is available to the public; and

(B) prior to such transaction, the Commission has determined that the transaction will not be detrimental to the public interest or the interests of electricity and natural gas consumers or competition; or

(2) financial transaction (including the issuance, purchase, or sale of securities, loans, or guarantees of indebtedness or value) that does not appear in the financial statements or reports maintained by that holding company or affiliate for accounting purposes, unless the transaction is clearly and fully disclosed by that holding company or affiliate in a financial statement or other report that is made available to the public.

(b) COMMISSION RULES.—Notwithstanding section 236, the Commission shall promulgate final rules to the effective date of this subtitle, providing for the expeditious review of transactions referred to in subsection (a)(1) on a case by case basis and protection of electricity and natural gas consumers from holding company diversification.

(c) REQUIREMENTS.—Rules required under subsection (c) shall ensure, at a minimum, that—

(1) no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, or any affiliate of, such public utility company;

(2) no public utility company shall make any loan to, or guarantee the indebtedness or value of, any holding company or affiliate thereof;

(3) sale, lease, or transfer of assets, goods or services to a public utility company by its holding company or any affiliate thereof shall be at terms that are no less favorable to the public utility company than the cost to such holding company or affiliate;

(4) any sale, lease, or transfer of assets, goods, or services by a public utility company to its holding company or any affiliate thereof, or the provision of assets, goods, or services for the use by, or benefit of, such holding company or affiliate, shall be at terms that are no less favorable to the public utility company than the market price of such assets, goods or services;

(5) any loan to, or guarantee of, the indebtedness or value of, a public utility company by a holding company or affiliate thereof, shall be at terms that are no less favorable than the cost to such holding company or affiliate;

(6) information necessary to monitor and regulate a holding company or affiliate thereof is made available to the Commission;

(7) electricity and natural gas consumers are protected against the financial risks of holding company diversification and transactions with and among any holding company or affiliate thereof; and

(8) the interest of employees affected by a proposed transaction shall be protected under employee protective arrangements the Commission concludes are fair and equitable.

(d) LIMITATION ON AUTHORITY.—Nothing in this section or the regulations promulgated under this section shall limit the authority of any State to prevent holding company diversification from adversely affecting electricity or natural gas consumers.

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**SA 3234.** Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 28 strike line 17 and all that follows through page 36, line 4, and insert the following:

**SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.**

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

''(4) APPROVAL.—

''(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will advance the public interest, the Commission shall approve the transaction.

''(B) MINIMUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

''(i)(I) enhance competition in wholesale electricity markets; and

''(II) if a State commission request the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

''(ii) produce significant gains in operational and economic efficiency; and

''(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.''.

**SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.**

(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

''(g) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

''(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

''(A) to maintain competitive wholesale markets;

''(B) to effectively monitor market conditions and trends;

''(C) to prevent the abuse of market power and market manipulation;

''(D) to protect the public interest; and

''(E) to ensure the maintenance of just and reasonable wholesale rates.

''(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

''(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

''(B) establish and impose remedies applicable to a public utility that—

''(i) violates a rule or procedures adopted under paragraph (1); or

''(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

''(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust laws with respect to any rate, charge, or services that is subject to the authorization.''.

(2) INEFFECTIVENESS OF OTHER PROVISION.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

(b) REMEDIAL MEASURES FOR MARKET POWER.—

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by Section 209) is amended by adding at the end the following:

**''SEC. 218. REMEDIAL MEASURES FOR MARKET POWER.**

''(a) DEFINITION OF MARKET POWER.—In this section, the term 'market power' with respect to a public utility, means the ability of the public utility to maintain energy prices above competitive levels.

''(b) COMMISSION JURISDICTIONAL SALES.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.''.

Subtitle B—Amendments to the Public Utility Holding Company Act

**SEC. 221. SHORT TITLE.**

This subtitle may be cited as the ''Public Utility Holding Company Act of 2002''.

**SEC. 222. DEFINITIONS.**

In this subtitle:

(1) AFFILIATE.—The term ''affiliate'' of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term ''associate company'' of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term ''holding company'' means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term ''holding company system'' means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term ''jurisdictional rates'' means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term ''natural gas company'' means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term ''person'' means an individual or company.

(13) PUBLIC UTILITY.—The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLIC UTILITY COMPANY.—The term ''public utility company'' means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term ''State commission'' means any commission, board, energy, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term ''subsidiary company'' of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

**SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.**

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

**SEC. 224. ACCESS TO BOOKS AND RECORDS.**

(a) IN GENERAL.—Each holding company and each affiliate or associate company thereof shall produce for examination such personnel, books, accounts, memoranda, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will assist the Commission or the State commission in carrying out its responsibilities.

(b) COURT JURISDICTION.—Any United States district court located within the State in which the State commission is seeking to examine personnel or materials described in subsection (a), or within the District of Columbia or within any State in which the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(c) COST RECOVERY.—The cost of any audit of a holding company or any affiliate or associate company ordered by the Commission or a State commission under this section shall be borne by the holding company and the associate or affiliate company thereof.

(d) CONFIDENTIALITY.—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) AUDITING.—The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of

the books and records of each holding company and each affiliate or associate company thereof.

(f) PREEMPTION.—Nothing in this section shall preempt any State law obligating a holding company or any associate or affiliate company thereof to produce books and records.

**SEC. 225. TRANSACTION TRANSPARENCY.**

(a) PROHIBITED ACTIVITIES.—No holding company or affiliate thereof, shall enter into any—

(1) transaction for the purchase, sale, lease, or other transfer of assets, goods, or services (other than the sale of electricity or gas) or into any financial transaction (including the issuance of securities, loans, or guarantees of indebtedness or value) with a public utility company that is an affiliate of that holding company, unless—

(A) the transaction is clearly and fully disclosed by the public utility company in a financial statement or other report that is available to the public; and

(B) prior to such transaction, the Commission has determined that the transaction will not be detrimental to the public interest or the interests of electricity and natural gas consumers or competition; or

(2) financial transaction (including the issuance, purchase, or sale of securities, loans, or guarantees of indebtedness or value) that does not appear in the financial statements or reports maintained by that holding company or affiliate for accounting purposes, unless the transaction is clearly and fully disclosed by that holding company or affiliate in a financial statement or other report that is made available to the public.

(b) COMMISSION RULES.—Notwithstanding section 236, the Commission shall promulgate final rules prior to the effective date of this subtitle, providing for the expeditious review of transactions referred to in subsection (a)(1) on a case by case basis and protection of electricity and natural gas consumers from holding company diversification.

(c) REQUIREMENTS.—Rules required under subsection (c) shall ensure, at a minimum, that—

(1) no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, or any affiliate of, such public utility company;

(2) no public utility company shall make any loan to, or guarantee the indebtedness or value of, any holding company or affiliate thereof;

(3) any sale, lease, or transfer of assets, goods or services to a public utility company by its holding company or any affiliate thereof shall be at terms that are no less favorable to the public utility company than the cost to such holding company or affiliate;

(4) any sale, lease, or transfer of assets, goods, or services by a public utility company to its holding company or any affiliate thereof, or the provision of assets, goods, or services for the use by, or benefit of, such holding company or affiliate, shall be at terms that are no less favorable to the public utility company than the market price of such assets, goods or services;

(5) any loan to, guarantee of, the indebtedness or value of, a public utility company by a holding company or affiliate thereof shall be at terms that are no less favorable than the cost to such holding company or affiliate;

(6) information necessary to monitor and regulate a holding company or affiliate thereof is made available to the Commission;

(7) electricity and natural gas consumers are protected against the financial risks of holding company diversification and transactions with and among any holding company or affiliate thereof; and

(d) LIMITATION ON AUTHORITY.—Nothing in this section or the regulations promulgated under this section shall limit the authority of any State to prevent holding company diversification from adversely affecting electricity or natural gas consumers.

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**SA 3235.** Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 28 strike line 17 and all that follows through page 33, line 17, and insert the following:

**SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.**

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

''(4) APPROVAL.—

''(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will serve the public interest, the Commission shall approve the transaction.

''(B) MINIMUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

''(i)(I) enhance competition in wholesale electricity markets; and

''(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

''(ii) produce significant gains in operational and economic efficiency; and

''(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.''.

**SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.**

(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

''(g) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

''(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

''(A) to maintain competitive wholesale markets;

''(B) to effectively monitor market conditions and trends;

''(C) to prevent the abuse of market power and market manipulation;

''(D) to protect the public interest; and

''(E) to ensure the maintenance of just and reasonable wholesale rates.

''(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

''(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

''(B) establish and impose remedies applicable to a public utility that—

''(i) violates a rule or procedures adopted under paragraph (1); or

''(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

''(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.''

(2) INEFFECTIVENESS OF OTHER PROVISION.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

(b) REMEDIAL MEASURES FOR MARKET POWER.—

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by Section 209) is amended by adding at the end the following:

**''SEC. 218 REMEDIAL MEASURES FOR MARKET POWER.**

''(a) DEFINITION OF MARKET POWER.—In this section, the term 'market power' with respect to a public utility, means the ability of the public utility to maintain energy prices above competitive levels.

''(b) COMMISSION JURISDICTIONAL SALES.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.''.

Subtitle B—Amendments to the Public Utility Holding Company Act

**SEC. 221. SHORT TITLE**

This subtitle may be cited as the ''Public Utility Holding Company Act of 2002''.

**SEC. 222. DEFINITIONS**

In this subtitle:

(1) AFFILIATE.—The term ''affiliate'' of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term ''associate company'' of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5a, 79z-5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term ''holding company'' means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term ''holding company system'' means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term ''jurisdictional rates'' means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term ''natural gas company'' means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term ''person'' means an individual or company.

(13) PUBLIC UTILITY.— The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLC UTILITY COMPANY.—The term ''public utility company'' means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term ''State commission'' means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State,

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of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

**SA 3236.** Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 28 strike line 17 and all that follows through page 33, line 17, and insert the following:

**SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.**

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

''(4)APPROVAL.—

''(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction is consistent with the public interest, the Commission shall approve the transaction.

''(B) MINIMUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

''(i)(I) enhance competition in wholesale electricity markets; and

''(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

''(ii) produce significant gains in operational and economic efficiency; and

''(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.''.

**SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.**

(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

''(g) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

''(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

''(A) to maintain competitive wholesale markets;

''(B) to effectively monitor market conditions and trends;

''(C) to prevent the abuse of market power and market manipulation;

''(D) to protect the public interest; and

''(E) to ensure the maintenance of just and reasonable wholesale rates.

''(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

''(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

''(B) establish and impose remedies applicable to a public utility that—

''(i) violates a rule or procedures adopted under paragraph (1); or

'(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

''(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.''.

(2) INEFFECTIVENESS OF OTHER PROVISION.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

Subtitle B—Amendments to the Public Utility Holding Company Act

**SEC. 221. SHORT TITLE.**

This subtitle may be cited as the ''Public Utility Holding Company Act of 2002''.

**SEC. 222. DEFINITIONS.**

In this subtitle:

(1) AFFILIATE.—The term ''affiliate'' of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term ''associate company'' of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term ''holding company'' means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term ''holding company system'' means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term ''jurisdictional rates'' means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term ''natural gas company'' means a person engaged in the transportation of natural gas in

interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term ''person'' means an individual or company.

(13) PUBLIC UTILITY.—The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLIC UTILITY COMPANY.—The term ''public utility company'' means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term ''State commission'' means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term ''subsidiary company'' of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by the subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

**SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.**

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

**SEC. 224. ACCESS TO BOOKS AND RECORDS.**

(a) IN GENERAL.—Each holding company and each affiliate or associate company thereof shall maintain, and shall produce for the Commission's examination, such books, accounts, memoranda, records, and any other materials the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an affiliate or associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

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**SA 3237.** Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 28 strike line 17 and all that follows through page 36, line 4, and insert the following:

**SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.**

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

''(4) APPROVAL.—

''(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will serve the public interest, the Commission shall approve the transaction.

''(B) MININUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

''(i)(I) enhance competition in wholesale electricity markets; and

''(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

''(ii) produce significant gains in operational and economic efficiency; and

''(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.''.

**SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.**

(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

''(g) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

''(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

''(A) to maintain competitive wholesale markets;

''(B) to effectively monitor market conditions and trends;

''(C) to prevent the abuse of market power and market manipulation;

''(D) to protect the public interest; and

''(E) to ensure the maintenance of just and reasonable wholesale rates.

''(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

''(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

''(B) establish and impose remedies applicable to a public utility that—

''(i) violates a rule or procedures adopted under paragraph (1); or

''(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

''(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.''.

(2) INEFFECTIVENESS OF OTHER PROVISION.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

(b) REMEDIAL MEASURES FOR MARKET POWER.—

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by Section 209) is amended by adding at the end the following:

**''SEC. 218. REMEDIAL MEASURES FOR MARKET POWER.**

''(a) DEFINITION OF MARKET POWER.—In this section, the term 'market power' with respect to a public utility, means the ability of the public utility to maintain energy prices above competitive levels.

''(b) COMMISSION JURISDICTIONAL SALES.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.''.

Subtitle B—Amendments to the Public Utility Holding Company Act

**SEC. 221. SHORT TITLE.**

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**SEC. 222. DEFINITIONS.**

In this subtitle:

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(2) ASSOCIATE COMPANY.—The term ''associate company'' of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.— The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term ''holding company'' means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term ''holding company system'' means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term ''jurisdictional rates'' means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term ''natural gas company'' means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term ''person'' means an individual or company.

(13) PUBLIC UTILITY.—The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLIC UTILITY COMPANY.—The term ''public utility company'' means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term ''State commission'' means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term ''subsidiary company'' of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

**SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.**

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.

**SEC. 224. ACCESS TO BOOKS AND RECORDS.**

(a) IN GENERAL.—Each holding company and each associate company thereof shall produce for examination such personnel, books, accounts, memoranda, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will assist the Commission or the State commission in carrying out its responsibilities.

(b) COURT JURISDICTION.—Any United States district court located within the State in which the State commission is seeking to examine personnel or materials described in subsection (a), or within the District of Columbia or within any State in which the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(c) COST RECOVERY.—The cost of any audit of a holding company or any affiliate or associate company ordered by the Commission or a State commission under this section shall be borne by the holding company and the associate or affiliate company thereof.

(d) CONFIDENTIALITY.—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) AUDITING.—The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(f) PREEMPTION.—Nothing in this section shall preempt any State law obligating a holding company or any associate or affiliate thereof to produce books and records.

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**SA 3238.** Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, MS. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorized funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows;

Beginning on page 28 strike line 17 and all that follows through page 36, line 4, and insert the following:

**SEC. 2 . ELECTRIC UTILITY MERGER PROVISIONS.**

Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) (as amended by section 202) is amended by striking paragraph (4) and inserting the following:

''(4) APPROVAL.—

''(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission finds that the proposed transaction will serve the public interest, the Commission shall approve the transaction.

''(B) MINIMUM REQUIRED FINDINGS.—In making the finding under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—

''(i)(I) enhance competition in wholesale electricity markets; and

''(II) if a State commission requests the Commission to consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

''(ii) produce significant gains in operational and economic efficiency; and

''(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.''.

**SEC. 2 . WHOLESALE MARKETS AND MARKET POWER.**

(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.c. 824d) is amended by adding at the end the following:

''(g) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

''(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

''(A) to maintain competitive wholesale markets;

''(B) to effectively monitor market conditions and trends;

''(C) to prevent the abuse of market power and market manipulation;

''(D) to protect the public interest; and

''(E) to ensure the maintenance of just and reasonable wholesale rates.

''(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

''(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

''(B) establish and impose remedies applicable to a public utility that—

''(i) violates a rule or procedures adopted under paragraph (1); or

'(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

''(3) NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.''.

(2) INEFFECTIVENESS OF OTHER PROVISION.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

(b) REMEDIAL MEASURES FOR MARKET POWER.—

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by Section 209) is amended by adding at the end the following:

**''SEC. 218. REMEDIAL MEASURES FOR MARKET POWER.**

''(a) DEFINITION OF MARKET POWER.—In this section, the term 'market power' with respect to a public utility, means the ability of the public utility to maintain energy prices above competitive levels.

''(b) COMMISSION JURISDICTIONAL SALES.—If the Commission, on receipt of a complaint by any person or on a motion of the Commission, determines that there exist markets for any service or use of a facility subject to the jurisdiction of the Commission under this Act in which a public utility has exercised market power, the Commission, in accordance with this Act, shall issue such orders as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.''.

Subtitle B—Amendments to the Public Utility Holding Company Act

**SEC. 221. SHORT TITLE.**

This subtitle may be cited as the ''Public Utility Holding Company Act of 2002''.

**SEC. 222. DEFINITIONS.**

In this subtitle:

(1) AFFILIATE.—The term ''affiliate'' of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term ''associate company'' of a company means any company in the same holding company system with such company.

(3) COMMISISON.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term ''holding company'' means—

(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term ''holding company system'' means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term ''jurisdictional rates'' means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term ''natural gas company'' means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term ''person'' means an individual or company.

(13) PUBLIC UTILITY.—The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sale of electric energy at wholesale in interstate commerce.

(14) PUBLIC UTILITY COMPANY.—The term ''public utility company'' means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term ''State commission'' means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term ''subsidiary company'' of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligation, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

**SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.**

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) Is repealed.

**SEC. 224. ACCESS TO BOOKS AND RECORDS.**

(a) IN GENERAL.—Each holding company and each affiliate or associate company thereof shall produce for examination such personnel, books, accounts, memoranda, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will assist the Commission or the State commission in carrying out its responsibilities.

(b) COURT JURISDICTION.—Any United States district court located within the State in which the State commission is seeking to examine personnel or materials described in subsection (a), or within the District of Columbia or within any state in which the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(c) COST RECOVERY.—The cost of any audit of a holding company or any affiliate or associate company ordered by the Commission or a State commission under this section shall be borne by holding company and the associate or affiliate company thereof.

(d) CONFIDENTIALITY.—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) AUDITING.—The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(f) PREEMPTION.—Nothing in this section shall preempt any State law obligating a holding company or any associate or affiliate company thereof to produce books and records.

**SEC. 225. TRANSACTION TRANSPARENCY.**

(a) PROHIBITED ACTIVITIES.—No holding company or affiliate thereof, shall enter into any—

(1) transaction for the purchase, sale, lease, or other transfer of assets, goods, or services (other than the sale of electricity or gas) or into any financial transaction (including the issuance of securities, loans, or guarantees of indebtedness or value) with a public utility company that is an affiliate of that holding company, unless—

(A) the transaction is clearly and fully disclosed by the public utility company in a financial statement or other report that is available to the public; and

(B) prior to such transaction, the Commission has determined that the transaction will not be detrimental to the public interest or the interests of electricity and natural gas consumers or competition; or

(2) financial transaction (including the issuance, purchase, or sale of securities, loans, or guarantees of indebtedness or value) that does not appear in the financial statements or reports maintained by that holding company or affiliate for accounting purposes, unless the transaction is clearly and fully disclosed by that holding company or affiliate in a financial statement or other report that is made available to the public.

(b) COMMISSION RULES.—Notwithstanding section 236, the Commission shall promulgate final rules prior to the effective date of this subtitle, providing for the expeditious review of transactions referred to in subsection (a)(1) on a case by case basis and protection of electricity and natural gas consumers from holding company diversification.

(c) REQURIEMENTS.—Rules required under subsection (c) shall ensure, at a minimum, that—

(1) no asset of a public utility company shall be used as collateral for indebtedness incurred by the holding company of, or any affiliate of, such public utility company;

(2) no public utility company shall make any loan to, or guarantee the indebtedness or value of, any holding company or affiliate thereof;

(3) any sale, lease, or transfer of assets, goods or services to a public utility company by its holding company or any affiliate thereof shall be at terms that are no less favorable to the public utility company than the cost to such holding company or affiliate;

(4) any sale, lease, or transfer of assets, goods, or services by a public utility company to its holding company or any affiliate thereof, or the provision of assets, goods or services for the use by, or benefit of, such holding company or affiliate, shall be at terms that are no less favorable to the public utility company than the market price of such assets, goods or services;

(5) any loan to, or guarantee of, the indebtedness or value of, a public utility company by a holding company or affiliate thereof, shall be at terms that are no less favorable than the cost to such holding company or affiliate;

(6) information necessary to monitor and regulate a holding company or affiliate thereof is made available to the Commission;

(7) electricity and natural gas consumers are protected against the financial risks of holding company diversification and transactions with and among any holding company or affiliate thereof; and

(d) LIMITATION ON AUTHORITY.—Nothing in this section or the regulations promulgated under this section shall limit the authority of any State to prevent holding company diversification from adversely affecting electricity or natural gas consumers.

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**SA 3239.** Mr. BROWNBACK (for himself, Mr. CORZINE, Mr. LIEBERMAN, Mr. MCCAIN, Mr. JEFFORDS, Mr. CHAFEE, Mr. NELSON of Nebraska, and Mr. REID) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike title XI and insert the following:

**TITLE XI—NATIONAL GREENHOUSE GAS DATABASE**

**SEC. 1101. PURPOSE.**

The purpose of this title is to establish a greenhouse gas inventory, reductions registry, and information system that—

(1) are complete, consistent, transparent, and accurate;

(2) will create reliable and accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and

(3) will acknowledge and encourage greenhouse gas emission reductions.

**SEC. 1102. DEFINITIONS.**

In this title:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) BASELINE.—The term ''baseline'' means the historic greenhouse gas emission levels of an entity, as adjusted upward by the designated agency to reflect actual reductions that are verified in accordance with—

(A) regulations promulgated under section 1104(c)(1); and

(B) relevant standards and methods developed under this title.

(3) DATABASE.—The term ''database'' means the National Greenhouse Gas Database established under section 1104.

(4) DESIGNATED AGENCY.—The term ''designated agency'' means a department or agency to which responsibility for a function or program is assigned under the memorandum of agreement entered into under section 1103(a).

(5) DIRECT EMISSIONS.—The term ''direct emissions'' means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.

(6) ENTITY.—The term ''entity'' means—

(A) a person located in the United States; or

(B) a public or private entity, to the extent that the entity operates in the United States.

(7) FACILITY.—The term ''facility'' means—

(A) all buildings, structures, or installations located on any 1 or more contiguous or adjacent properties of an entity; and

(B) a fleet of 20 or more motor vehicles under the common control of an entity.

(8) GREENHOUSE GAS.—The term ''greenhouse gas'' means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons;

(F) sulfur hexafluoride; and

(G) any other anthropogenic climate-forcing emissions with significant ascertainable global warming potential, as—

(i) recommended by the National Academy of Sciences under section 1107(b)(3); and

(ii) determined in regulations promulgated under section 1104(c)(1) (or revisions to the regulations) to be appropriate and practicable for coverage under this title.

(9) INDIRECT EMISSIONS.—The term ''indirect emissions'' means greenhouse gas emissions that—

(A) are a result of the activities of an entity; but

(B)(i) are emitted from a facility owned or controlled by another entity; and

(ii) are not reported as direct emissions by the entity the activities of which resulted in the emissions.

(10) REGISTRY.—The term ''registry'' means the registry of greenhouse gas emission reductions established as a component of the database under section 1104(b)(2).

(11) SEQUESTRATION.—

(A) IN GENERAL.—The term ''sequestration'' means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere.

(B) INCLUSIONS.—The term ''sequestration'' includes—

(i) soil carbon sequestration;

(ii) agricultural and conservation practices;

(iii) reforestation;

(iv) forest preservation;

(v) maintenance of an underground reservoir; and

(vi) any other appropriate biological or geological method of capture, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

**SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall direct the Secretary of Energy, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Transportation, and the Administrator to enter into a memorandum of agreement under which those heads of Federal agencies will—

(1) recognize and maintain statutory and regulatory authorities, functions, and programs that—

(A) are established as of the date of enactment of this Act under other law;

(B) provide for the collection of data relating to greenhouse gas emissions and effects; and

(C) are necessary for the operation of the database;

(2)(A) distribute additional responsibilities and activities identified under this title to Federal departments or agencies in accordance with the missions and expertise of those departments and agencies; and

(B) maximize the use of available resources of those departments and agencies; and

(3) provide for the comprehensive collection and analysis of data on greenhouse gas emissions relating to product use (including the use of fossil fuels and energy-consuming appliances and vehicles).

(b) MINIMUM REQUIREMENTS.—The memorandum of agreement entered into under subsection (a) shall, at a minimum, retain the following functions for the designated agencies:

(1) DEPARTMENT OF ENERGY.—The Secretary of Energy shall be primarily responsible for developing, maintaining, and verifying the registry and the emission reductions reported under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)).

(2) DEPARTMENT OF COMMERCE.—The Secretary of Commerce shall be primarily responsible for the development of—

(A) measurement standards for the monitoring of emissions; and

(B) verification technologies and methods to ensure the maintenance of a consistent and technically accurate record of emissions, emission reductions, and atmospheric concentrations of greenhouse gases for the database.

(3) ENVIRONMENTAL PROTECTION AGENCY.—The Administrator shall be primarily responsible for—

(A) emissions monitoring, measurement, verification, and data collection under this title and title IV (relating to acid deposition control) and title VIII of the Clean Air Act (42 U.S.C. 7651 et seq.), including mobile source emissions information from implementation of the corporate average fuel economy program under chapter 329 of title 49, United States Code; and

(B) responsibilities of the Environmental Protection Agency relating to completion of the national inventory for compliance with the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.

(4) DEPARTMENT OF AGRICULTURE.—The Secretary of Agriculture shall be primarily responsible for—

(A) developing measurement techniques for—

(i) soil carbon sequestration; and

(ii) forest preservation and reforestation activities; and

(B) providing technical advice relating to biological carbon sequestration measurement and verification standards for measuring greenhouse gas emission reductions or offsets.

(c) DRAFT MEMORANDUM OF AGREEMENT.—Not later than 15 months after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall publish in the Federal Register, and solicit comments on, a draft version of the memorandum of agreement described in subsection (a).

(d) NO JUDICIAL REVIEW.—The final version of the memorandum of agreement shall not be subject to judicial review.

**SEC. 1104. NATIONAL GREENHOUSE GAS DATABASE.**

(a) ESTABLISHMENT.—As soon as practicable after the date of enactment of this Act, the designated agencies, in consultation with the private sector and nongovernmental organizations, shall jointly establish, operate, and maintain a database, to be known as the ''National Greenhouse Gas Database'', to collect, verify, and analyze information on greenhouse gas emissions by entities.

(b) NATIONAL GREENHOUSE GAS DATABASE COMPONENTS.—The database shall consist of—

(1) an inventory of greenhouse gas emissions; and

(2) a registry of greenhouse gas emission reductions.

(c) COMPREHENSIVE SYSTEM.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the designated agencies shall jointly promulgate regulations to implement a comprehensive system for greenhouse gas emissions reporting, inventorying, and reductions registration.

(2) REQUIREMENTS.—The designated agencies shall ensure, to the maximum extent practicable, that—

(A) the comprehensive system described in paragraph (1) is designed to—

(i) maximize completeness, transparency, and accuracy of information reported; and

(ii) minimize costs incurred by entities in measuring and reporting greenhouse gas emissions; and

(B) the regulations promulgated under paragraph (1) establish procedures and protocols necessary—

(i) to prevent the reporting of some or all of the same greenhouse gas emissions or emission reductions by more than 1 reporting entity;

(ii) to provide for corrections to errors in data submitted to the database;

(iii) to provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;

(iv) to provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions; and

(v) to account for changes in registration of ownership of emission reductions resulting from a voluntary private transaction between reporting entities.

**SEC. 1105. GREENHOUSE GAS REDUCTION REPORTING.**

(a) IN GENERAL.—An entity that participates in the registry shall meet the requirements described in subsection (b).

(b) REQUIREMENTS.—

(1) IN GENERAL.—The requirements referred to in subsection (a) are that an entity (other than an entity described in paragraph (2)) shall—

(A) establish a baseline; and

(B) submit the report described in subsection (c)(1).

(2) REQUIREMENTS APPLICABLE TO ENTITIES ENTERING INTO CERTAIN AGREEMENTS.—An entity that enters into an agreement with a participant in the registry for the purpose of a carbon sequestration project shall not be required to comply with the requirements specified in paragraph (1) unless that entity is required to comply with the requirements by reason of an activity other than the agreement.

(c) REPORTS.—

(1) REQUIRED REPORT.—Not later than April 1 of the third calendar year that begins after the date of enactment of this Act, and not later than April 1 of each calendar year thereafter, subject to paragraph (3), an entity described in subsection (a) shall submit to each appropriate designated agency a report that describes, for the preceding calendar year, the entity-wide greenhouse gas emissions (as reported at the facility level), including—

(A) the total quantity of each greenhouse gas emitted, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;

(B) an estimate of the emissions from products manufactured and sold by the entity in the previous calendar year, determined over the average lifetime of those products; and

(C) such other categories of emissions as the designated agency determines in the regulations promulgated under section 1104(c)(1) may be practicable and useful for the purposes of this title, such as—

(i) direct emissions from stationary sources;

(ii) indirect emissions from imported electricity, heat, and steam;

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases.

(2) VOLUNTARY REPORTING.—An entity described in subsection (a) may—

(A) submit a report described in paragraph (1) before the date specified in that paragraph for the purposes of achieving and commoditizing greenhouse gas reductions through use of the registry; and

(B) submit to any designated agency, for inclusion in the registry, information that has been verified in accordance with regulations promulgated under section 1104(c)(1) and that relates to—

(i) with respect to the calendar year preceding the calendar year in which the information is submitted, and with respect to any greenhouse gas emitted by the entity—

(I) project reductions from facilities owned or controlled by the reporting entity in the United States;

(II) transfers of project reductions to and from any other entity;

(III) project reductions and transfers of project reductions outside the United States;

(IV) other indirect emissions that are not required to be reported under paragraph (1); and

(V) product use phase emissions;

(ii) with respect to greenhouse gas emission reductions activities of the entity that have been carried out during or after 1990, verified in accordance with regulations promulgated under section 1104(c)(1), and submitted to 1 or more designated agencies before the date that is 3 years after the date of enactment of this Act, any greenhouse gas emission reductions that have been reported or submitted by an entity under—

(I) section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)); or

(II) any other Federal or State voluntary greenhouse gas reduction program; and

(iii) any project or activity for the reduction of greenhouse gas emissions or sequestration of a greenhouse gas that is carried out by the entity, including a project or activity relating to—

(I) fuel switching;

(II) energy efficiency improvements;

(III) use of renewable energy;

(IV) use of combined heat and power systems;

(V) management of cropland, grassland, or grazing land;

(VI) a forestry activity that increases forest carbon stocks or reduces forest carbon emissions;

(VII) carbon capture and storage;

(VIII) methane recovery;

(IX) greenhouse gas offset investment; and

(X) any other practice for achieving greenhouse gas reductions as recognized by 1 or more designated agencies.

(3) EXEMPTIONS FROM REPORTING.—

(A) IN GENERAL.—If the Director of the Office of National Climate Change Policy determines under section 1108(b) that the reporting requirements under paragraph (1) shall apply to all entities (other than entities exempted by this paragraph), regardless of participation or nonparticipation in the registry, an entity shall be required to submit reports under paragraph (1) only if, in any calendar year after the date of enactment of this Act—

(i) the total greenhouse gas emissions of at least 1 facility owned by an entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation);

(ii) the total quantity of greenhouse gases produced, distributed, or imported by the entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation); or

(iii) the entity is not a feedlot or other farming operation (as defined in section 101 of title 11, United States Code).

(B) ENTITIES ALREADY REPORTING.—

(i) IN GENERAL.—An entity that, as of the date of enactment of this Act, is already required to report carbon dioxide emissions data to a Federal agency shall not be required to re-report that data for the purposes of this title.

(ii) REVIEW OF PARTICIPATION.—For the purpose of section 1108, emissions reported under clause (i) shall be considered to be reported by the entity to the registry.

(4) PROVISION OF VERIFICATION INFORMATION BY REPORTING ENTITIES.—Each entity that submits a report under this subsection shall provide information sufficient for each designated agency to which the report is submitted to verify, in accordance with measurement and verification methods and standards developed under section 1106, that the greenhouse gas report of the reporting entity—

(A) has been accurately reported; and

(B) in the case of each voluntary report under paragraph (2), represents—

(i) actual reductions in direct greenhouse gas emissions—

(I) relative to historic emission levels of the entity; and

(II) net of any increases in—

(aa) direct emissions; and

(bb) indirect emissions described in paragraph (1)(C)(ii); or

(ii) actual increases in net sequestration.

(5) FAILURE TO SUBMIT REPORT.—An entity that participates or has participated in the registry and that fails to submit a report required under this subsection shall be prohibited from including emission reductions reported to the registry in the calculation of the baseline of the entity in future years.

(6) INDEPENDENT THIRD-PARTY VERIFICATION.—To meet the requirements of this section and section 1106, a entity that is required to submit a report under this section may—

(A) obtain independent third-party verification; and

(B) present the results of the third-party verification to each appropriate designated agency.

(7) AVAILABILITY OF DATA.—

(A) IN GENERAL.—The designated agencies shall ensure, to the maximum extent practicable, that information in the database is—

(i) published;

(ii) accessible to the public; and

(iii) made available in electronic format on the Internet.

(B) EXCEPTION.—Subparagraph (A) shall not apply in any case in which the designated agencies determine that publishing or otherwise making available information described in that subparagraph poses a risk to national security.

(8) DATA INFRASTRUCTURE.—The designated agencies shall ensure, to the maximum extent practicable, that the database uses, and is integrated with, Federal, State, and regional greenhouse gas data collection and reporting systems in effect as of the date of enactment of this Act.

(9) ADDITIONAL ISSUES TO BE CONSIDERED.—In promulgating the regulations under section 1104(c)(1) and implementing the database, the designated agencies shall take into consideration a broad range of issues involved in establishing an effective database, including—

(A) the appropriate units for reporting each greenhouse gas;

(B) the data and information systems and measures necessary to identify, track, and verify greenhouse gas emission reductions in a manner that will encourage the development of private sector trading and exchanges;

(C) the greenhouse gas reduction and sequestration methods and standards applied in other countries, as applicable or relevant;

(D) the extent to which available fossil fuels, greenhouse gas emissions, and greenhouse gas production and importation data are adequate to implement the database;

(E) the differences in, and potential uniqueness of, the facilities, operations, and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry; and

(F) the need of the registry to maintain valid and reliable information on baselines of entities so that, in the event of any future action by Congress to require entities, individually or collectively, to reduce greenhouse gas emissions, Congress will be able—

(i) to take into account that information; and

(ii) to avoid enacting legislation that penalizes entities for achieving and reporting reductions.

(d) ANNUAL REPORT.—The designated agencies shall jointly publish an annual report that—

(1) describes the total greenhouse gas emissions and emission reductions reported to the database during the year covered by the report;

(2) provides entity-by-entity and sector-by-sector analyses of the emissions and emission reductions reported;

(3) describes the atmospheric concentrations of greenhouse gases; and

(4) provides a comparison of current and past atmospheric concentrations of greenhouse gases.

(e) CONFIDENTIALITY OF REPORTS.—Any privileged and confidential trade secret and commercial or financial information that is submitted under this section shall be protected in accordance with section 552(b)(4) of

title 5, United States Code, except that the information shall be made available to the public if the designated agencies jointly determine that disclosure of the information is necessary for a determination of the validity of emission reductions that have been—

(1) recorded in the registry; and

(2) transferred or traded based on value created through recording in the registry.

**SEC. 1106. MEASUREMENT AND VERIFICATION.**

(a) STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the designated agencies shall jointly develop comprehensive measurement and verification methods and standards to ensure a consistent and technically accurate record of greenhouse gas emissions, emission reductions, sequestration, and atmospheric concentrations for use in the registry.

(2) REQUIREMENTS.—The methods and standards developed under paragraph (1) shall address the need for—

(A) standardized measurement and verification practices for reports made by all entities participating in the registry, taking into account—

(i) protocols and standards in use by entities desiring to participate in the registry as of the date of development of the methods and standards under paragraph (1);

(ii) boundary issues, such as leakage and shifted use;

(iii) avoidance of double counting of greenhouse gas emissions and emission reductions; and

(iv) such other factors as the designated agencies determine to be appropriate;

(B) measurement and verification of actions taken to reduce, avoid, or sequester greenhouse gas emissions;

(C) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon recapture technologies, including—

(i) organic soil carbon sequestration practices; and

(ii) forest preservation and reforestation activities that adequately address the issues of permanence, leakage, and verification;

(D) such other measurement and verification standards as the Secretary of Commerce, the Secretary of Agriculture, the Administrator, and the Secretary of Energy determine to be appropriate; and

(E) other factors that, as determined by the designated agencies, will allow entities to adequately establish a fair and reliable measurement and reporting system.

(b) REVIEW AND REVISION.—The designated agencies shall periodically review, and revise as necessary, the methods and standards developed under subsection (a).

(c) PUBLIC PARTICIPATION.—The Secretary of Commerce shall—

(1) make available to the public for comment, in draft form and for a period of at least 90 days, the methods and standards developed under subsection (a); and

(2) after the 90-day period referred to in paragraph (1), in coordination with the Secretary of Energy, the Secretary of Agriculture, and the Administrator, adopt the methods and standards developed under subsection (a) for use in implementing the database.

(d) EXPERTS AND CONSULTANTS.—

(1) IN GENERAL.—The designated agencies may obtain the services of experts and consultants in the private and nonprofit sectors in accordance with section 3109 of title 5, United States Code, in the areas of greenhouse gas measurement, certification, and emission trading.

(2) AVAILABLE ARRANGEMENTS.—In obtaining any service described in paragraph (1), the designated agencies may use any available grant, contract, cooperative agreement, or other arrangement authorized by law.

**SEC. 1107. INDEPENDENT REVIEWS.**

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall submit to Congress a report that—

(1) describes the efficacy of the implementation and operation of the database; and

(2) includes any recommendations for improvements to this title and programs carried out under this title—

(A) to achieve a consistent and technically accurate record of greenhouse gas emissions, emission reductions, and atmospheric concentrations; and

(B) to achieve the purposes of this title.

(b) REVIEW OF SCIENTIFIC METHODS.—The designated agencies shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall—

(1) review the scientific methods, assumptions, and standards used by the designated agencies in implementing this title;

(2) not later than 4 years after the date of enactment of this Act, submit to Congress a report that describes any recommendations for improving—

(A) those methods and standards; and

(B) related elements of the programs, and structure of the database, established by this title; and

(3) regularly review and update as appropriate the list of anthropogenic climate-forcing emissions with significant global warming potential described in section 1102(8)(G).

**SEC. 1108. REVIEW OF PARTICIPATION.**

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Director of the Office of National Climate Change Policy shall determine whether the reports submitted to the registry under section 1105(c)(1) represent less than 60 percent of the national aggregate anthropogenic greenhouse gas emissions.

(b) INCREASED APPLICABILITY OF REQUIREMENTS.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of the aggregate national anthropogenic greenhouse gas emissions are being reported to the registry—

(1) the reporting requirements under section 1105(c)(1) shall apply to all entities (except entities exempted under section 1105(c)(3)), regardless of any participation or nonparticipation by the entities in the registry; and

(2) each entity shall submit a report described in section 1105(c)(1)—

(A) not later than the earlier of—

(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(B) annually thereafter.

(c) RESOLUTION OF DISAPPROVAL.—For the purposes of this section, the determination of the Director of the Office of National Climate Change Policy under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.

**SEC. 1109. ENFORCEMENT.**

If an entity that is required to report greenhouse gas emissions under section 1105(c)(1) or 1108 fails to comply with that requirement, the Attorney General may, at the request of the designated agencies, bring a civil action in United States district court against the entity to impose on the entity a civil penalty of not more than $25,000 for each day for which the entity fails to comply with that requirement.

**SEC. 1110. REPORT ON STATUTORY CHANGES AND HARMONIZATION.**

Not later than 3 years after the date of enactment of this Act, the President shall submit to Congress a report that describes any modifications to this title or any other provision of law that are necessary to improve the accuracy or operation of the database and related programs under this title.

**SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this title.

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**SA 3240.** Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike Title III and insert the following:

**SEC. 301. ALTERNATIVE MANDATORY CONDITIONS.**

(a) REVIEW OF ALTERNATIVE MANDATORY CONDITIONS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce and the Secretary of Agriculture, in consultation with the affected stats and tribes shall undertake a review of: (1) options for a process whereby license applicants and third parties to a relicensing proceeding being undertaken pursuant to Part I of the Federal Power Act could propose alternative mandatory conditions and alternative mandatory fishway prescriptions to be included in the license in lieu of conditions and prescriptions initially deemed necessary or required pursuant to section 4(e) and section 18, respectively, of the Federal Power Act; (2) the standards which should be applicable in evaluating and accepting such conditions and prescriptions; (3) the nature of participation of parties other than the license applicants in such a process; (4) the advantages and disadvantages of providing for such a process, including the impact of such a process on the length of time needed to complete the relicensing proceedings and the potential economic and operational improvement benefits of providing for such a process; and (5) the level of interest among parties to relicensing proceedings in proposing such alternative conditions and prescriptions and participating in such a process.

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section. The report shall contain any legislative or administrative recommendations relating to implementation of the process described in subsection (a).

**SEC. 302. STREAMLINING HYDROELECTRIC RELICENSING PROCEDURES.**

(a) REVIEW OF LICENSING PROCESS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture, in consultation with the affected states and

tribes, shall undertake a review of the process for issuance of a license under section Part I of the Federal Power Act in order to: (1) improve coordination of their respective responsibilities; (2) coordinate the schedule for all major actions by the applicant, the Commission, affected Federal and State agencies, Indian Tribes, and other affected parties; (3) ensure resolution at an early stage of the process of the scope and type of reasonable and necessary information, studies, data, and analysis to be provided by the license applicant; (4) facilitate coordination between the Commission and the resource agencies of analysis under the National Environmental Policy Act; and (5) provide for streamlined procedures.

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section and reviewing the responsibilities and procedures of each agency involved in the licensing process. The report shall contain any legislative or administrative recommendations to improve coordination and streamline procedures for the issuance of licenses under Part I of the Federal Power Act. The Commission and each Secretary shall set forth a plan and schedule to implement any administrative recommendations contained in the report, which shall also be contained in the report.

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**SA 3241.** Mr. BINGAMAN (for himself, Mr. DURBIN, and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 568, strike line 6 and all that follows through page 570, line 7 and insert the following:

**SEC. 1701. REGULATORY REVIEWS.**

(a) REGULATORY REVIEWS.—Not later than one year after the date of enactment of this section, each Federal agency shall review relevant regulations and standards to identify—

(1) existing regulations and standards that act as barriers to market entry for emerging energy technologies (including fuel cells, combined heat and power, distributed power generation, small-scale renewable energy, combined heat and power, small-scale renewable energy, geothermal heat pump technology, and energy recovery in industrial processes), and

(2) actions the agency is taking or could take to—

(A) remove barriers to market entry for emerging energy technologies,

(B) increase energy efficiency and conservation, or

(C) encourage the use of new and existing processes to meet energy and environmental goals.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this section, the Director of the Office of Science and Technology Policy shall report to the Congress on the results of the agency reviews conducted under subsection (a).

(c) CONTENTS OF THE REPORT.—The report shall—

(1) identify all regulatory barriers to—

(A) the development and commercialization of emerging energy technologies and processes, and

(B) the further development and expansion of existing energy conservation technologies and processes, and

(2) actions taken, or proposed to be taken, to remove such barriers.

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**SA 3242.** Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 177, line 20, insert after ''information'' the following: ''retrospectively to 1998,''

On page 177, line 25, strike ''consumed'' and insert ''blended''.

On page 187, line 2, strike ''commodities and''.

On page 188, line 20, strike ''distributors''.

On page 191, line 6, strike ''refiners'' and insert ''refineries''.

On page 191, line 17, strike ''distributes''.

On page 198, strike line 24 and all that follows through page 199, line 21.

On page 204, line 3, strike ''importer, or distributor'' and insert ''or inporter''.

On page 205, line 5, strike ''(2) EFFECTIVE DATE.—This section'' and insert the following:

''(2) EXCEPTIONS.—This subsection shall not apply to others.

''(3) EFFECTIVE DATE.—This subsection''.

On page 222, line 23, strike ''(B)'' and insert ''(C)''.

On page 233, line 18, strike ''(k)'' and insert ''paragraph''.

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**SA 3243.** Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 148, strike lines 4 through 22, renumber the subsequent section accordingly.

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**SA 3244.** Mr. BINGAMAN (for Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 3041 proposed by Mr. WYDEN (for himself, Mr. MURKOWSKI, Mr. BENNETT, and Mr. SMITH of Oregon) to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, line 4, strike ''ELECTRICAL'' and insert ''ENERGY''.

On page 3, line 5, strike ''electrical'' and insert ''energy''.

On page 5, line 4 strike ''electrical'' and insert ''energy''.

On page 5, lines 12–13 strike ''standard established by a'' and insert ''applicable''.

On page 5, lines 13–14 strike ''standard described in'' and insert ''low emissions vehicle standards established under authority of''.

On page 6, line 5, strike ''electrical'' and insert ''energy''.

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**SA 3245.** Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 101, strike line 24 and all that follows through page 102, line 2 and insert the following:

''(6) TRIBAL LANDS.—The term 'tribal lands' means any tribal trust lands, or other lands owned by an Indian tribe that are within such tribe's reservation.''.

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**SA 3246.** Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 93, lines 8 through 9, strike ''on the date of enactment of this section was'' and insert ''is''.

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**SA 3247.** Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end of title VI the following:

**''SEC. 612. PRESERVATION OF OIL AND GAS RESOURCE DATA.**

''The Secretary of the Interior, through the United States Geological Survey, may enter into appropriate arrangements with State agencies that conduct geological survey activities to collect, archive, and provide public access to data and study results regarding oil and natural gas resources. The Secretary may accept private contributions of property and services for purposes of this section.''.

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**SA 3248.** Mr. BINGAMAN (for Mr. THOMAS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end of title VI the following:

**''SEC. 611. RESOLUTIOIN OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.**

''The Secretary of the Interior shall undertake a review of existing authorities to resolve conflicts between the development of

Federal coal and the development of Federal and non-Federal coalbed methane in the Powder River Basin in Wyoming and Montana. Not later than 90 days from enactment of this Act, the Secretary shall report to Congress on her plan to resolve these conflicts.''

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**SA 3249.** Mr. BINGAMAN (for Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 126, strike line 2 and all that follows through line 14 and insert the following: ''the States; and

''(3) improve the collection, storage, and retrieval of information related to such leasing activities.

''(b) IMPROVED ENFORCEMENT.—The Secretary shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill.

''(c) AUTHORIZATION OF APPROPRIATION.—For each of the fiscal years 2003 through 2006, in addition to amounts otherwise authorized to be appropriated for the purpose of carrying out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary of the Interior:

''(1) $40,000,000 for the purpose of carrying out paragraphs (1) through (3) of subsection (a); and

''(2) $20,000,000, for the purpose of carrying out subsection (b).''.

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**SA 3250.** Mr. BINGAMAN (for Mrs. CARNAHAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 294, after line 18, insert the following and renumber the subsequent paragraph:

''(6) Air conditioners and heat pumps that—

''(A) are small duct,

''(B) are high velocity, and

''(C) have external static pressure several times that of conventional air conditioners or heat pumps—

shall not be subject to paragraphs (1) through (4), but shall be subject to standards prescribed by the Secretary in accordance with subsections (o) and (p). The Secretary shall prescribe such standards by January 1, 2004.''.

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**SA 3251.** Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 267, strike line 15 and all that follows through page 269, line 13, and insert the following:

**SEC. 916. COST SAVINGS FROM REPLACEMENT FACILITIES.**

(a) COST SAVINGS FROM REPLACEMENT FACILITIES.—Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8287(a)) is amended by adding at the end the following:

''(3)(A) In the case of an energy savings contract or energy savings performance contract providing for energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract under paragraph (1) may including savings resulting from reduced costs of operation and maintenance at such replacement buildings or facilities when compared with costs of operation and maintenance at the buildings or facilities being replaced.

''(B) Notwithstanding paragraph (2)(B), aggregate annual payments by an agency under an energy savings contract or energy savings performance contract referred to in subparagraph (A) may take into account (through the procedures developed pursuant to this section) savings resulting from reduced costs of operation and maintenance as described in subparagraph (A).''.

(b) DEFINITIONS.—

(1) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:

''(2) The term 'energy savings' means a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in either—

''(A) an existing federally owned building or buildings or other federally owned facilities as a result of—

''(i) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;

''(ii) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or

''(iii) the increased efficient use of existing water sources; or

''(B) a replacement facility under section 801(a)(3).''.

(2) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:

''(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for—

''(A) the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations; or

''(B) energy savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities.''.

(3) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows;

''(4) the term 'energy or water conservation measure' means—

''(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or

''(B) a water conservation measure that improves water efficiency, is life cycle cost effective, and involves water conservation, water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not at a Federal hydroelectric facility.''.

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**SA 3252.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.**

(a) MODIFICATIONS TO NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—Subsection (b) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking ''$4,000'' in paragraph (1)(A) and inserting ''$6,000'',

(2) by striking ''$1,000'' in paragraph (2)(A)(i) and inserting ''$2,000'',

(3) by striking ''$1,500'' in paragraph (2)(A)(ii) and inserting ''$2,500'',

(4) by striking ''$2,000'' in paragraph (2)(A)(iii) and inserting ''$3,000'',

(5) by striking ''$2,500'' in paragraph (2)(A)(iv) and inserting ''$3,500'',

(6) by striking ''$3,000'' in paragraph (2)(A)(v) and inserting ''$4,000'',

(7) by striking ''$3,500'' in paragraph (2)(A)(vi) and inserting ''$4,500'',

(8) by striking ''$4,000'' in paragraph (2)(A)(vii) and inserting ''$5,000'', and

(9) by striking the dash and all that follows through ''for 2004'' in paragraph (3)(B) and inserting ''for 2004''.

(b) MODIFICATIONS TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—Subsection (c) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking the table contained in paragraph (2)(A)(i) and inserting the following new table:

| ''If maximum available power is: | percentage of the | The credit amount is: |
|---|---|---|
| At least 2.5 percent but less than 5 percent | | $250 |
| At least 5 percent but less than 10 percent | | $500 |
| At least 10 percent but less than 20 percent | | $750 |
| At least 20 percent but less than 30 percent | | $1,000 |
| At least 30 percent | | $1,500. |

(2) by striking ''$500'' in paragraph (2)(B)(i)(I) and inserting ''$1,000'',

(3) by striking ''$1,000'' in paragraph (2)(B)(i)(II) and inserting ''$1,500'',

(4) by striking ''$1,500'' in paragraph (2)(B)(i)(III) and inserting ''$2,000'',

(5) by striking ''$2,000'' in paragraph (2)(B)(i)(IV) and inserting ''$2,500'',

(6) by striking ''$2,500'' in paragraph (2)(B)(i)(V) and inserting ''$3,000'',

(7) by striking ''$3,000'' in paragraph (2)(B)(i)(VI) and inserting ''$3,500'', and

(8) by striking ''for 2002'' in paragraph (3)(B)(i) and inserting ''for 2003''.

(c) CONFORMING AMENDMENTS FOR VEHICLE CREDITS.—

(1) Section 30B(f)(11)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking ''September 30, 2002'' and inserting ''the effective date of this section''.

(2) Subsection (h) of section 30B of such Code, as added by this Act, is amended to read as follows:

''(h) APPLICATION OF SECTION.—This section shall apply to——

''(1) any new qualified fuel cell motor vehicle placed in service after December 31, 2003, and purchased before January 1, 2012,

''(2) any new qualified hybrid motor vehicle which is a passenger automobile or a light truck placed in service after December 31, 2002, and purchased before January 1, 2010, and

''(3) any other property placed in service after September 30, 2002, and purchased before January 1, 2007.''.

(d) ADDITIONAL MODIFICATIONS TO CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Section 30 of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(1) by striking ''$3,500'' in subsection (b)(1)(B)(i) and inserting ''$6,000'',

(2) by striking ''$6,000'' in subsection (b)(1)(B)(ii) and inserting ''$9,000'', and

(3) by striking ''2006'' in subsection (e) and inserting ''2007''.

(e) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

''(f) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking ''calendar year 2004'' in clause (i) and inserting ''calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) '',

(B) by striking ''2005'' in clause (ii) and inserting ''2006 (calendar year 2010 in the case of property relating to hydrogen)'', and

(C) by striking ''2006'' in clause (iii) and inserting ''2007 (calendar year 2011 in the case of property relating to hydrogen)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(f) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(g) EFFECTIVE DATE.—Except as provided in subsection (e)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

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**SA 3253.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.**

(a) MODIFICATIONS TO NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—Subsection (b) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking ''$4,000'' in paragraph (1)(A) and inserting ''$6,000'',

(2) by striking ''$1,000'' in paragraph (2)(A)(i) and inserting ''$2,000'',

(3) by striking ''$1,500'' in paragraph (2)(A)(ii) and inserting ''$2,500'',

(4) by striking ''$2,000'' in paragraph (2)(A)(iii) and inserting ''$3,000'',

(5) by striking ''$2,500'' in paragraph (2)(A)(iv) and inserting ''$3,500'',

(6) by striking ''$3,000'' in paragraph (2)(A)(v) and inserting ''$4,000'',

(7) by striking ''$3,500'' in paragraph (2)(A)(vi) and inserting ''$4,500'',

(8) by striking ''$4,000'' in paragraph (2)(A)(vii) and inserting ''$5,000'', and

(9) by striking the dash and all that follows through ''for 2004'' in paragraph (3)(B) and inserting ''for 2004''.

(b) MODIFICATIONS TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—Subsection (c) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking the table contained in paragraph (2)(A)(i) and inserting the following new table:

| ''If maximum power is: | The credit amount is: |
|---|---|
| At least 5 percent but less than 10 percent | $500 |
| At least 10 percent but less than 20 percent | $750 |
| At least 20 percent but less than 30 percent | $1,000 |
| At least 30 percent | $1,500. |

(2) by striking ''$500'' in paragraph (2)(B)(i)(I) and inserting ''$1,000'',

(3) by striking ''$1,000'' in paragraph (2)(B)(i)(II) and inserting ''$1,500'',

(4) by striking ''$1,500'' in paragraph (2)(B)(i)(III) and inserting ''$2,000'',

(5) by striking ''$2,000'' in paragraph (2)(B)(i)(IV) and inserting ''$2,500'',

(6) by striking ''$2,500'' in paragraph (2)(B)(i)(V) and inserting ''$3,000'',

(7) by striking ''$3,000'' in paragraph (2)(B)(i)(VI) and inserting ''$3,500'', and

(8) by striking ''for 2002'' in paragraph (3)(B)(i) and inserting ''for 2003''.

(c) CONFORMING AMENDMENTS FOR VEHICLE CREDITS.—

(1) Section 30B(f)(11)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking ''September 30, 2002'' and inserting ''the effective date of this section''.

(2) Subsection (h) of section 30B of such Code, as added by this Act, is amended to read as follows:

''(h) APPLICATION OF SECTION.—This section shall apply to——

''(1) any new qualified fuel cell motor vehicle placed in service after December 31, 2003, and purchased before January 1, 2012,

''(2) any new qualified hybrid motor vehicle which is a passenger automobile or a light truck placed in service after December 31, 2002, and purchased before January 1, 2010, and

''(3) any other property placed in service after September 30, 2002, and purchased before January 1, 2007.''.

(d) ADDITIONAL MODIFICATIONS TO CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Section 30 of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(1) by striking ''$3,500'' in subsection (b)(1)(B)(i) and inserting ''$6,000'',

(2) by striking ''$6,000'' in subsection (b)(1)(B)(ii) and inserting ''$9,000'', and

(3) by striking ''2006'' in subsection (e) and inserting ''2007''.

(e) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

''(f) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking ''calendar year 2004'' in clause (i) and inserting ''calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) '',

(B) by striking ''2005'' in clause (ii) and inserting ''2006 (calendar year 2010 in the case of property relating to hydrogen)'', and

(C) by striking ''2006'' in clause (iii) and inserting ''2007 (calendar year 2011 in the case of property relating to hydrogen)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(f) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(g) EFFECTIVE DATE.—Except as provided in subsection (e)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

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**SA 3254.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.**

(a) MODIFICATIONS TO NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—Subsection (b) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking ''$4,000'' in paragraph (1)(A) and inserting ''$6,000'',

(2) by striking ''$1,000'' in paragraph (2)(A)(i) and inserting ''$2,000'',

(3) by striking ''$1,500'' in paragraph (2)(A)(ii) and inserting ''$2,500'',

(4) by striking ''$2,000'' in paragraph (2)(A)(iii) and inserting ''$3,000'',

(5) by striking ''$2,500'' in paragraph (2)(A)(iv) and inserting ''$3,500'',

(6) by striking ''$3,000'' in paragraph (2)(A)(v) and inserting ''$4,000'',

(7) by striking ''$3,500'' in paragraph (2)(A)(vi) and inserting ''$4,500'',

(8) by striking ''$4,000'' in paragraph (2)(A)(vii) and inserting ''$5,000'', and

(9) by striking the dash and all that follows through ''for 2004'' in paragraph (3)(B) and inserting ''for 2004''.

(b) MODIFICATIONS TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—Subsection (c) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking the table contained in paragraph (2)(A)(i) and inserting the following new table:

| ''If maximum power is: | The credit amount is: |
|---|---|
| At least 4 percent but less than 10 percent | $500 |

| "If maximum available power is: | The credit amount is: |
|---|---|
| At least 10 percent but less than 20 percent | $750 |
| At least 20 percent but less than 30 percent | $1,000 |
| At least 30 percent | $1,500. |

(2) by striking ''$500'' in paragraph (2)(B)(i)(I) and inserting ''$1,000'',

(3) by striking ''$1,000'' in paragraph (2)(B)(i)(II) and inserting ''$1,500'',

(4) by striking ''$1,500'' in paragraph (2)(B)(i)(III) and inserting ''$2,000'',

(5) by striking ''$2,000'' in paragraph (2)(B)(i)(IV) and inserting ''$2,500'',

(6) by striking ''$2,500'' in paragraph (2)(B)(i)(V) and inserting ''$3,000'',

(7) by striking ''$3,000'' in paragraph (2)(B)(i)(VI) and inserting ''$3,500'', and

(8) by striking ''for 2002'' in paragraph (3)(B)(i) and inserting ''for 2003''.

(c) CONFORMING AMENDMENTS FOR VEHICLE CREDITS.—

(1) Section 30B(f)(11)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking ''September 30, 2002'' and inserting ''the effective date of this section''.

(2) Subsection (h) of section 30B of such Code, as added by this Act, is amended to read as follows:

''(h) APPLICATION OF SECTION.—This section shall apply to——

''(1) any new qualified fuel cell motor vehicle placed in service after December 31, 2003, and purchased before January 1, 2012,

''(2) any new qualified hybrid motor vehicle which is a passenger automobile or a light truck placed in service after December 31, 2002, and purchased before January 1, 2010, and

''(3) any other property placed in service after September 30, 2002, and purchased before January 1, 2007.''.

(d) ADDITIONAL MODIFICATIONS TO CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Section 30 of the Internal Revenue Code of 1986, as amended by this Act, is amended—

(1) by striking ''$3,500'' in subsection (b)(1)(B)(i) and inserting ''$6,000'',

(2) by striking ''$6,000'' in subsection (b)(1)(B)(ii) and inserting ''$9,000'', and

(3) by striking ''2006'' in subsection (e) and inserting ''2007''.

(e) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

''(f) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking ''calendar year 2004'' in clause (i) and inserting ''calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) '',

(B) by striking ''2005'' in clause (ii) and inserting ''2006 (calendar year 2010 in the case of property relating to hydrogen)'', and

(C) by striking ''2006'' in clause (iii) and inserting ''2007 (calendar year 2011 in the case of property relating to hydrogen)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(f) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(g) EFFECTIVE DATE.—Except as provided in subsection (e)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

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**SA 3255.** Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 215, between lines 10 and 11, insert the following:

**SEC. ___. TREATMENT OF CERTAIN DEVELOPMENT INCOME OF COOPERATIVES.**

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12), as amended by this Act, is amended by striking ''or'' at the end of clause (iv), by striking the period at the end of clause (v) and insert '', or'', and by adding at the end the following new clause:

''(vi) from the receipt before January 1, 2007, of any money, property, capital, or any other contribution in aid of construction or connection charge intended to facilitate the provision of electric service for the purpose of developing qualified fuels from nonconventional sources (within the meaning of section 29).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

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**SA 3256.** Mr. NICKLES (for himself, Mr. BREAUX, and Mr. MILLER) submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in Title II, insert the following:

SEC. . Not withstanding any other provision in this Act, ''3 cents'' shall be considered by law to be ''1.5 cents'' in any place ''3 cents'' appears in Title II of this Act.

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**SA 3257.** Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. . CREDIT FOR PRODUCTION OF ALASKA NATURAL GAS.**

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

**''SEC. 45M. ALASKA NATURAL GAS.**

''(a) IN GENERAL.—For purposes of section 38, the Alaska natural gas credit of any taxpayer for any taxable year is the credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude, which is attributable to the taxpayer and sold by or on behalf of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45).

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64-degrees North latitude (determined in United States dollars), is the excess of—

''(A) $3.25, over

''(B) the average monthly price at the AECO C Hub in Alberta, Canada, for Alaska natural gas for the month in which occurs the date of such entering.

''(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after the first calendar year ending after the date described in subsection (f)(1), the dollar amount contained in paragraph (1)(A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting 'the calendar year ending before the date described in section 45M(f)(1)' for '1990').

''(c) ALASKA NATURAL GAS.—For purposes of this section, the term 'Alaska natural gas' means natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude produced in compliance with the applicable State and Federal pollution prevention, control, and permit requirements from the area generally known as the North Slope of Alaska (including the continental shelf thereof within the meaning of section 638(1)), determined without regard to the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)).

''(d) RECAPTURE.—

''(1) IN GENERAL.—With respect to each 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude after the date which is 3 years after the date described in subsection (f)(1), if the average monthly price described in subsection (b)(1)(B) exceeds 150 percent of the amount described in subsection (b)(1)(A) for the month in which occurs the date of such entering, the taxpayer's tax under this chapter for the taxable year shall be increased by an amount equal to the lesser of—

''(A) such excess, or

''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the Alaska natural gas credit received by the taxpayer for such years had been zero.

''(2) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

''(e) APPLICATION OF RULES.—For purposes of this section, rules similar to the rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

''(f) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

''(g) APPLICATION OF SECTION.—This section shall apply to Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude for the period—

''(1) beginning with the later of—

''(A) January 1, 2010, or

''(B) the initial date for the interstate transportation of such Alaska natural gas, and

''(2) except with respect to subsection (d), ending with the date which is ____ years after the date described in paragraph (1).''.

''(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting '', plus'', and by adding at the end the following new paragraph: ''(24) the Alaska natural gas credit determined under section 45M(a).''.

''(c) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

''(5) SPECIAL RULES FOR ALASKA NATURAL GAS CREDIT.—

''(A) IN GENERAL.—In the case of the Alaska natural gas credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

''(B) ALASKA NATURAL GAS CREDIT.—For purposes of this subsection, the term 'Alaska natural gas credit' means the credit allowable under subsection (a) by reason of section 45M(a).''.

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting ''or the Alaska natural gas credit'' after ''producer credit''.

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

''Sec. 45M. Alaska natural gas.''.

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**SA 3258.** Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal year 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 708.

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**SA 3259.** Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal year 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 63, line 13, after ''geothermal,'' insert ''waste heat produced as a by-product of an agronomic or agricultural manufacturing process,''.

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**SA 3260.** Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal year 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 64, line 24, after ''geothermal,'' insert ''waste heat produced as a by-product of an agronomic or agricultural manufacturing process,''.

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**SA 3261.** Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, line 4, after ''landfill gas,'' insert ''waste heat produced as a by-product of an agronomic or agricultural manufacturing process,''.

On page 61, line 20, after ''landfill gas,'' insert ''waste heat produced as a by-product of an agronomic or agricultural manufacturing process,''.

On page 63, line 13, after ''geothermal,'' insert ''waste heat produced as a by-product of an agronomic or agricultural manufacturing process,''.

On page 64, line 24, after ''geothermal,'' insert ''waste heat produced as a by-product of an agronomic or agricultural manufacturing process,''.

On page 73, line 13, after ''energy,'' insert ''waste heat produced as a by-product of an agronomic or agricultural manufacturing process,''.

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**SA 3262.** Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, line 13, after ''energy,'' insert ''waste heat produced as a by-product of an agronomic or agricultural manufacturing process,''.

---

**SA 3263.** Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. CONSUMER PRODUCT SAFETY ACT.**

(a) LOW-SPEED ELECTRIC BICYCLES.—The Consumer Product Safety Act (15 U.S.C. 2051 et seq.) is amended by adding at the end the following:

''LOW-SPEED ELECTRIC BICYCLES

''SEC. 38. (a) Notwithstanding any other provision of law, low-speed electric bicycles are consumer products within the meaning of section 3(a)(1) and shall be subject to the Commission regulations published at section 1500.18(a)(12) and part 1512 of title 16, Code of Federal Regulations.

''(b) For the purpose of this section, the term 'low-speed electric bicycle' means a 2- or 3-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 hp), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 mph.

''(c) To further protect the safety of consumers who ride low-speed electric bicycles, the Commission may promulgate new or amended requirements applicable to such vehicles as necessary and appropriate.

''(d) This section shall supersede any State law or requirement with respect to low-speed electric bicycles to the extent that such State law or requirement is more stringent than the Federal law or requirements referred to in subsection (a).''.

(b) CONFORMING AMENDMENTS.—Section 1 of the Consumer Products Safety Act (15 U.S.C. 2051 note) is amended by amending the table of contents to read as follows:

''TABLE OF CONTENTS

''Sec. 31. Limitation on jurisdiction.
''Sec. 32. Authorization of appropriations.
''Sec. 33. Separability.
''Sec. 34. Effective date.
''Sec. 35. Interim cellulose insulation safety standard.
''Sec. 36. Congressional veto of consumer product safety rules.
''Sec. 37. Information reporting.
''Sec. 38. Low-speed electric bicycles.''.

(c) MOTOR VEHICLE SAFETY STANDARDS.—For purposes of motor vehicle safety standards issued and enforced pursuant to chapter 301 of title 49, United States Code, a low-speed electric bicycle (as defined in section 38(b) of the Consumer Product Safety Act) shall not be considered a motor vehicle as defined by section 30102(6) of title 49, United States Code.

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**SA 3264.** Mr. SMITH of Oregon (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Section 821, strike the ''''', and insert the following:

''(e) FUEL DELIVERY TECHNOLOGY SYSTEM PILOT PROGRAM.—

''(1) The Secretary of Transportation is directed to establish a pilot program to demonstrate the fuel economy and environmental benefits of fuel delivery system technology. The Secretary is directed to retrofit an existing heavy duty diesel engine federal transit bus fleet to no less than 20 vehicles, or to contract with units of local government in areas of non-attainment under the Clean Air Act to retrofit portions of their existing heavy duty diesel engine transit bus fleets, for a combined total of no less than 20 vehicles. The fuel delivery system technology with which these vehicles shall be retrofitted shall be designed to increase fuel economy and reduce exhaust emissions when operating on diesel fuel specified for highway engines, containing 300 to 500 parts per million of sulfur. The measured increase in fuel economy shall be minimum of 40 percent and the reduction in exhaust emissions shall be a minimum of 65 percent. The retrofit pilot program shall also include quantification of exhaust emissions when operating on bio-diesel as well as low-sulfur diesel fuel. Upon completion of the retrofit pilot program, the fuel delivery system technology shall be placed on the Environmental Protection Agency's Verified Retrofit Technology List for heavy-duty diesel engines. The Secretary shall establish a baseline average fuel economy for the specified fleet(s), and shall use that baseline to periodically evaluate the performance of the fuel delivery technology system over a one-year period of operation. The results of the retrofit pilot program shall be provided to the National Highway Traffic Safety Administration.

''(2) There are authorized such sums as are necessary to carry out the retrofit pilot program authorized by this subsection, not to exceed $2 million.''

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**SA 3265.** Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In the Definitions Section, strike (1) in its entirety, and insert:

''(1) The term 'intermittent generator' means a facility that generates electricity using wind, solar or waste heat produced as a by-product of an agronomic or agricultural manufacturing process.''

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**SA 3266.** Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, line 4, after ''landfill gas,'' insert ''waste heat produced as a by-product of an agronomic or agricultural manufacturing process,''.

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**SA 3267.** Mr. VOINOVICH submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In the section heading for Section 722, after ''**PIPELINE**'' add: ''**AND ELECTRICITY TRANSMISSION AND DISTRIBUTION**'' before ''**PROJECTS**.''

In paragraph (a), after ''memorandum of understanding to expedite,'' strike the remainder of the paragraph and replace with:

''the environmental review and permitting of natural gas pipeline and electricity transmission and distribution projects and shall ensure that agencies are fulfilling their environmental review and permitting obligations in a timely manner, consistent with existing statutory requirements. At a minimum, the memorandum: (1) should address the early identification of a lead federal agency, which shall be designated only if an applicant for federal authorization so requests, when more than one agency is involved in the review and approval of a project and; (2) should establish the authority to set deadlines for all decisions regarding project approval.''

In paragraph (b), after (8), strike ''and'', and add ''(9) the Secretary of Energy; and''.

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**SA 3268.** Mr. SHELBY (for himself, Mr. AKAKA, Mr. SCHUMER, and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 205, between lines 8 and 9, insert the following:

**SEC. 8___. COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.**

(a) DEFINITION OF MUNICIPAL SOLID WASTE.—In this section, the term ''municipal solid waste'' has the meaning given the term ''solid waste'' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts.

(c) REQUIREMENTS.—The Secretary may provide a loan guarantee under subsection (b) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (b);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

(d) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(1) meet all applicable Federal and State permitting requirements;

(2) are most likely to be successful; and

(3) are located in local markets that have the greatest need for the facility because of—

(A) the limited availability of land for waste disposal; or

(B) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(e) MATURITY.—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.

(f) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(g) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(h) GUARANTEE FEE.—The recipient of a loan guarantee under subsection (b) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(j) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress an report on the activities of the Secretary under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(l) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a loan guarantee under subsection (b) terminates on the date that is 10 years after the date of enactment of this Act.

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**SA 3269.** Mrs. LINCOLN (for herself and Mr. AKAKA) submitted an amendment intended to be proposed by her to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 17, between lines 6 and 7, insert the following:

**SEC. . CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL SOLID WASTE.**

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting '', and'', and by adding at the end the following new subparagraph:

''(H) municipal solid waste.''.

(b) QUALIFIED FACILITY.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

''(G) MUNICIPAL SOLID WASTE FACILITY.—

''(i) IN GENERAL.—In the case of a facility using municipal solid waste to produce electricity, the term 'qualified facility' means any facility—

''(I) owned by the taxpayer which is originally placed in service on or after date of the enactment of this subparagraph and before, or

''(II) owned by the taxpayer which is originally placed in service before the date of the enactment of this subparagraph, to which is added a unit before.

''(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (i)(II), the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactmnt of this subparagraph.''.

(c) DEFINITION.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the term 'solid waste' under section 2(27) of the Solid Waste Disposal Act (42 U.S.C. 6903).''.

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

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**SA 3270.** Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in subtitle E of title II, insert the following:

**SEC. 2___. FEDERAL PURCHASE REQUIREMENT.**

(a) DEFINITIONS.—In this section:

(1) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(2) RENEWABLE ENERGY.—The term ''renewable energy'' means electric energy generated from—

(A) a solar, wind, biomass, geothermal, or fuel cell source; or

(B)(i) additional hydroelectric generation capacity achieved from increased efficiency; or

(ii) an addition of new capacity at a hydroelectric dam in existence on the date of enactment of this Act.

(b) REQUIREMENT.—

(1) IN GENERAL.—The President shall ensure that, of the total amount of electric energy that all Federal agencies, in the aggregate, consume during any fiscal year, renewable energy shall comprise not less than—

(A) 3 percent in fiscal years 2003 through 2004;

(B) 5 percent in fiscal years 2005 through 2009; and

(C) 7.5 percent in fiscal year 2010 and each fiscal year thereafter.

(2) INNOVATIVE PURCHASING PRACTICES.—In carrying out paragraph (1), the President shall encourage Federal agencies to use innovative purchasing practices.

(c) TRIBAL POWER GENERATION.—The President shall seek to ensure that, to the extent economically feasible and technically practicable, not less than 1/10 of the amount specified in subsection (b) shall be renewable energy that is generated by—

(1) an Indian tribe; or

(2) a corporation, partnership, or business association the majority of the interest in which is owned, directly or indirectly, by an Indian tribe.

(d) BIENNIAL REPORT.—In 2004 and every 2 years thereafter, the Secretary of Energy shall submit to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives a report on the progress of the Federal Government in meeting the goals established by this section.

(e) INEFFECTIVENESS OF OTHER PROVISION.—Section 263 (relating to a Federal purchase requirement) shall be of no effect.

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**SA 3271.** Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . NET METERING OF ELECTRIC ENERGY.**

Section 111(d)(13) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)(13)) (as amended by section 245) is amended—

(1) in subparagraph (A), by inserting ''the total sales of electric energy for purposes other than resale of which exceeded 1,000,000,000 kilowatt-hours during the preceding calendar year'' after ''electric utility''; and

(2) by striking subparagraph (C).

**SA 3272.** Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 590, after line 14, add the following:

**SEC. 1812. STATE REFERENDA TO LIFT MORATORIA ON OFFSHORE OIL AND GAS DRILLING.**

(a) IN GENERAL.—Notwithstanding any moratorium or executive order temporarily suspending or permanently prohibiting offshore oil or gas drilling on submerged land off the coast of a State—

(1) the State may hold a referendum on whether to allow production of oil or gas on the submerged land, including whether to impose any restrictions on the proximity of such drilling to the shore; and

(2) if such production is approved by the referendum, the President shall authorize a lease sale for the submerged land.

(b) ROYALTIES.—

(1) NEW LEASES UNDER SUBSECTION (a).—Of any royalties collected after the date of enactment of this Act from drilling conducted under subsection (a), 30 percent shall be distributed to the State off the shore of which oil or gas is produced if the State has a State Plan approved in accordance with section 1811(c)(7).

(2) NEW DEEP WATER LEASES.—For fiscal year 2007, and each fiscal year thereafter, of any royalties collected during the fiscal year from leases in water 800 or more meters deep that are issued after the date of enactment of this Act, 30 percent shall be distributed to the States offshore of which the leases lie if the State has a State Plan approved in accordance with section 1811(c)(7).

(3) EXISTING LEASES.—Notwithstanding section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1338(g)(2)), on and after the date that is 10 years after the date of enactment of this Act, 30 percent of amounts collected from leases issued before, on, or after the date of enactment of this Act shall be distributed to the States offshore of which the leases lie if the State has a State Plan approved in accordance with section 1811(c)(7).

(c) OCS PRODUCTION STATE.—A State that allows production of oil or gas under this section shall be treated as an OCS Production State for the purposes of section 1811.

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**SA 3273.** Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 574, between lines 11 and 12, insert the following:

**SEC. 17 . STATE ENERGY PRODUCTION AND CONSUMPTION REPORT**

(a) REPORT.—Not later than December 1, 2003, the Secretary of Energy (referred to in this section as the ''Secretary'') shall consult with the Governors of the several States and submit to Congress a report on options for energy production from each state to

equal at least 80 percent of the amount of energy consumed in the State by January 1, 2019, as measured by the Energy Information Agency, considering both increases in production and reductions in consumption.

(b) INFORMATION ASSISTANCE.—The Secretary shall provide each State with an environmental, economic, and security risk analysis of domestic energy production against importation of energy and a ranged estimate of energy resources within the State, together with an identification of any barriers to development of such resources and options for regional cooperation to achieve the objectives outlined in this section. The Secretary of Interior shall provide such information and assistance as the Secretary may request.

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**SA 3274.** Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . TRANSMISSION EXPANSION.**

Section 205 of the Federal Power Act is amended by inserting after subsection (h) the following:

''(i) RULEMAKING.—Within six months of Enactment of this Act, the Commission shall issue final rules governing the pricing of transmission services.

prohibiting offshore oil or gas drilling on submerged land off the coast of a State—

(1) the State may hold a referendum on whether to allow production of oil or gas on the submerged land, including whether to impose any restrictions on the proximity of such drilling to the shore; and

(2) if such production is approved by the referendum, the President shall authorize a lease sale for the submerged land.

(b) ROYALTIES.—

(1) NEW LEASES UNDER SUBSECTION (a).—Of any royalties collected after the date of enactment of this Act from drilling conducted under subsection (a), 30 percent shall be distributed to the State off the shore of which oil or gas is produced.

(2) NEW DEEP WATER LEASES.—For fiscal year 2007, and each fiscal year thereafter, of any royalties collected during the fiscal year from leases in water 800 or more meters deep that are issued after the date of enactment of this Act, 30 percent shall be distributed to the States offshore of which the leases lie.

(3) EXISTING LEASES.—Notwithstanding section 8(g)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1338(g)(2)), on and after the date that is 10 years after the date of enactment of this Act, 30 percent of amounts collected from leases issued before, on, or after the date of enactment of this Act shall be distributed to the States offshore of which the leases lie.

date that the RTO or other transmission organization is approved by the Commission, that—

''(A) increases the transfer capability of the transmission system; and

''(B) is funded by the entities that, in return for payment, received the tradable transmission rights created by the investment.

''(4) TRADABLE TRANSMISSION RIGHT.—The term 'tradable transmission right' means the right of the holder of such right to avoid payment of, or have rebated, transmission congestion charges on the transmission system of a regional transmission organization, the right to use a specified capacity of such transmission system without payment of transmission congestion charges, or other rights as determined by the Commission.''.

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**SA 3275.** Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. Daschle (for himself and Mr. Bingaman) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike title III and insert the following:

**TITLE III—HYDROELECTRIC ENERGY**

**SEC. 301. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.**

(a) ALTERNATIVE CONDITIONS.—The Federal Power Act is amended by inserting after section 4 (16 U.S.C. 797) the following:

**''SEC. 4A. ALTERNATIVE CONDITIONS.**

''(a) DEFINITION OF SECRETARY.—In this section, the term 'Secretary', with respect to an application under subsection (e) of section 4 for a license for a project works within a reservation of the United States, means the Secretary of the department under whose supervision the reservation falls.

''(b) PROPOSAL OF ALTERNATIVE CONDITION.—When a person applies for a license for any project works within a reservation of the United States under subsection (e) of section 4, and the Secretary deems a condition to the license to be necessary under the first proviso of that subsection, the license applicant or any other interested person may propose an alternative condition.

''(c) ACCEPTANCE OF PROPOSED ALTERNATIVE CONDITION.—Notwithstanding the first proviso of section 4(e), the Secretary may accept an alternative condition proposed under subsection (b), and the Commission shall include in the license that alternative condition, if the Secretary determines, based on substantial evidence, that the alternative condition—

''(1) provides for the adequate protection and use of the reservation; and

''(2) will cost less to implement, or result in improved operation of the project works for electricity production, as compared with the condition initially deemed necessary by the Secretary.

''(d) WRITTEN STATEMENT.—The Secretary shall submit into the public record of the Commission proceeding, with any condition under section 4(e) or alternative condition that the Secretary accepts under subsection (c), a written statement explaining the basis for the condition or alternative condition, and each reason for not accepting any alternative condition under this subsection, including—

''(1) a statement of the goals, objectives, or applicable management requirements established by the Secretary for protection and use of the reservation;

''(2) the consideration by the Secretary of all studies, data, and other factual information made available to the Secretary that are relevant to the decision of the Secretary; and

''(3) any information made available to the Secretary regarding the effects of the condition or alternative condition on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply (including information voluntarily provided in a timely manner by the applicant and any other person).

''(e) PROCEDURE.—Not later than 1 year after the date of enactment of this section, the Secretary of each department that exercises supervision over a reservation of the United States shall, by regulation, establish a procedure to expeditiously resolve any conflict arising under this section.''.

(b) ALTERNATIVE PRESCRIPTIONS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended—

(1) by striking ''SEC. 18. The Commission'' and inserting the following:

**''SEC. 18. OPERATION OF NAVIGATION FACILITIES.**

''(a) IN GENERAL.—The Commission''; and

(2) by adding at the end the following:

''(b) ALTERNATIVE PRESCRIPTIONS.—

''(1) IN GENERAL.—When the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under subsection (a), the license applicant or licensee, or any other interested person, may propose an alternative condition.

''(2) ACCEPTANCE OF PROPOSED ALTERNATIVE CONDITION.—Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, may accept an alternative condition proposed under paragraph (1), and the Commission shall include in the license the alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence, that the alternative condition—

''(A) will be no less effective to meet the goals, objectives, or applicable management requirements identified by the Secretary under this section, than the fishway initially prescribed by the Secretary; and

''(B) will cost less to implement, or result in improved operation of the project works for electricity production, as compared to the fishway initially prescribed by the Secretary.

''(3) WRITTEN STATEMENT.—The Secretary shall submit into the public record of the Commission proceeding, with any prescription under subsection (a) or alternative condition that the Secretary accepts under paragraph (2), a written statement explaining the basis for the prescription or alternative condition, and reason for not accepting any alternative condition under this subsection, including—

''(A) a statement of the biological and other goals, objectives, or applicable management requirements identified by the Secretary under this section;

''(B) the consideration by the Secretary of all studies, data, and other factual information made available to the Secretary and relevant to the decision of the Secretary; and

''(C) any information made available to the Secretary regarding the effects of the prescription or alternative condition on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply (including information voluntarily provided in a timely manner by the applicant and any other person).

''(4) PROCEDURE.—Not later than 1 year after the date of enactment of this subsection, each Secretary concerned shall, by regulation, establish a procedure to expeditiously any resolve conflict arising under this subsection.''.

**SEC. 302. RELICENSING STUDY.**

(a) DEFINITION OF NEW LICENSING CONDITION.—In this section, the term ''new license condition'' means any condition imposed under—

(1) section 4(e) of the Federal Power Act (16 U.S.C. 797(e));

(2) section 10(a) of the Federal Power Act (16 U.S.C. 803(a));

(2) section 10(e) of the Federal Power Act (16 U.S.C. 803(e));

(3) section 10(j) of the Federal Power Act (16 U.S.C. 803(j));

(4) section 18 of the Federal Power Act (16 U.S.C. 811); or

(5) section 401(d) of the Clean Water Act (33 U.S.C. 1341(d)).

(b) STUDY.—The Federal Energy Regulatory Commission shall, jointly with the Secretary of Commerce, the Secretary of the Interior, and the Secretary of Agriculture, conduct a study of all new licenses issued for existing projects under section 15 of the Federal Power Act (16 U.S.C. 808) since January 1, 1994.

(c) SCOPE.—The study shall analyze—

(1) the length of time the Commission has taken to issue each new license for an existing project;

(2) the additional cost to the licensee attributable to new license conditions;

(3) the change in generating capacity attributable to new license conditions;

(4) the environmental benefits achieved by new license conditions;

(5) significant unmitigated environmental damage of the project and costs to mitigate such damage; and

(6) litigation arising from the issuance or failure to issue new licenses for existing projects under section 15 of the Federal Power Act or the imposition or failure to impose new license conditions.

(d) CONSULTATION.—The Commission shall give interested persons and licensees an opportunity to submit information and views in writing.

(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes findings made as a result of the study.

**SEC. 302. DATA COLLECTION PROCEDURES.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall jointly develop procedures for ensuring complete and accurate data concerning the time and cost to parties in the hydroelectric licensing process under part I of the Federal Power Act (16 U.S.C. 791 et seq.).

(b) PUBLICATION OF DATA.—Data described in subsection (a) shall be published regularly, but not less frequently than every 3 years.

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**SA 3276.** Mr. WYDEN (for himself, Ms. CANTWELL, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

''Notwithstanding any other provision of this Act, the conditions to be considered by the Commission shall when considering a proposed disposition, consolidation, acquisition or control also include the following: employee protective arrangements, defined as a provision that may be necessary for (i) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (ii) the continuation of collective bargaining rights; (iii) the protection of individual employees against a worsening of their positions related to employment; (iv) assurances of employment to employees of acquired companies; (v) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and (vi) paid training or retraining programs, that the Commission concludes will fairly and equitably protect the interests of employees affected by the proposed transaction; and''.

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**SA 3277.** Ms. COLLINS (for herself, Mrs. MURRAY, Ms. CANTWELL, Mr. JEFFORDS, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title XIII, insert the following:

**''SEC. 1348. RESEARCH ON ABRUPT CLIMATE CHANGE.**

''(a) DEFINITION.—The term 'abrupt climate change' means a change in climate that occurs so rapidly or unexpectedly that human or natural systems have difficulty adapting to it.

''(b) The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall carry out a program of scientific research on abrupt climate change designed to:

''(1) develop a global array of terrestrial and oceanographic indicators of paleoclimate in order to sufficiently identify and describe past instances of abrupt climate change

''(2) improve understanding of thresholds and nonlinearities in geophysical systems related to the mechanisms of abrupt climate change

''(3) incorporate these mechanisms into advanced geophysical models of climate change

''(4) test the output of these models against an improved global array of records of past abrupt climate changes.

''(c) There are authorized to be appropriated to the Secretary of Commerce $10,000,000 in each of the fiscal years 2002 through 2008, and such sums as may be necessary for fiscal years after year 2008, to carry out the research program required under this section.''

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**SA 3278.** Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 188, line 15, after ''States'' insert '', except New York and California''.

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**SA 3279.** Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 205, line 9 insert the following:

**SEC. 820. ALTERNATIVE FUEL VEHICLE ACCELERATION ACT.**

(a) DEFINITIONS.—In this section:

(1) ALTERNATIVE FUEL VEHICLE.—The term ''alternative fuel vehicle'' means a motor vehicle that is powered in whole or in part by electricity (including electricity supplied by a fuel cell), liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, methanol or ethanol at no less than 85 percent by volume, or propane. Vehicles designed to operate solely on gasoline or diesel derived from fossil fuels, and vehicles that the Secretary determines by rule do not yield substantial environmental benefits over vehicles operating solely on gasoline or diesel derived from fossil fuels shall not be considered alternative fuel vehicles.

(2) ALTERNATIVE FUEL VEHICLE INTERMODAL PROJECT.—The term ''alternative fuel vehicle intermodal project'' means a project that uses alternative fuel vehicles in an intermodal application to demonstrate the transportation of people, goods, or services by use of alternative fuel vehicles only.

(3) INTERMODAL APPLICATION.—The term ''intermodal application'' means transportation activities that are conducted so that people or goods or services are transported by, and then from, one form of alternative fuel vehicle to a second or more alternative fuel vehicle without the need for conveyance by a conventional mode of transportation. The term ''conventional mode of transportation'' means a form of transportation that derives power or energy only through an internal combustion engine fueled by gasoline or diesel fuel.

(b) PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a competitive grant pilot program to provide not more than 15 grants to State governments, local governments, or metropolitan transportation authorities to carry out alternative fuel vehicle intermodal projects.

(2) GRANT PURPOSES.—Grants under this section may be used for the acquisition of alternative fuel vehicles, infrastructure necessary to directly support a project funded by the grant including fueling and other support equipment, and operation and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(3) APPLICATIONS.—

(a) REQUIREMENTS.—The Secretary shall issue requirements for applying for grants under the pilot program. At a minimum, the Secretary shall require that the applications be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and shall include a description of the alternative fuel vehicle intermodal project proposed in the application, an estimate of the ridership or degree of use of the project, an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the project, a plan to collect and disseminate environmental data over the life of the project, a description of how the project will be sustainable without federal assistance after the completion of the grant, a complete description of the costs of each project including acquisition, construction, operation, and maintenance costs over the expected life of the project, and a description of which costs of the project will be supported by federal assistance and which by assistance from non-federal partners. An applicant may carry out a project under partnership with public and private entities.

(4) SELECTION CRITERIA.—In evaluating applications, the Secretary shall consider each

applicant's previous experience with similar projects and shall give priority consideration to applications that are most likely to maximize protection of the environment and demonstrate the greatest commitment on the part of the applicant to ensure funding for the project and to ensure that the project will be maintained or expanded after federal assistance has been completed.

(5) PILOT PROJECT REQUIREMENTS.—The Secretary shall not provide more than $20,000,000 or 50 percent of the project cost to any applicant. The Secretary shall not fund any applicant for more than five years. The Secretary shall seek to the maximum extent practicable to achieve deployment of alternative fuel vehicles through the pilot program and shall ensure a broad geographic distribution of project sites. The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants.

(6) SCHEDULE.—Not later than 365 days after enactment of this Act, the Secretary shall publish a request for applications to undertake projects under the pilot program. Applications shall be due within 365 days of the publication of the notice. Not later than 180 days after the date by which applications for grants are due, the Secretary shall select by competitive peer review all applications for projects to be awarded a grant under the pilot program.

(c) TRAINING PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish an alternative fuel vehicle operation and maintenance training program to provide grants to accredited academic institutions to develop curricula and to conduct training which support the objectives of the pilot program.

(2) GRANT PURPOSES.—Grants under this paragraph may be used for the development or revision of alternative fuel vehicle training materials, the instruction of personnel who will teach courses related to alternative fuel vehicles and supporting infrastructure, or the development of offering of courses or academic programs for students engaged in the study of alternative fuel vehicles as part of secondary or collegiate education programs, including vocational and technical programs.

(3) APPLICATIONS.—The Secretary shall initiate the training program on a timely basis to support the implementation of the projects. Grant applications may be submitted by accredited academic institutions, consortia of such institutions, or accredited academic institutions in partnership with one or more private entities.

(4) SELECTION CRITERIA.—In evaluating applications for the training programs, the Secretary shall consider each applicant's previous experience in providing alternative fuel vehicle training and shall give priority consideration to applicants that involve post-secondary education institutions that have existing automotive training programs, have demonstrated expertise in working with students and in-service technicians in providing training, provide a nationwide network for training and training materials which will achieve nationwide deployment of curricula, and have the capability of offering competency-based training offered by experienced instructors with real-world shop facilities on a nationwide basis.

(d) REPORTS TO CONGRESS.—

(1) INITIAL REPORT.—Not later than 60 days after the date grants are awarded under this section, the Secretary shall transmit to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing an identification of the grant recipients and a description of the projects to be funded, an identification of other applicants that submitted applications for the pilot program, and a description of mechanisms used by the Secretary to ensure that the information and knowledge gained by participants in the pilot program are transferred among the pilot program participants and to other interested parties, including other applicants that submitted applications.

(2) EVALUATION.—Not later than 3 years after the selection of projects under this Act, and annually thereafter until the pilot program ends, the Secretary shall transmit to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing an evaluation of the effectiveness of the pilot program, including an assessment of the benefits to the environment derived from the projects included in the pilot program as well as an estimate of potential benefits to the environment to be derived from widespread application of alternative fuel vehicles.

(3) JOINT STUDY AND REPORTS.—The Secretary of Energy, the Secretary of Transportation and the Administrator of the Environmental Protection Agency, or their designees, shall undertake a study to consider, and recommend, the establishment of a collaborative program utilizing the resources of the Departments of Energy, Transportation and the Environmental Protection Agency, to demonstrate the use of alternative fuels for personal and public transportation in intermodal applications. Such study shall also consider and make a recommendation as to whether authority to conduct the pilot program should be transferred to the Secretary of Transportation in order to more fully utilize the resources of the Department of Transportation in assuring that the objectives of demonstrating intermodal activities with alternative fuel vehicles are more fully achieved.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $200,000,000 to carry out this program, to remain available until expended. Of the amount appropriated, no less than three percent shall be directed to accomplishing the goals of the training program.

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**SA 3280.** Mr. SCHUMER (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; follows:

Beginning on page 186, strike line 9 and all that follows through page 205, line 8, and insert the following:

**SEC. 819. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.**

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (q); and

(2) by inserting after subsection (n) the following:

''(o) RENEWABLE FUEL PROGRAM.—

''(1) DEFINITIONS.—In this section:

''(A) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

''(i) dedicated energy crops and trees;

''(ii) wood and wood residues;

''(iii) plants;

''(iv) grasses;

''(v) agricultural residues;

''(vi) fibers;

''(vii) animal wastes and other waste materials; and

''(viii) municipal solid waste.

''(B) RENEWABLE FUEL.—

''(i) IN GENERAL.—The term 'renewable fuel' means motor vehicle fuel that—

''(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

''(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

''(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

''(ii) INCLUSION.—The term 'renewable fuel' includes cellulosic biomass ethanol and biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)).

''(2) RENEWABLE FUEL PROGRAM.—

''(A) IN GENERAL.—Not later than one year from enactment of this provision, the Administrator shall promulgate regulations ensuring that gasoline sold or dispensed to consumers in Petroleum Administration for Defense Districts II and III, on an annual average basis, contains the applicable volume of renewable fuel as specified in subparagraph (B). Regardless of the date of promulgation, such regulations shall contain compliance provisions for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where renewables can be used, or impose any per-gallon obligation for the use of renewables. If the Administrator does not promulgate such regulations, the applicable volume shall be 1,620,000,000 gallons in 2004.

''(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2004 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2004 through 2012 shall be determined in accordance with the following table:

**Applicable volume of renewable fuel**

| "Calendar year: | (In billions of gallons) |
|---|---|
| 2004 | 2.3 |
| 2005 | 2.6 |
| 2006 | 2.9 |
| 2007 | 3.2 |
| 2008 | 3.5 |
| 2009 | 3.9 |
| 2010 | 4.3 |
| 2011 | 4.7 |
| 2012 | 5.0. |

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5.0 billion gallons of renewable fuels; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each calendar year, through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each calendar year, through 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations.

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—A person that refines, blends, or imports gasoline may satisfy the requirements of paragraph (2) through the submission to the Administrator of credits—

''(i) issued to the person under subparagraph (C);

''(ii) obtained by purchase or other transfer under subparagraph (E) or (F); or

''(iii) borrowed under subparagraph (G).

''(B) REPORTING.—For calendar year 2004 and each calendar year thereafter, each person that refines, blends, or imports gasoline shall submit to the Administrator, not later than February 15 of the following calendar year, a report that includes—

''(i) the volume of renewable fuel blended into gasoline;

''(ii) the credits issued to the person under subparagraph (C);

''(iii) the credits used under subparagraph (D);

''(iv) the credits sold or transferred under subparagraph (E); and

''(v) the credits borrowed under subparagraph (G).

''(C) ISSUANCE AND TRACKING OF CREDITS.—

''(i) PROGRAM.—The Administrator shall establish a program to issue, monitor the sale or transfer of, and track credits.

''(ii) NUMBER OF CREDITS.—The Administrator shall issue to a person that refines, blends, or imports gasoline—

''(I) 1 credit for each gallon of renewable fuel that is blended into gasoline sold or introduced into commerce; and

''(II) an additional ½ credit for each gallon of cellulosic biomass ethanol that is blended into gasoline sold or introduced into commerce.

''(iii) REPORTING.—The Administrator shall require reporting on the price at which credits are sold or transferred.

''(D) USE OF CREDITS.—

''(i) IN GENERAL.—A credit may be counted toward compliance with the requirements of paragraph (2) only once.

''(ii) APPLICABLE YEARS.—A credit shall be valid to show compliance for the calendar year in which the credit was generated or the next calendar year.

''(E) SALE OR TRANSFER OF CREDITS.—A person that receives credits under subparagraph (C) may sell or transfer all or a portion of the credits to another person, for purpose of complying with the requirements of paragraph (2).

''(F) PHASE-IN OF CREDIT TRADING PROGRAM.—

''(i) ANNUAL REPORT FOR FIRST 3 YEARS.—Not later than March 1 of each of calendar years 2005, 2006, and 2007, the Administrator shall publish a report containing—

''(I) the volumes of renewable fuels blended into gasoline;

''(II) the credits received and used by each person that refines, blends, or imports gasoline; and

''(III) the unfulfilled requirement under paragraph (2), if any, for each person described in subclause (II).

''(ii) LIMITATION.—The Administrator shall ensure that the number of credits available in the market for any calendar year is not greater than the sum of—

''(I) the number of actual gallons of renewable fuel blended into gasoline in that calendar year; and

''(II) a number that is 0.5 times the number of actual gallons of cellulosic biomass ethanol blended into gasoline in that calendar year.

''(G) BORROWING OF CREDITS.—For calendar year 2007 and for each calendar year thereafter, a person that refines, blends, or imports gasoline and that has reason to believe that the person will not have sufficient credits in a given calendar year to comply with the requirements of paragraph (2) may—

''(i) submit a plan to the Administrator demonstrating that, in the calendar year following the year in which the person does not have sufficient credits, the person will—

''(I) achieve compliance with the requirements of paragraph (2); and

''(II) purchase or be eligible to receive additional credits that, when taken into account, will enable the person to be in compliance with the requirements of paragraph (2) for both calendar years; and

''(ii) upon approval of the plan by the Administrator, implement the plan.

''(6) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 30 days after the date on which the petition is received.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.''.

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking ''or (n)'' each place it appears and inserting ''(n) or (o)''; and

(B) in the second sentence, by striking ''or (m)'' and inserting ''(m), or (o)''; and

(2) in the first sentence of paragraph (2), by striking ''and (n)'' each place it appears and inserting ''(n), and (o)''.

(c) EXCLUSION FROM ETHANOL WAIVER.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

''(5) EXCLUSION FROM ETHANOL WAIVER.—

''(A) PROMULGATION OF REGULATIONS.—Upon notification, accompanied by supporting documentation, from the Governor of a State that the Reid vapor pressure limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limitation established by paragraph (4), the Reid vapor pressure limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol that are sold, offered for sale, dispensed, supplied, offered for supply, transported or introduced into commerce in the area during the high ozone season.

''(B) DEADLINE FOR PROMULGATION.—The Administrator shall promulgate regulations under subparagraph (A) not later than 90 days after the date of receipt of a notification from a Governor under that subparagraph.

''(C) EFFECTIVE DATE.—

''(i) IN GENERAL.—With respect to an area in a State for which the Governor submits a notification under subparagraph (A), the regulations under that subparagraph shall take effect on the later of—

''(I) the first day of the first high ozone season for the area that begins after the date of receipt of the notification; or

''(II) 1 year after the date of receipt of the notification.

''(ii) EXTENSION OF EFFECTIVE DATE BASED ON DETERMINATION OF INSUFFICIENT SUPPLY.—

''(I) IN GENERAL.—If, after receipt of a notification with respect to an area from a Governor of a State under subparagraph (A), the Administrator determines, on the Administrator's own motion or on petition of any person and after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation—

''(aa) shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and

''(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

''(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.''.

(d) SURVEY OF RENEWABLE FUEL MARKET.—

(1) SURVEY AND REPORT.—Not later than December 1, 2005, and annually thereafter, the Administrator shall—

(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

(i) conventional gasoline containing ethanol;

(ii) reformulated gasoline containing ethanol;

(iii) conventional gasoline containing renewable fuel; and

(iv) reformulated gasoline containing renewable fuel; and

(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—The Administrator may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted

under paragraph (1) is accurate. The Administrator shall rely, to the extent practicable, on existing reporting and recordkeeping requirements to avoid duplicative requirements.

(3) APPLICABLE LAW.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

(e) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Transportation and the Secretary of the Treasury should—

(1) advise Congress on the elimination of the adverse effects that the production and use of renewable fuel, under the amendments made by this section, in Petroleum Administration for Defense Districts II and III may cause; and

(2) ensure that any adverse effects on the Highway Trust Fund allocations to the States located in Petroleum Administration for Defense Districts II and III are minimal.

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**SA 3281.** Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 517 proposed by Mrs. CLINTON to the amendment SA 358 proposed by Mr. JEFFORDS (for himself and Mr. KENNEDY) to the bill (S. 1) to extend programs and activities under the Elementary and Secondary Education Act of 1965; which was ordered to lie on the table; as follows:

At the appropriate place add the following:

**SECTION 1. USE OF NATIONAL GUARD BY THE STATES FOR SECURITY FOR NUCLEAR FACILITIES.**

(a) AVAILABILITY OF APPROPRIATIONS.—Appropriations for the National Guard are available for the payment of the pay and allowances and other expenses of members and units of the National Guard, not in Federal service, that are providing security with respect to nuclear facilities in a State pursuant to orders of the Governor or other appropriate authority of the State.

(b) RELIEF UNDER SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940.—Section 101(1) of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 511(1)) is amended—

(1) in the first sentence—

(A) by striking ''and all'' and inserting ''all''; and

(B) by inserting before the period the following: '', and all members of the National Guard on duty described in the following sentence''; and

(2) in the second sentence, by inserting before the period the following: '', and, in the case of a member of the National Guard, shall include duty, not in Federal service, for the provision of security with respect to nuclear facilities in a State pursuant to orders of the Governor or other appropriate authority of the State''.

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**SA 3282.** Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 188, strike line 10 and all that follows through page 190, line 11, and insert the following:

''(2) RENEWABLE FUEL PROGRAM.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall promulgate regulations ensuring that gasoline sold or dispensed to consumers in the United States in any of calendar years 2004 through 2012, on an annual average basis, contains the applicable volume of renewable fuel as specified in subparagraph (B). Regardless of the date of promulgation, the regulations shall contain compliance provisions for refiners, blenders, distributors and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where renewables can be used, or impose any per-gallon obligation for the use of renewables. If the Administrator does not promulgate such regulations, the applicable percentage, on a volume percentage of gasoline basis, shall be 1.62 in 2004.

''(B) APPLICABLE VOLUME.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2004 through 2012 shall be determined in accordance with the following table:

**Applicable volume of renewable fuel**

| ''Calendar year: | (In billions of gallons) |
|---|---|
| 2004 | 2.3 |
| 2005 | 2.6 |
| 2006 | 2.9 |
| 2007 | 3.2 |
| 2008 | 3.5 |
| 2009 | 3.9 |
| 2010 | 4.3 |
| 2011 | 4.7 |
| 2012 | 5.0.'' |

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**SA 3283.** Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal year 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. . PHASEOUT OF TAX SUBSIDIES FOR ETHANOL FUEL AS MARKET SHARE OF SUCH FUEL INCREASES.**

(a) IN GENERAL.—Not later than December 15 of 2002, and each subsequent calendar year, the Secretary of the Treasury shall determine the percentage increase (if any) of the ethanol fuel market share for the preceding calendar year over the highest ethanol fuel market share for any preceding calendar year and shall, notwithstanding any provision of the Internal Revenue Code of 1986, reduce by the same percentage the ethanol fuel subsidies under sections 40, 4041, 4081, and 4091 of such Code beginning on January 1 of the subsequent calendar year.

(b) ETHANOL FUEL MARKET SHARE.—For purposes of this section, the ethanol fuel market share for any calendar year shall be determined from data of the Energy Information Administration of the Department of Energy.

(c) ETHANOL FUEL.—For purposes of this section, the term ''ethanol fuel'' means any fuel the alcohol in which is ethanol.

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**SA 3284.** Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 216, after line 13, add the following:

**SEC. ___. LANDFILL GAS.**

(a) CREDIT FOR PRODUCING LANDFILL GAS FUEL.—

(1) IN GENERAL.—Section 29, as amended by this Act, is amended by adding at the end the following new subsection:

''(i) EXTENSION FOR FACILITIES PRODUCING LANDFILL GAS.—

''(1) IN GENERAL.—In the case of a facility for producing qualified fuel that is landfill gas which is placed in service during the 3-year period beginning on the date of enactment of this subsection, this section shall apply to fuel produced at such facility during the 10-year period beginning on the date such facility is placed in service.

''(2) MODIFICATION OF INFLATION ADJUSTMENT FACTOR.—In the case of fuel sold by a facility described in paragraph (1), the dollar amount applicable under subsection (a)(1) shall be $3 as adjusted by subsection (b)(2) on the date of the enactment of this subsection. In the case of fuels sold after 2002, subparagraph (B) of subsection (d)(2) shall be applied by substituting '2002' for '1979'.''.

(2) ADDITIONAL DEFINITION.—Section 29(d) is amended by adding at the end the following new paragraph:

''(9) LANDFILL GAS FACILITY.—A facility for producing qualified fuel that is landfill gas, placed in service before, on, or after the date of the enactment of this paragraph, includes all wells, pipes, and other gas collection equipment installed as part of the facility over the life of the landfill, including any modifications or expansions thereof, after the facility is first placed in service.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to fuel sold after the date of the enactment of this Act.

(b) CREDIT FOR PRODUCTION OF ELECTRICITY EXTENDED TO PRODUCTION FROM LANDFILL GAS FUEL.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting '', and'', and by adding at the end the following new subparagraph:

''(H) landfill gas.''.

(2) QUALIFIED FACILITY.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

''(G) LANDFILL GAS FACILITY.—

''(i) IN GENERAL.—In the case of a facility using gas derived from the biodegradation of municipal solid waste to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service by the taxpayer during the 3-year period beginning on the date of the enactment of this subparagraph.

''(ii) MODIFICATION OF INFLATION ADJUSTMENT FACTOR.—In the case of electricity sold by a facility described in clause (i), the amount applicable under subsection (a)(1) shall be 1.5 cents as adjusted by subsection (b)(2) on the date of the enactment of this subparagraph. In the case of electricity sold after 2002, subparagraph (B) of subsection (d)(2) shall be applied by substituting '2002' for '1992'.

''(iii) COORDINATION WITH SECTION 29.—The term 'qualified energy resources' shall not include any landfill gas the production of

which is claimed as a credit under section 29 for the taxable year or any prior taxable year.''

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to electricity sold after the date of the enactment of this Act.

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**SA 3285.** Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 185, between lines 8 and 9, insert the following:

**SEC. 8___. FEDERAL FUEL CELL VEHICLE FLEET PILOT PROGRAM.**

(a) DEFINITIONS.—In this section:

(1) FUEL CELL VEHICLE.—The term ''fuel cell vehicle'' means a vehicle that derives all, or a significant part, of its propulsion energy from 1 or more fuel cells.

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

(b) PROGRAM.—The Secretary shall establish a cost-shared program to purchase, operate, and evaluate fuel cell vehicles in integrated service in Federal fleets to demonstrate the viability of fuel cell vehicles in commercial use in a range of climates, duty cycles, and operating environments.

(c) COOPERATIVE AGREEMENTS.—In carrying out the program, the Secretary may enter into cooperative agreements with Federal agencies and manufacturers of fuel cell vehicles.

(d) COMPONENTS.—The program shall include the following components:

(1) SELECTION OF PILOT FLEET SITES.—

(A) IN GENERAL.—The Secretary shall—

(i) consult with fleet managers of Federal agencies to identify potential fleet sites; and

(ii) select 4 or more Federal fleet sites at which to carry out the program.

(B) CRITERIA.—The criteria for selecting fleet sites shall include—

(i) geographic diversity;

(ii) a wide range of climates, duty cycles, and operating environments;

(iii) the interest and capability of the participating agencies;

(iv) the appropriateness of a site for refueling infrastructure and for maintaining the fuel cell vehicles; and

(v) such other criteria as the Secretary determines to be necessary to the success of the program.

(2) FUELING INFRASTRUCTURE.—

(A) IN GENERAL.—The Secretary shall support the installation of the necessary refueling infrastructure at the fleet sites.

(B) INTEGRATION.—Whenever feasible, the fueling infrastructure—

(i) shall be integrated with stationary fuel cells at the fleet sites; and

(ii) shall be available for use by Federal, State, and local agencies and by the public.

(3) PURCHASE OF FUEL CELL VEHICLES.—The Secretary, in consultation with the participating agencies, shall purchase fuel cell vehicles for the program by competitive bid.

(4) OPERATION AND MAINTENANCE PERIOD.—The fuel cell vehicles shall be operated and maintained by the participating agencies in regular duty cycles for a period of not less than 24 months.

(5) DATA COLLECTION, ANALYSIS, AND DISSEMINATION.—

(A) AGREEMENTS.—The Secretary shall enter into agreements with participating agencies and private sector entities providing for the collection of proprietary and nonproprietary information with the program.

(B) PUBLIC AVAILABILITY.—The Secretary shall make available to all interested persons technical nonproprietary information collected under an agreement under subparagraph (A) and analyses of collected information.

(C) PROPRIETARY INFORMATION.—The Secretary shall not disclose to the public any proprietary information or analyses collected under an agreement under subparagraph (A).

(6) TRAINING AND TECHNICAL SUPPORT.—The Secretary shall provide such training and technical support as fleet managers and fuel cell vehicle operators require to assure the success of the program, including training and technical support in—

(A) the installation, operation, and maintenance of fueling infrastructure;

(B) the operation and maintenance of fuel cell vehicles; and

(C) data collection.

(e) COORDINATION.—The Secretary shall ensure coordination of the program with other Federal fuel cell demonstration programs to improve efficiency, share infrastructure, and avoid duplication of effort.

(f) COST-SHARING.—

(1) NON FEDERAL.—The Secretary shall require a commitment from participating private-sector companies or other non-Federal sources of at least 50% of the cost of the program.

(2) FEDERAL AGENCIES.—The Secretary may require a commitment from participating Federal agencies based on the avoided costs for purchase, operation, and maintenance of traditional vehicles and refueling infrastructure.

(g) REPORTS.—

(1) ANNUAL REPORTS.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report that—

(A) provides an update on the progress of fleet siting and operation;

(B) provides a summary of data collected under subsection (d)(5);

(C) assesses the results of the program; and

(D) recommends any modifications in the program that may be necessary to achieve the purposes of this section.

(2) RECOMMENDATION.—Not later than January 1, 2007, the Secretary shall submit to Congress a report with recommendations for expanding the program to at least 10,000 fuel cell vehicles available for commercial purchase.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $15,000,000 for fiscal year 2003;

(2) $75,000,000 for fiscal year 2004;

(3) $100,000,000 for fiscal year 2005;

(4) $90,000,000 for fiscal year 2006;

(5) $60,000,000 for fiscal year 2007; and

(6) $10,000,000 for fiscal year 2008.

**SEC. 8___. STUDY OF FUEL CELL USE IN FEDERAL BUILDINGS.**

(a) DEFINITIONS.—In this section:

(1) FEDERALLY FUNDED BUILDING.—In this section, the term ''federally funded building'' means a building—

(A)(i) that is owned by the Federal Government; or

(ii) of which more than 20 percent of the cost of construction is paid with Federal funds; and

(B) the design of which is begun after the date of enactment of this Act.

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

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of how to encourage the appropriate use of fuel cells in federally funded buildings.

(2) REQUIREMENTS.—In conducting the study, the Secretary shall—

(A) quantify and determine how to increase the public benefit from fuel cells in federally funded buildings based on the ability of fuels cells to—

(i) improve building energy efficiency;

(ii) operate independent of the electric transmission grid and function as emergency generators required for support of fire and life-safety systems;

(iii)(I) provide high-reliability and high-quality power for critical loads; and

(II) serve as uninterruptible power systems required for computer operations;

(iv) provide operating flexibility;

(v) reduce demand for power from and load on the electric transmission and distribution grid through distributed generation;

(vi) provide—

(I) heat and power for use in buildings; and

(II) hydrogen or oxygen for various uses;

(vii) function in hybrid configurations with renewable power sources; and

(viii) reduce air and noise pollution;

(B) quantify the price of fuel cells, including the potential effects of large Federal purchases on the price of fuel cells;

(C) ascertain appropriate annual targets for the use of fuel cells in federally funded buildings, starting in fiscal year 2005;

(D) identify any modifications needed in—

(i) building specifications;

(ii) building design;

(iii) building codes;

(iv) construction practices; and

(v) building operations; and

(E) identify and evaluate financial and nonfinancial incentives to advance the goals specified in subparagraph (A).

(c) REPORT.—

(1) INITIAL REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study that includes recommendations to Congress and the States for programs to maximize the use of fuel cells in buildings.

(2) REVIEW.—Not later than 18 months after the date of submission of the report under paragraph (1), the Secretary shall—

(A) review the conclusions and implementation of the recommendations; and

(B) submit to Congress a report on any modifications necessitated by technical and policy developments.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

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**SA 3286.** Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNAHAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following:

**DIVISION H—ENERGY TAX INCENTIVES**

**SEC. 1900. SHORT TITLE; ETC.**

(a) SHORT TITLE.—This division may be cited as the ''Energy Tax Incentives Act of 2002''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this division is as follows:



## TITLE XIX—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

### SEC. 1901. 3-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM WIND AND POULTRY WASTE.

(a) IN GENERAL.—Subparagraphs (A) and (C) of section 45(c)(3) (relating to qualified facility), as amended by section 603(a) of the Job Creation and Worker Assistance Act of 2002, are each amended by striking ''January 1, 2004'' and inserting ''January 1, 2007''.

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

### SEC. 1902. CREDIT FOR ELECTRICITY PRODUCED FROM BIOMASS.

(a) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Paragraph (3) of section 45(c) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

''(B) CLOSED-LOOP BIOMASS FACILITY.—

''(i) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—

''(I) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or

''(II) owned by the taxpayer which is originally placed in service before January 1, 1993, and modified to use closed-loop biomass to co-fire with coal before January 1, 2007, as approved under the Biomass Power for Rural Development Programs or under a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

''(ii) SPECIAL RULES.—In the case of a qualified facility described in clause (i)(II)—

''(I) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subclause, and

''(II) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.'', and

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

''(D) BIOMASS FACILITY.—

''(i) IN GENERAL.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2005.

''(ii) SPECIAL RULE FOR POSTEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service after the date of the enactment of this clause, the 3-year period beginning on the date the facility is originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

''(iii) SPECIAL RULES FOR PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service before the date of the enactment of this clause—

''(I) subsection (a)(1) shall be applied by substituting '1.0 cents' for '1.5 cents', and

''(II) the 3-year period beginning after December 31, 2002, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).

''(iv) CREDIT ELIGIBILITY.—In the case of any facility described in clause (i), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.''.

(b) DEFINITION OF BIOMASS.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended—

(A) by striking ''and'' at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting '', and'', and

(C) by adding at the end the following new subparagraph:

''(D) biomass (other than closed-loop biomass).''.

(2) BIOMASS DEFINED.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

''(5) BIOMASS.—The term 'biomass' means any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—

''(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including old-growth timber (other than old-growth timber which has been permitted or contracted for removal by any appropriate Federal authority through the National Environmental Policy Act or by any appropriate State authority),

''(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled, or

''(C) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.''.

(c) COORDINATION WITH SECTION 29.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

''(6) COORDINATION WITH SECTION 29.—The term 'qualified facility' shall not include any facility the production from which is taken into account in determining any credit under section 29 for the taxable year or any prior taxable year.''.

(d) CLERICAL AMENDMENTS.—

(1) The heading for subsection (c) of section 45 is amended by inserting ''AND SPECIAL RULES'' after ''DEFINITIONS''.

(2) The heading for subsection (d) of section 45 is amended by inserting ''ADDITIONAL'' before ''DEFINITIONS''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to electricity sold after the date of the enactment of this Act.

(2) CERTAIN BIOMASS FACILITIES.—With respect to any facility described in section 45(c)(3)(D)(i) of the Internal Revenue Code of 1986, as added by this section, which is placed in service before the date of the enactment of this Act, the amendments made by this section shall apply to electricity sold after December 31, 2002.

**SEC. 1903. CREDIT FOR ELECTRICITY PRODUCED FROM SWINE AND BOVINE WASTE NUTRIENTS, GEOTHERMAL ENERGY, AND SOLAR ENERGY.**

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by adding at the end the following new subparagraphs:

''(E) swine and bovine waste nutrients,

''(F) geothermal energy, and

''(G) solar energy.''.

(2) DEFINITIONS.—Section 45(c) (relating to definitions and special rules), as amended by this Act, is amended by redesignating paragraph (6) as paragraph (8) and by inserting after paragraph (5) the following new paragraphs:

''(6) SWINE AND BOVINE WASTE NUTRIENTS.—The term 'swine and bovine waste nutrients' means swine and bovine manure and litter, including bedding material for the disposition of manure.

''(7) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).''.

(b) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

''(E) SWINE AND BOVINE WASTE NUTRIENTS FACILITY.—In the case of a facility using swine and bovine waste nutrients to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subparagraph and before January 1, 2007.

''(F) GEOTHERMAL OR SOLAR ENERGY FACILITY.—

''(i) IN GENERAL.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this clause and before January 1, 2007.

''(ii) SPECIAL RULE.—In the case of any facility described in clause (i), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).''.

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

**SEC. 1904. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.**

(a) IN GENERAL.—Section 45(d) (relating to additional definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

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

''(A) ALLOWANCE OF CREDIT.—

''(i) IN GENERAL.—Except as otherwise provided in this subsection—

''(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

''(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

''(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

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

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

''(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

''(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

''(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

''(B) TRANSFER OF CREDIT.—

''(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

''(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is claimed once and not reassigned by such other person.

''(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

''(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002.

''(D) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

''(E) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.''.

(b) CREDITS NOT REDUCED BY TAX-EXEMPT BONDS OR CERTAIN OTHER SUBSIDIES.—Section 45(b)(3) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (ii),

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(3) by inserting ''(other than any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002)'' after ''project'' in clause (ii) (as so redesignated),

(4) by adding at the end the following new sentence: ''This paragraph shall not apply with respect to any facility described in subsection (c)(3)(B)(i)(II).'', and

(5) by striking ''TAX-EXEMPT BONDS,'' in the heading and inserting ''CERTAIN''.

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

## TITLE XX—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

**SEC. 2001. ALTERNATIVE MOTOR VEHICLE CREDIT.**

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

**''SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.**

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

''(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

''(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

''(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

''(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

''(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

''(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(2) INCREASE FOR FUEL EFFICIENCY.—

''(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

''(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

''(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

''(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

''(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy,

''(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2000 model year city fuel economy,

''(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2000 model year city fuel economy, and

''(vii) $4,000, if such vehicle achieves at least 300 percent of the 2000 model year city fuel economy.

''(B) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2000

model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

| "If vehicle inertia weight class is: | The 2000 model year city fuel economy is: |
|---|---|
| 1,500 or 1,750 lbs | 43.7 mpg |
| 2,000 lbs | 38.3 mpg |
| 2,250 lbs | 34.1 mpg |
| 2,500 lbs | 30.7 mpg |
| 2,750 lbs | 27.9 mpg |
| 3,000 lbs | 25.6 mpg |
| 3,500 lbs | 22.0 mpg |
| 4,000 lbs | 19.3 mpg |
| 4,500 lbs | 17.2 mpg |
| 5,000 lbs | 15.5 mpg |
| 5,500 lbs | 14.1 mpg |
| 6,000 lbs | 12.9 mpg |
| 6,500 lbs | 11.9 mpg |
| 7,000 to 8,500 lbs | 11.1 mpg. |

''(ii) In the case of a light truck:

| "If vehicle inertia weight class is: | The 2000 model year city fuel economy is: |
|---|---|
| 1,500 or 1,750 lbs | 37.6 mpg |
| 2,000 lbs | 33.7 mpg |
| 2,250 lbs | 30.6 mpg |
| 2,500 lbs | 28.0 mpg |
| 2,750 lbs | 25.9 mpg |
| 3,000 lbs | 24.1 mpg |
| 3,500 lbs | 21.3 mpg |
| 4,000 lbs | 19.0 mpg |
| 4,500 lbs | 17.3 mpg |
| 5,000 lbs | 15.8 mpg |
| 5,500 lbs | 14.6 mpg |
| 6,000 lbs | 13.6 mpg |
| 6,500 lbs | 12.8 mpg |
| 7,000 to 8,500 lbs | 12.0 mpg. |

''(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

''(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

''(B) which, in the case of a passenger automobile or light truck—

''(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

''(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which provides the following percentage of the maximum available power:

| "If percentage of the maximum available power is: | The credit amount is: |
|---|---|
| At least 5 percent but less than 10 percent. | $250 |
| At least 10 percent but less than 20 percent. | $500 |
| At least 20 percent but less than 30 percent. | $750 |
| At least 30 percent | $1,000. |

''(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

''(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

| "If percentage of the maximum available power is: | The credit amount is: |
|---|---|
| At least 20 percent but less than 30 percent. | $1,000 |
| At least 30 percent but less than 40 percent. | $1,750 |
| At least 40 percent but less than 50 percent. | $2,000 |
| At least 50 percent but less than 60 percent. | $2,250 |
| At least 60 percent | $2,500. |

''(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

| "If percentage of the maximum available power is: | The credit amount is: |
|---|---|
| At least 20 percent but less than 30 percent. | $4,000 |
| At least 30 percent but less than 40 percent. | $4,500 |
| At least 40 percent but less than 50 percent. | $5,000 |
| At least 50 percent but less than 60 percent. | $5,500 |
| At least 60 percent | $6,000. |

''(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

| "If percentage of the maximum available power is: | The credit amount is: |
|---|---|
| At least 20 percent but less than 30 percent. | $6,000 |
| At least 30 percent but less than 40 percent. | $7,000 |
| At least 40 percent but less than 50 percent. | $8,000 |
| At least 50 percent but less than 60 percent. | $9,000 |
| At least 60 percent | $10,000. |

''(B) INCREASE FOR FUEL EFFICIENCY.—

''(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

''(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2000 model year city fuel economy,

''(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

''(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

''(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

''(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy, and

''(VI) $3,000, if such vehicle achieves at least 250 percent of the 2000 model year city fuel economy.

''(ii) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2000 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

''(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

''(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

| "If the model year is: | The increased credit amount is: |
|---|---|
| 2002 | $3,500 |
| 2003 | $3,000 |
| 2004 | $2,500 |
| 2005 | $2,000 |
| 2006 | $1,500. |

''(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

| "If the model year is: | The increased credit amount is: |
|---|---|
| 2002 | $9,000 |
| 2003 | $7,750 |
| 2004 | $6,500 |
| 2005 | $5,250 |
| 2006 | $4,000. |

''(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

| "If the model year is: | The increased credit amount is: |
|---|---|
| 2002 | $14,000 |
| 2003 | $12,000 |
| 2004 | $10,000 |
| 2005 | $8,000 |
| 2006 | $6,000. |

''(D) DEFINITIONS.—

''(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

''(ii) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this paragraph, the term 'heavy duty hybrid motor vehicle' means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 10,000 pounds and draws propulsion energy from both of the following onboard sources of stored energy:

''(I) An internal combustion or heat engine using consumable fuel which, for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds a level of not greater than 3.0 grams per brake horsepower–hour of oxides of nitrogen and 0.01 per brake horsepower–hour of particulate matter.

''(II) A rechargeable energy storage system.

''(iii) MAXIMUM AVAILABLE POWER.—

''(I) PASSENGER AUTOMOBILE OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a

standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

''(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

''(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified hybrid motor vehicle' means a motor vehicle—

''(A) which draws propulsion energy from onboard sources of stored energy which are both—

''(i) an internal combustion or heat engine using combustible fuel, and

''(ii) a rechargeable energy storage system,

''(B) which, in the case of a passenger automobile or light truck—

''(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

''(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

''(A) 40 percent, plus

''(B) 30 percent, if such vehicle—

''(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

''(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

''(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

''(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

''(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

''(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(4) QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE DEFINED.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified alternative fuel motor vehicle' means any motor vehicle—

''(i) which is only capable of operating on an alternative fuel,

''(ii) the original use of which commences with the taxpayer,

''(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

''(iv) which is made by a manufacturer.

''(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

''(5) CREDIT FOR MIXED-FUEL VEHICLES.—

''(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

''(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

''(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

''(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

''(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

''(ii) either—

''(I) has received a certificate of conformity under the Clean Air Act, or

''(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

''(iii) the original use of which commences with the taxpayer,

''(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

''(v) which is made by a manufacturer.

''(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

''(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(2) the tentative minimum tax for the taxable year.

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

''(1) CONSUMABLE FUEL.—The term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

''(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

''(3) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.

''(4) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(5) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

''(6) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—

''(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and

''(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(7) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(9) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

''(10) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(11) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(12) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(g) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

''(h) TERMINATION.—This section shall not apply to any property purchased after—

''(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

''(2) in the case of any other property, December 31, 2006.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 30B(f)(5).''.

(2) Section 55(c)(2) is amended by inserting ''30B(e),'' after ''30(b)(3)''.

(3) Section 6501(m) is amended by inserting ''30B(f)(10),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative motor vehicle credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

**SEC. 2002. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.**

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking ''10 percent of''.

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

''(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

''(A) In the case of a vehicle which conforms to the Motor Vehicle Safety Standard 500 prescribed by the Secretary of Transportation, as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002, the lesser of—

''(i) 10 percent of the manufacturer's suggested retail price of the vehicle, or

''(ii) $1,500.

''(B) In the case of a vehicle not described in subparagraph (A) with a gross vehicle weight rating not exceeding 8,500 pounds—

''(i) $3,500, or

''(ii) $6,000, if such vehicle is—

''(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

''(II) capable of a payload capacity of at least 1,000 pounds.

''(C) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

''(D) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

''(E) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.'', and

(B) by redesignating paragraph (3) as paragraph (2).

(3) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) is amended by striking ''section 30(b)(3)(B)'' and inserting ''section 30(b)(2)(B)''.

(3) Section 55(c)(2), as amended by this Act, is amended by striking ''30(b)(3)'' and inserting ''30(b)(2)''.

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) IN GENERAL.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

''(A) which is—

''(i) operated solely by use of a battery or battery pack, or

''(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,''.

(2) LEASED VEHICLES.—Section 30(c)(1)(C) is amended by inserting ''or lease'' after ''use''.

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting **''BATTERY''** after **''QUALIFIED''** each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting ''BATTERY'' after ''QUALIFIED''.

(C) The heading of section 30 is amended by inserting ''**BATTERY**'' after ''**QUALIFIED**''.

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting ''battery'' after ''qualified''.

(E) Section 179A(c)(3) is amended by inserting ''battery'' before ''electric''.

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting ''BATTERY'' before ''ELECTRIC''.

(c) ADDITIONAL SPECIAL RULES.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(7) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

**SEC. 2003. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.**

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

**''SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.**

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

''(c) YEAR CREDIT ALLOWED.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.

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

''(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

''(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

''(2) the tentative minimum tax for the taxable year.

''(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(g) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

''(i) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

''(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(l) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2006.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) to the extent provided in section 30C(f).''.

(2) Section 55(c)(2), as amended by this Act, is amended by inserting ''30C(e),'' after ''30B(e)''.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

''Sec. 30C. Clean-fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

**SEC. 2004. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

**''SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.**

''(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

''(b) DEFINITIONS.—For purposes of this section—

''(1) APPLICABLE AMOUNT.—The term 'applicable amount' means the amount determined in accordance with the following table:

| **''In the case of any taxable year ending in—** | **The applicable amount is—** |
|---|---|
| 2002 and 2003 | 30 cents |
| 2004 | 40 cents |
| 2005 and 2006 | 50 cents. |

''(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

''(3) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

''(4) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

''(5) SOLD AT RETAIL.—

''(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

''(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

''(c) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

''(d) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2006.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the alternative fuel retail sales credit determined under section 40A(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF SECTION 40A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending before January 1, 2002.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

''Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after September 30, 2002, in taxable years ending after such date.

**SEC. 2005. SMALL ETHANOL PRODUCER CREDIT.**

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) (relating to alcohol used as fuel) is amended by adding at the end the following new paragraph:

''(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

''(A) ELECTION TO ALLOCATE.—

''(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

''(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year,

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income, and

''(iii) shall be included in gross income of such patrons for the taxable year in the manner and to the extent provided in section 87.

''(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

''(i) such reduction, over

''(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.''.

(b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking ''30,000,000'' each place it appears and inserting ''60,000,000''.

(2) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) is amended by striking ''subpart D'' and inserting ''subpart D, other than section 40(a)(3),''.

(3) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(A) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 301(b) of the Job Creation and Worker Assistance Act of 2002, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR SMALL ETHANOL PRODUCER CREDIT.—

''(A) IN GENERAL.—In the case of the small ethanol producer credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

''(B) SMALL ETHANOL PRODUCER CREDIT.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).''.

(B) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 301(b)(2) of the Job Creation and Worker Assistance Act of 2002, and subclause (II) of section 38(c)(3)(A)(ii), as added by section 301(b)(1) of such Act, are each amended by inserting ''or the small ethanol producer credit'' after ''employee credit''.

(4) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

**''SEC. 87. ALCOHOL FUEL CREDIT.**

''Gross income includes an amount equal to the sum of—

''(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

''(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).''.

(c) CONFORMING AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

''(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 2006. ALL ALCOHOL FUELS TAXES TRANSFERRED TO HIGHWAY TRUST FUND.**

(a) IN GENERAL.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) is amended—

(1) by adding ''or'' at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(3) by striking subparagraphs (E) and (F).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes imposed after September 30, 2003.

**SEC. 2007. INCREASED FLEXIBILITY IN ALCOHOL FUELS TAX CREDIT.**

(a) ALCOHOL FUELS CREDIT MAY BE TRANSFERRED.—Section 40 (relating to alcohol used as fuel) is amended by adding at the end the following new subsection:

''(i) CREDIT MAY BE TRANSFERRED.—

''(1) IN GENERAL.—A taxpayer may transfer any credit allowable under paragraph (1) or (2) of subsection (a) with respect to alcohol used in the production of ethyl tertiary butyl ether through an assignment to a qualified assignee. Such transfer may be revoked only with the consent of the Secretary.

''(2) QUALIFIED ASSIGNEE.—For purposes of this subsection, the term 'qualified assignee' means any person who—

''(A) is liable for taxes imposed under section 4081,

''(B) is required to register under section 4101, and

''(C) obtains a certificate from the taxpayer described in paragraph (1) which identifies the amount of alcohol used in such production.

''(3) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in paragraph (1) is claimed once and not reassigned by a qualified assignee.''.

(b) ALCOHOL FUELS CREDIT MAY BE TAKEN AGAINST MOTOR FUELS TAX LIABILITY.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 (relating to special provisions applicable to petroleum products) is amended by adding at the end the following new section:

**''SEC. 4104. CREDIT AGAINST MOTOR FUELS TAXES.**

''(a) ELECTION TO USE CREDIT AGAINST MOTOR FUELS TAXES.—There is hereby allowed as a credit against the taxes imposed by section 4081, any credit allowed under paragraph (1) or (2) of section 40(a) with respect to alcohol used in the production of ethyl tertiary butyl ether to the extent—

''(1) such credit is not claimed by the taxpayer or the qualified assignee under section 40(i) as a credit under section 40, and

''(2) the taxpayer or qualified assignee elects to claim such credit under this section.

''(b) ELECTION IRREVOCABLE.—Any election under subsection (a) shall be irrevocable.

''(c) REQUIRED STATEMENT.—Any return claiming a credit pursuant to an election under this section shall be accompanied by a statement that the credit was not, and will not, be claimed on an income tax return.

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to avoid the claiming of double benefits and to prescribe the taxable periods with respect to which the credit may be claimed.''.

(2) CONFORMING AMENDMENT.—Section 40(c) is amended by striking ''or section 4091(c)'' and inserting ''section 4091(c), or section 4104''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

''Sec. 4104. Credit against motor fuels taxes.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on and after the date of the enactment of this Act.

**SEC. 2008. INCENTIVES FOR BIODIESEL.**

(a) CREDIT FOR BIODIESEL USED AS A FUEL.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

**''SEC. 40B. BIODIESEL USED AS FUEL.**

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

''(B) BIODIESEL MIXTURE RATE.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be 1 cent for each whole percentage point (not exceeding 20 percentage points) of biodiesel in such mixture.

''(2) QUALIFIED BIODIESEL MIXTURE.—

''(A) IN GENERAL.—The term 'qualified biodiesel mixture' means a mixture of diesel and biodiesel which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(B) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

''(i) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

''(ii) for the taxable year in which such sale or use occurs.

''(C) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 4041(n) or section 4081(f).

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

''(1) BIODIESEL DEFINED.—

''(A) IN GENERAL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from virgin vegetable oils for use in compressional-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds.

''(B) REGISTRATION REQUIREMENTS.—Such term shall only include a biodiesel which meets—

''(i) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(ii) the requirements of the American Society of Testing and Materials D6751.

''(2) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

''(A) IMPOSITION OF TAX.—If—

''(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates the biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

''(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

''(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

''(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

''(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

''(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.''.

''(f) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2005.''.

(2) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following new paragraph:

''(17) the biodiesel fuels credit determined under section 40B(a).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year beginning before January 1, 2003.''.

(B) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40B(a).''.

(C) Section 6501(m), as amended by this Act, is amended by inserting ''40B(e),'' after ''40(f),''.

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

''Sec. 40B. Biodiesel used as fuel.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) REDUCTION OF MOTOR FUEL EXCISE TAXES ON BIODIESEL MIXTURES.—

(1) IN GENERAL.—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

''(f) BIODIESEL MIXTURES.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—In the case of the removal or entry of a qualified biodiesel mixture, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

''(2) TAX PRIOR TO MIXING.—

''(A) IN GENERAL.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture, the rate of tax under subsection (a) shall be the rate determined under subparagraph (B).

''(B) DETERMINATION OF RATE.—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel which will be in the mixture.

''(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041 is amended by adding at the end the following new subsection:

''(n) BIODIESEL MIXTURES.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40B(b)(2)), the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)).''.

(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) BIODIESEL MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40B(b)(2)) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)) with respect to such fuel.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any fuel sold after December 31, 2002, and before January 1, 2006.

(c) HIGHWAY TRUST FUND HELD HARMLESS.—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts determined by the Secretary of the Treasury to be equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by reason of the amendments made by this section.

## TITLE XXI—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

### SEC. 2101. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.

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

**''SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.**

''(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—

''(A) IN GENERAL.—The credit allowed by this section with respect to a qualifying new home shall not exceed—

''(i) in the case of a 30-percent home, $1,250, and

''(ii) in the case of a 50-percent home, $2,000.

''(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—

''(i) 30-PERCENT HOME.—The term '30-percent home' means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a reference qualifying new home constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code.

''(ii) 50-PERCENT HOME.—The term '50-percent home' means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 50 percent less than such annual level of heating and cooling energy consumption.

''(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a qualifying new home in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that home shall not exceed the amount under clause (i) or (ii) of subparagraph (A) (as the case may be), reduced by the sum of the credits allowed under subsection (a) with respect to the home for all prior taxable years.

''(2) COORDINATION WITH REHABILITATION AND ENERGY CREDITS.—For purposes of this section—

''(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy percentage of energy property (as determined under section 48(a)), and

''(B) expenditures taken into account under either section 47 or 48(a) shall not be taken into account under this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means the person who constructed the qualifying new home, or in the case of a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280), the manufactured home producer of such home.

''(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment which can, individually or in combination with other components, meet the requirements of this section.

''(3) QUALIFYING NEW HOME.—The term 'qualifying new home' means a dwelling—

''(A) located in the United States,

''(B) the construction of which is substantially completed after the date of the enactment of this section, and

''(C) the first use of which after construction is as a principal residence (within the meaning of section 121).

''(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

''(5) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home, and

''(B) exterior windows (including skylights) and doors.

''(6) MANUFACTURED HOME INCLUDED.—The term 'qualifying new home' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(d) CERTIFICATION.—

''(1) METHOD OF CERTIFICATION.—

''(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method or a performance-based method.

''(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection

Agency, develop prescriptive component-based packages that are equivalent in energy performance to properties that qualify under subparagraph (C).

''(C) PERFORMANCE-BASED METHOD.—

''(i) IN GENERAL.—A performance-based method is a method which calculates projected energy usage and cost reductions in the qualifying new home in relation to a reference qualifying new home—

''(I) heated by the same energy source and heating system type, and

''(II) constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code.

''(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

''(2) PROVIDER.—A certification described in subsection (b)(1)(B) shall be provided by—

''(A) in the case of a component-based method, a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

''(B) in the case of a performance-based method, an individual recognized by an organization designated by the Secretary for such purposes.

''(3) FORM.—

''(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner that specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such qualifying new home.

''(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and Solar Heat Gain Coefficient for windows, skylights, and doors, labeled AFUE ratings for furnaces and boilers, labeled HSPF ratings for electric heat pumps, and labeled SEER ratings for air conditioners.

''(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based certification methods, the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

''(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and

''(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.

''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

''(e) TERMINATION.—Subsection (a) shall apply to qualifying new homes purchased during the period beginning on the date of the enactment of this section and ending on December 31, 2007.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following new paragraph:

''(18) the new energy efficient home credit determined under section 45G(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:

''(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45G(a).''.

(d) LIMITATION ON CARRYBACK.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

''(13) NO CARRYBACK OF NEW ENERGY EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year ending on or before the date of the enactment of section 45G.''.

(e) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Subsection (c) of section 196, as amended by this Act, is amended by striking ''and'' at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting '', and'', and by adding after paragraph (11) the following new paragraph:

''(12) the new energy efficient home credit determined under section 45G(a).''.

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

''Sec. 45G. New energy efficient home credit.''.

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

**SEC. 2102. CREDIT FOR ENERGY EFFICIENT APPLIANCES.**

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

**''SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.**

''(a) GENERAL RULE.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the applicable amount determined under subsection (b) with respect to the eligible production of qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.

''(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—For purposes of subsection (a)—

''(1) APPLICABLE AMOUNT.—The applicable amount is—

''(A) $50, in the case of—

''(i) a clothes washer which is manufactured with at least a 1.26 MEF, or

''(ii) a refrigerator which consumes at least 10 percent less kWh per year than the energy conservation standards for refrigerators promulgated by the Department of Energy effective July 1, 2001, and

''(B) $100, in the case of—

''(i) a clothes washer which is manufactured with at least a 1.42 MEF (at least 1.5 MEF for washers produced after 2004), or

''(ii) a refrigerator which consumes at least 15 percent less kWh per year than such energy conservation standards.

''(2) ELIGIBLE PRODUCTION.—

''(A) IN GENERAL.—The eligible production of each category of qualified energy efficient appliances is the excess of—

''(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over

''(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 1999, 2000, and 2001.

''(B) CATEGORIES.—For purposes of subparagraph (A), the categories are—

''(i) clothes washers described in paragraph (1)(A)(i),

''(ii) clothes washers described in paragraph (1)(B)(i),

''(iii) refrigerators described in paragraph (1)(A)(ii), and

''(iv) refrigerators described in paragraph (1)(B)(ii).

''(c) LIMITATION ON MAXIMUM CREDIT.—

''(1) IN GENERAL.—The maximum amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall be—

''(A) $30,000,000 with respect to the credit determined under subsection (b)(1)(A), and

''(B) $30,000,000 with respect to the credit determined under subsection (b)(1)(B).

''(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.

''(3) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.

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

''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—

''(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or

''(B) a refrigerator described in subparagraph (A)(ii) or (B)(ii) of subsection (b)(1).

''(2) CLOTHES WASHER.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.

''(3) REFRIGERATOR.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.

''(4) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).

''(e) SPECIAL RULES.—

''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.

''(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).

''(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).

''(g) TERMINATION.—This section shall not apply—

''(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2004, and

''(2) with respect to all other qualified energy efficient appliances produced after December 31, 2006.''.

(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(14) NO CARRYBACK OF ENERGY EFFICIENT APPLIANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy efficient appliance credit determined under section 45H may be carried to a taxable year ending before January 1, 2003.''.

(c) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following new paragraph:

''(19) the energy efficient appliance credit determined under section 45H(a).''.

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

''Sec. 45H. Energy efficient appliance credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2002, in taxable years ending after such date.

**SEC. 2103. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

**''SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,

''(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,

''(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,

''(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and

''(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed—

''(A) $2,000 for property described in subsection (d)(1),

''(B) $2,000 for property described in subsection (d)(2),

''(C) $1,000 for each kilowatt of capacity of property described in subsection (d)(4),

''(D) $2,000 for property described in subsection (d)(5), and

''(E) for property described in subsection (d)(6)—

''(i) $75 for each electric heat pump water heater,

''(ii) $250 for each electric heat pump,

''(iii) $500 for each natural gas heat pump,

''(iv) $250 for each central air conditioner,

''(v) $75 for each natural gas water heater, and

''(vi) $250 for each geothermal heat pump.

''(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

''(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

''(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

''(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

''(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

''(ii) in the case of the energy efficiency ratio (EER)—

''(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

''(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

''(iii) are in effect at the time of the acquisition of the property.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

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

''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property that uses solar energy to generate electricity for use in such a dwelling unit.

''(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

''(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.

''(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.

''(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.

''(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—

''(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

''(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

''(iii) a natural gas heat pump which has a coefficient of performance of at least 1.25 for heating and of at least 0.70 for cooling,

''(iv) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 12.5,

''(v) a natural gas water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure, and

''(vi) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

''(7) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

''(8) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

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

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

''(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share

(as defined in section 216(b)(3)) of any expenditures of such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.

''(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

''(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

''(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken in to account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

''(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.''.

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c), as added by subsection (a), is amended by striking ''section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)'' and inserting ''subsection (b)(3)''.

(B) Section 23(b)(4)(B) is amended by inserting ''and section 25C'' after ''this section''.

(C) Section 24(b)(3)(B) is amended by striking ''23 and 25B'' and inserting ''23, 25B, and 25C''.

(D) Section 25(e)(1)(C) is amended by inserting ''25C,'' after ''25B,''.

(E) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25C''.

(F) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(G) Section 904(h) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(H) Section 1400C(d) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, is amended by striking ''section 1400C'' and inserting ''sections 25C and 1400C''.

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, is amended by inserting '', 25C,'' after ''sections 23''.

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking ''and'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting '', and'', and by adding at the end the following new paragraph:

''(31) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.''.

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, is amended by inserting ''and section 25C'' after ''this section''.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Residential energy efficient property.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after December 31, 2002, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

**SEC. 2104. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS.**

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:

''(iii) qualified fuel cell property,''.

(b) QUALIFIED FUEL CELL PROPERTY.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) QUALIFIED FUEL CELL PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant which—

''(i) generates at least 1 kilowatt of electricity using an electrochemical process, and

''(ii) has an electricity-only generation efficiency greater than 30 percent.

''(B) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(i) 30 percent of the basis of such property, or

''(ii) $1,000 for each kilowatt of capacity of such property.

''(C) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

''(D) TERMINATION.—Such term shall not include any property placed in service after December 31, 2007.''.

(c) LIMITATION.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

''(A) IN GENERAL.—The energy percentage is—

''(i) in the case of qualified fuel cell property, 30 percent, and

''(ii) in the case of any other energy property, 10 percent.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking ''section 48(a)(4)(C)'' and inserting ''section 48(a)(5)(C)''.

(B) Section 48(a)(1) is amended by inserting ''except as provided in paragraph (4)(B),'' before ''the energy''.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 2105. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new section:

**''SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.**

''(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year an amount equal to the energy efficient commercial building property expenditures made by a taxpayer for the taxable year.

''(b) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

''(1) $2.25, and

''(2) the square footage of the building with respect to which the expenditures are made.

''(c) YEAR DEDUCTION ALLOWED.—The deduction under subsection (a) shall be allowed in the taxable year in which the construction of the building is completed.

''(d) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'energy efficient commercial building property expenditures' means an amount paid or incurred for energy efficient commercial building property installed on or in connection with new construction or reconstruction of property—

''(A) for which depreciation is allowable under section 167,

''(B) which is located in the United States, and

''(C) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and single family housing property which is not within the scope of Standard 90.1–1999 (described in paragraph (2)). Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(2) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'energy efficient commercial building property' means any property which reduces total annual energy and power costs with respect to the

lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1–1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under subparagraph (B) and certified by qualified professionals as provided under paragraph (5).

''(B) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, taking into consideration the provisions of the 2001 California Nonresidential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

''(i) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage.

''(ii) The calculational methodology shall require that compliance be demonstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide that either—

''(I) the expenses taken into account under paragraph (1) shall not occur until the date designs for all energy-using systems of the building are completed,

''(II) the energy performance of all systems and components not yet designed shall be assumed to comply minimally with the requirements of such Standard 90.1–1999, or

''(III) the expenses taken into account under paragraph (1) shall be a fraction of such expenses based on the performance of less than all energy-using systems in accordance with clause (iii).

''(iii) The expenditures in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air conditioning and water heating system, and the lighting system shall be allocated to the appropriate building subsystem based on system-specific energy cost savings targets in regulations promulgated by the Secretary of Energy which are equivalent, using the calculation methodology, to the whole building requirement of 50 percent savings.

''(iv) The calculational methods under this subparagraph need not comply fully with section 11 of such Standard 90.1–1999.

''(v) The calculational methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this subsection regardless of whether the heating source is a gas or oil furnace or an electric heat pump.

''(vi) The calculational methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either such Standard 90.1–1999 or in the 2001 California Nonresidential Alternative Calculation Method Approval Manual, including the following:

''(I) Natural ventilation.

''(II) Evaporative cooling.

''(III) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.

''(IV) Daylighting.

''(V) Designs utilizing semi-conditioned spaces that maintain adequate comfort conditions without air conditioning or without heating.

''(VI) Improved fan system efficiency, including reductions in static pressure.

''(VII) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

''(VIII) The calculational methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance that exceeds typical performance.

''(C) COMPUTER SOFTWARE.—

''(i) IN GENERAL.—Any calculation under this paragraph shall be prepared by qualified computer software.

''(ii) QUALIFIED COMPUTER SOFTWARE.—For purposes of this subparagraph, the term 'qualified computer software' means software—

''(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

''(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this subsection, and

''(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

''(3) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this subsection.

''(4) NOTICE TO OWNER.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

''(5) CERTIFICATION.—

''(A) IN GENERAL.—Except as provided in this paragraph, the Secretary shall prescribe procedures for the inspection and testing for compliance of buildings that are comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

''(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a Home Ratings Systems Organization, a local building code agency, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this section.

''(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with nonprofit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

''(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

''(f) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

''(g) TERMINATION.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with property—

''(1) the plans for which are not certified under subsection (d)(5) on or before December 31, 2007, and

''(2) the construction of which is not completed on or before December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 179B(e).''.

(2) Section 1245(a) is amended by inserting ''179B,'' after ''179A,'' both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence ''or by section 179B''.

(4) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by inserting after subparagraph (H) the following new subparagraph:

''(I) expenditures for which a deduction is allowed under section 179B.''.

(5) Section 312(k)(3)(B) is amended by striking ''or 179A'' each place it appears in the heading and text and inserting '', 179A, or 179B''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new item:

''Sec. 179B. Energy efficient commercial buildings deduction.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after September 30, 2002.

**SEC. 2106. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179B the following new section:

**''SEC. 179C. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.**

''(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services, there shall be allowed as a deduction an amount equal to the cost of each qualified energy management device placed in service during the taxable year.

''(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified energy management device shall not exceed $30.

''(c) QUALIFIED ENERGY MANAGEMENT DEVICE.—The term 'qualified energy management device' means any tangible property to which section 168 applies if such property is a meter or metering device—

''(1) which is acquired and used by the taxpayer to enable consumers to manage their purchase or use of electricity or natural gas in response to energy price and usage signals, and

''(2) which permits reading of energy price and usage signals on at least a daily basis.

''(d) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

''(e) BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

''(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by inserting after subparagraph (I) the following new subparagraph:

''(J) expenditures for which a deduction is allowed under section 179C.''.

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking ''or 179B'' each place it appears in the heading and text and inserting '', 179B, or 179C''.

(3) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting '', and'', and by adding at the end the following new paragraph:

''(33) to the extent provided in section 179C(e)(1).''.

(4) Section 1245(a), as amended by this Act, is amended by inserting ''179C,'' after ''179B,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179B the following new item:

''Sec. 179C. Deduction for qualified new or retrofitted energy management devices.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified energy management devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 2107. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.**

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any qualified energy management device.''.

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

''(15) QUALIFIED ENERGY MANAGEMENT DEVICE.—The term 'qualified energy management device' means any qualified energy management device as defined in section 179C(c) which is placed in service by a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services.''.

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

**SEC. 2108. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.**

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property), as amended by this Act, is amended by striking ''or'' at the end of clause (ii), by adding ''or'' at the end of clause (iii), and by inserting after clause (iii) the following new clause:

''(iv) combined heat and power system property,''.

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this subsection—

''(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

''(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

''(iii) which produces—

''(I) at least 20 percent of its total useful energy in the form of thermal energy, and

''(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(iv) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

''(v) which is placed in service after December 31, 2002, and before January 1, 2007.

''(B) SPECIAL RULES.—

''(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

''(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

''(II) the denominator of which is the lower heating value of the primary fuel source for the system.

''(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a Btu basis.

''(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(iv) PUBLIC UTILITY PROPERTY.—

''(I) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

''(II) CERTAIN EXCEPTION NOT TO APPLY.—The matter following paragraph (3)(D) shall not apply to combined heat and power system property.

''(C) EXTENSION OF DEPRECIATION RECOVERY PERIOD.—If a taxpayer is allowed credit under this section for combined heat and power system property and such property would (but for this subparagraph) have a class life of 15 years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.''.

(c) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

''(15) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(5) may be carried back to a taxable year ending before January 1, 2003.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking ''section 48(a)(5)(C)'' and inserting ''section 48(a)(6)(C)''.

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking ''section 48(a)(5)(C)'' and inserting ''section 48(a)(6)(C)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2002, in taxable years ending after such date.

**SEC. 2109. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.**

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

**''SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.**

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling shall not exceed $300.

''(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of $300 reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all prior taxable years.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for any taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which is certified to meet or exceed the prescriptive criteria for such component in the 2000 International Energy Conservation Code, any energy efficient building envelope component which is described in subsection (f)(4)(B) and is certified by the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

''(1) such component or combination of measures is installed in or on a dwelling—

''(A) located in the United States, and

''(B) owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

''(2) the original use of such component or combination of measures commences with the taxpayer, and

''(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

''(e) CERTIFICATION.—

''(1) METHODS OF CERTIFICATION.—

''(A) COMPONENT-BASED METHOD.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

''(B) PERFORMANCE-BASED METHOD.—

''(i) IN GENERAL.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

''(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

''(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

''(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

''(2) PROVIDER.—A certification described in subsection (d) shall be provided by—

''(A) in the case of the method described in paragraph (1)(A), by a third party, such as a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

''(B) in the case of the method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

''(3) FORM.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

''(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

''(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

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

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling,

''(B) exterior windows (including skylights), and

''(C) exterior doors.

''(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(h) APPLICATION OF SECTION.—Subsection (a) shall apply to qualified energy efficiency improvements installed during the period beginning on the date of the enactment of this section and ending on December 31, 2006.''.

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25D(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25D(c), as added by subsection (a), is amended by striking ''section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)'' and inserting ''subsection (b)(3)''.

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking ''section 25C'' and inserting ''sections 25C and 25D''.

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting ''25D,'' after ''25C,''.

(E) Section 25B(g)(2), as amended by this Act, is amended by striking ''23 and 25C'' and inserting ''23, 25C, and 25D''.

(F) Section 26(a)(1), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(G) Section 904(h), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(H) Section 1400C(d), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting '', 25D,'' after ''sections 25C''.

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting ''25D,'' after ''25C,''.

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking ''and'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ''; and'', and by adding at the end the following new paragraph:

''(34) to the extent provided in section 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D.''.

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking ''section 25C'' and inserting ''sections 25C and 25D''.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

''Sec. 25D. Energy efficiency improvements to existing homes.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after December 31, 2002, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

**TITLE XXII—CLEAN COAL INCENTIVES**

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

**SEC. 2201. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.**

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

**"SEC. 45I. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.**

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

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

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

''(b) APPLICABLE AMOUNT.—

''(1) IN GENERAL.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

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

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

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

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

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

''(B) has a nameplate capacity rating of not more than 300,000 kilowatts,

''(C) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology during the 10-year period beginning on the date of the enactment of this section,

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

''(E) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e).

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

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

''(B) uses coal to produce 75 percent or more of its thermal output as electricity,

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

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

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

''(3) POLLUTION CONTROL REQUIREMENTS.—

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

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

''(I) subparagraph (B), or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(v) relative humidity of 55 percent.

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

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

''(7) INFLATION ADJUSTMENT FACTOR.—

''(A) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2002.

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

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

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

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

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

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

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

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

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

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

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

''(I) a site,

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

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

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

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

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

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

''(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the

availability of regulations and other administrative guidance from the Secretary.''.

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

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

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

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

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

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

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

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

**SEC. 2211. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

''(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

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

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

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

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

''(A) is—

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

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

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

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

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

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

''(A) is placed in service after the date of the enactment of this section and before January 1, 2013, and

''(B) has a design net heat rate of not more than 8,350 (8,750 in the case of units placed in service before 2009).

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

''(A) is placed in service after the date of the enactment of this section and before January 1, 2017, and

''(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013).

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

''(A) is placed in service after the date of the enactment of this section and before January 1, 2017,

''(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013), and

''(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 43.9 percent (39 percent in the case of units placed in service before 2009, and 40.9 percent in the case of units placed in service after 2008 and before 2013).

''(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

''(6) CARBON EMISSION RATE REQUIREMENTS.—

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

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

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

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

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

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

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

''(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2009),

''(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

''(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 1,000 megawatts in the case of units placed in service before 2009 and not more than 1,500 megawatts in the case of units placed in service after 2008 and before 2013), and

''(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250

megawatts in the case of units placed in service before 2009).

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

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

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

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

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

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

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

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

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

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

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

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

''(h) QUALIFIED PROGRESS EXPENDITURES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) TECHNICAL AMENDMENTS.—

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

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

(2) Section 50(a)(4) is amended by striking ''and (2)'' and inserting ''(2), and (6)''.

(3) Section 50(c) is amended by adding at the end the following new paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).

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

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

''(A) In the case of a unit originally placed in service before 2009, if—

| ''The design net heat rate is: | The applicable amount is: For 1st 5 years of such service | The applicable amount is: For 2d 5 years of such service |
|---|---|---|
| Not more than 8,400 | $.0060 | $.0038 |
| More than 8,400 but not more than 8,550 | $.0025 | $.0010 |
| More than 8,550 but less than 8,750 | $.0010 | $.0010. |

''(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

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

''(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

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

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

''(A) In the case of a unit originally placed in service before 2009, if—

| ''The unit design net thermal efficiency (HHV) is: | The applicable amount is: For 1st 5 years of such service | The applicable amount is: For 2d 5 years of such service |
|---|---|---|
| Not less than 40.6 percent | $.0060 | $.0038 |
| Less than 40.6 but not less than 40 percent | $.0025 | $.0010 |
| Less than 40 but not less than 39 percent | $.0010 | $.0010. |

''(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

| ''The unit design net thermal efficiency (HHV) is: | The applicable amount is: For 1st 5 years of such service | The applicable amount is: For 2d 5 years of such service |
|---|---|---|
| Not less than 43.6 percent | $.0105 | $.0090 |
| Less than 43.6 but not less than 42 percent | $.0085 | $.0068 |
| Less than 42 but not less than 40.9 percent | $.0075 | $.0055. |

''(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

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

''(c) INFLATION ADJUSTMENT.—For calendar years after 2003, each amount in paragraphs (1) and (2) of subsection (b) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount

as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

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

''(1) IN GENERAL.—Any term used in this section which is also used in section 45I or 48A shall have the meaning given such term in such section.

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

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting '', plus'', and by adding at the end the following new paragraph:

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

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

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

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

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

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

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

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

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

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

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

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

''(1) ALLOWANCE OF CREDITS.—

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

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

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

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

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

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

''(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

''(vi) the Tennessee Valley Authority.

''(2) TRANSFER OF CREDIT.—

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

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

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

''(3) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of this section.

''(4) USE BY TVA.—

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

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

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

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

''(6) TREATMENT OF UNRELATED PERSONS.—For purposes of this subsection, sales among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(A) shall be treated as sales between unrelated parties.''.

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

## TITLE XXIII—OIL AND GAS PROVISIONS

**SEC. 2301. OIL AND GAS FROM MARGINAL WELLS.**

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

**''SEC. 45K. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.**

''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

''(1) the credit amount, and

''(2) the qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer.

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount is—

''(A) $3 per barrel of qualified crude oil production, and

''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.

''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—

''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—

''(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to

''(ii) $3 ($0.33 for qualified natural gas production).

The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.

''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2002, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '2001' for '1990').

''(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—

''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and

''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.

''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a qualified marginal well.

''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

''(B) PROPORTIONATE REDUCTIONS.—

''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.

''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.

''(3) DEFINITIONS.—

''(A) QUALIFIED MARGINAL WELL.—The term 'qualified marginal well' means a domestic well—

''(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

''(ii) which, during the taxable year—

''(I) has average daily production of not more than 25 barrel equivalents, and

''(II) produces water at a rate not less than 95 percent of total well effluent.

''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).

''(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

''(d) OTHER RULES.—

''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

''(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.

''(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.

''(4) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subsection (c)(3)(A), a marginal well which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified marginal well during such period.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting '', plus'', and by adding at the end the following new paragraph:

''(22) the marginal oil and gas well production credit determined under section 45K(a).''.

(c) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

''(19) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the marginal oil and gas well production credit determined under section 45K may be carried back to a taxable year ending on or before the date of the enactment of section 45K.''.

(d) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking ''There'' and inserting ''At the election of the taxpayer, there''.

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

''Sec. 45K. Credit for producing oil and gas from marginal wells.''.

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

**SEC. 2302. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.**

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by striking ''and'' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

''(ii) any natural gas gathering line, and''.

(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168, as amended by this Act, is amended by adding at the end the following new paragraph:

''(16) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—

''(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, or

''(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—

''(i) a gas processing plant,

''(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,

''(iii) an interconnection with an intrastate transmission pipeline, or

''(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.''.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(i) the following new item:

''(C)(ii) ..... 10''.

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

**SEC. 2303. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179C the following new section:

**''SEC. 179D. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.**

''(a) TREATMENT AS EXPENSE.—

''(1) IN GENERAL.—A small business refiner may elect to treat any qualified capital costs as an expense which is not chargeable to capital account. Any qualified cost which is so treated shall be allowed as a deduction for the taxable year in which the cost is paid or incurred.

''(2) LIMITATION.—

''(A) IN GENERAL.—The aggregate costs which may be taken into account under this subsection for any taxable year may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year.

''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

''(i) IN GENERAL.—Except as provided in clause (ii), the applicable percentage is 75 percent.

''(ii) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily refinery runs for the period described in subsection (b)(2) in excess of 155,000 barrels, the percentage described in clause (i) shall be reduced (not below zero) by the product of such percentage (before the application of this clause) and the ratio of such excess to 50,000 barrels.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CAPITAL COSTS.—The term 'qualified capital costs' means any costs which—

''(A) are otherwise chargeable to capital account, and

''(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirement of the Environmental Protection Agency, as in effect on the date of the enactment of this section, with respect to a facility placed in service by the taxpayer before such date.

''(2) SMALL BUSINESS REFINER.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil, which, within the refinery operations of the business, employs not more than 1,500 employees on any day during such taxable year and whose average daily refinery run for the 1-year period ending on the date of the enactment of this section did not exceed 205,000 barrels.

''(c) COORDINATION WITH OTHER PROVISIONS.—Section 280B shall not apply to amounts which are treated as expenses under this section.

''(d) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting '', or'', and by inserting after subparagraph (J) the following new subparagraph:

''(K) expenditures for which a deduction is allowed under section 179D.''.

(2) Section 263A(c)(3) is amended by inserting ''179C,'' after ''section''.

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking ''or 179C'' each place it appears in the heading and text and inserting '', 179C, or 179D''.

(4) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting '', and'', and by adding at the end the following new paragraph:

''(35) to the extent provided in section 179D(d).''.

(5) Section 1245(a), as amended by this Act, is amended by inserting ''179D,'' after ''179C,'' both places it appears in paragraphs (2)(C) and (3)(C).

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after section 179C the following new item:

''Sec. 179D. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.''.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 2304. ENVIRONMENTAL TAX CREDIT.**

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

**"SEC. 45L. ENVIRONMENTAL TAX CREDIT.**

''(a) IN GENERAL.—For purposes of section 38, the amount of the environmental tax credit determined under this section with respect to any small business refiner for any taxable year is an amount equal to 5 cents for every gallon of 15 parts per million or less sulfur diesel produced at a facility by such small business refiner during such taxable year.

''(b) MAXIMUM CREDIT.—

''(1) IN GENERAL.—For any small business refiner, the aggregate amount determined under subsection (a) for any taxable year with respect to any facility shall not exceed the applicable percentage of the qualified capital costs paid or incurred by such small business refiner with respect to such facility during the applicable period, reduced by the credit allowed under subsection (a) for any preceding year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable percentage is 25 percent.

''(B) REDUCED PERCENTAGE.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 179D(a)(2)(B)(ii).

''(c) DEFINITIONS.—For purposes of this section—

''(1) IN GENERAL.—The terms 'small business refiner' and 'qualified capital costs' have the same meaning as given in section 179D.

''(2) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any facility, the period beginning on the day after the date which is 1 year after the date of the enactment of this section and ending with the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.

''(3) APPLICABLE EPA REGULATIONS.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency, as in effect on the date of the enactment of this section.

''(d) CERTIFICATION.—

''(1) REQUIRED.—Not later than the date which is 30 months after the first day of the first taxable year in which the environmental tax credit is allowed with respect to qualified capital costs paid or incurred with respect to a facility, the small business refiner shall obtain a certification from the Secretary, in consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.

''(2) CONTENTS OF APPLICATION.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.

''(3) REVIEW PERIOD.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.

''(4) STATUTE OF LIMITATIONS.—With respect to the credit allowed under this section—

''(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the review period described in paragraph (3) ends, and

''(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.

''(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

''(f) COOPERATIVE ORGANIZATIONS.—

''(1) APPORTIONMENT OF CREDIT.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) of this section, for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year. Such an election shall be irrevocable for such taxable year.

''(2) TREATMENT OF ORGANIZATIONS AND PATRONS.—

''(A) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.

''(B) PATRONS.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting '', plus'', and by adding at the end the following new paragraph:

''(23) in the case of a small business refiner, the environmental tax credit determined under section 45L(a).''.

(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable), as amended by this Act, is amended by adding after subsection (d) the following new subsection:

''(e) ENVIRONMENTAL TAX CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45L(a).''.

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

''Sec. 45L. Environmental tax credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 2305. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.**

(a) IN GENERAL.—Paragraph (4) of section 613A(d) (relating to certain refiners excluded) is amended to read as follows:

''(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate refinery runs for the taxable year by the number of days in the taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.

**SEC. 2306. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.**

Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production), as amended by section 607(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking ''2004'' and inserting ''2007''.

**SEC. 2307. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

**"SEC. 199. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.**

''A taxpayer shall be entitled to an amortization deduction with respect to any geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such expenses were incurred.''.

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 199. Amortization of geological and geophysical expenditures for domestic oil and gas wells.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2002.

**SEC. 2308. AMORTIZATION OF DELAY RENTAL PAYMENTS.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:

**"SEC. 199A. AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.**

''(a) IN GENERAL.—A taxpayer shall be entitled to an amortization deduction with respect to any delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such payments were incurred.''.

''(b) DELAY RENTAL PAYMENTS.—For purposes of this section, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.''.

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 199A. Amortization of delay rental payments for domestic oil and gas wells.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.

**SEC. 2309. STUDY OF COAL BED METHANE.**

(a) IN GENERAL.—The Secretary of the Treasury shall study the effect of section 29 of the Internal Revenue Code of 1986 on the

production of coal bed methane. Such study shall be made in conjunction with the study to be undertaken by the Secretary of the Interior on the effects of coal bed methane production on surface and water resources, as provided in section 607 of the Energy Policy Act of 2002.

(b) CONTENTS OF STUDY.—The study under subsection (a) shall estimate the total amount of credits under section 29 of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coal bed methane since the date of the enactment of such section 29. Such study shall report the annual value of such credits allowable for coal bed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coal bed methane that has resulted from the enactment of such section 29, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coal bed methane produced annually and in the aggregate since such enactment.

**SEC. 2310. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.**

(a) IN GENERAL.—Section 29 is amended by adding at the end the following new subsection:

''(h) EXTENSION FOR OTHER FACILITIES.—

''(1) OIL AND GAS.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after the date of the enactment of this subsection and before January 1, 2005, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility not later than the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

''(2) FACILITIES PRODUCING REFINED COAL.—

''(A) IN GENERAL.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility not later than the close of the 5-year period beginning on the date such facility is placed in service.

''(B) REFINED COAL.—For purposes of this paragraph, the term 'refined coal' means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.

''(C) COVERED FACILITIES.—

''(i) IN GENERAL.—A facility is described in this subparagraph if such facility produces refined coal using a technology that results in—

''(I) a qualified emission reduction, and

''(II) a qualified enhanced value.

''(ii) QUALIFIED EMISSION REDUCTION.—For purposes of this subparagraph, the term 'qualified emission reduction' means a reduction of at least 20 percent of the emissions of sulfur dioxide and nitrogen oxide released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2002.

''(iii) QUALIFIED ENHANCED VALUE.—For purposes of this subparagraph, the term 'qualified enhanced value' means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.

''(iv) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITIES EXCLUDED.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology facility (as defined in section 48A(b)).

''(3) WELLS PRODUCING VISCOUS OIL.—

''(A) IN GENERAL.—In the case of a well for producing viscous oil which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such well not later than the close of the 3-year period beginning on the date such well is placed in service.

''(B) VISCOUS OIL.—The term ''viscous oil' means heavy oil, as defined in section 613A(c)(6), except that—

''(i) '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, and

''(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.

''(C) WAIVER OF UNRELATED PERSON REQUIREMENT.—In the case of viscous oil, the requirement under subsection (a)(1)(B)(i) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.

''(4) COALMINE METHANE GAS.—

''(A) IN GENERAL.—This section shall apply to coalmine methane gas—

''(i) captured or extracted by the taxpayer after the date of the enactment of this subsection and before January 1, 2005, and

''(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person after the date of the enactment of this subsection and before January 1, 2005.

''(B) COALMINE METHANE GAS.—For purposes of this paragraph, the term 'coalmine methane gas' means any methane gas which is—

''(i) liberated during qualified coal mining operations, or

''(ii) extracted up to 5 years in advance of qualified coal mining operations as part of a specific plan to mine a coal deposit.

''(C) SPECIAL RULE FOR ADVANCED EXTRACTION.—In the case of coalmine methane gas which is captured in advance of qualified coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine methane gas was removed.

''(D) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subparagraphs (B) and (C), coal mining operations which are not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be qualified coal mining operations during such period.

''(5) CREDIT AMOUNT.—In determining the amount of credit allowable under this section solely by reason of this subsection, the dollar amount applicable under subsection (a)(1) shall be $3 (without regard to subsection (b)(2)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold after the date of the enactment of this Act.

**SEC. 2311. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.**

(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and by inserting '', and'', and by adding at the end the following new clause:

''(iv) any natural gas distribution line.''.

(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

''(E)(iv) ..... 20''.

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

## TITLE XXIV—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

**SEC. 2401. ONGOING STUDY AND REPORTS REGARDING TAX ISSUES RESULTING FROM FUTURE RESTRUCTURING DECISIONS.**

(a) ONGOING STUDY.—The Secretary of the Treasury, after consultation with the Federal Energy Regulatory Commission, shall undertake an ongoing study of Federal tax issues resulting from non-tax decisions on the restructuring of the electric industry. In particular, the study shall focus on the effect on tax-exempt bonding authority of public power entities and on corporate restructuring which results from the restructuring of the electric industry.

(b) REGULATORY RELIEF.—In connection with the study described in subsection (a), the Secretary of the Treasury should exercise the Secretary's authority, as appropriate, to modify or suspend regulations that may impede an electric utility company's ability to reorganize its capital stock structure to respond to a competitive marketplace.

(c) REPORTS.—The Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than December 31, 2002, regarding Federal tax issues identified under the study described in subsection (a), and at least annually thereafter, regarding such issues identified since the preceding report. Such reports shall also include such legislative recommendations regarding changes to the private business use rules under subpart A of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 as the Secretary of the Treasury deems necessary. The reports shall continue until such time as the Federal Energy Regulatory Commission has completed the restructuring of the electric industry.

**SEC. 2402. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.**

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER FUNDING PERIOD.—Subsection (b) of section 468A is amended to read as follows:

''(b) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.''.

(b) CLARIFICATION OF TREATMENT OF FUND TRANSFERS.—Subsection (e) of section 468A is amended by adding at the end the following new paragraph:

''(8) TREATMENT OF FUND TRANSFERS.—If, in connection with the transfer of the taxpayer's interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

''(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

''(B) no amount shall be treated as distributed from such Fund, or be includible in gross income, by reason of such transfer.''.

(c) DEDUCTION FOR NUCLEAR DECOMMISSIONING COSTS WHEN PAID.—Paragraph (2) of section 468A(c) is amended to read as follows:

''(2) DEDUCTION OF NUCLEAR DECOMMISSIONING COSTS.—In addition to any deduction under subsection (a), nuclear decommissioning costs paid or incurred by the taxpayer during any taxable year shall constitute ordinary and necessary expenses in carrying on a trade or business under section 162.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

**SEC. 2403. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.**

(a) INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—

(1) IN GENERAL.—Subparagraph (C) of section 501(c)(12) is amended by striking ''or'' at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:

''(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),

''(iii) from any nuclear decommissioning transaction,

''(iv) from any asset exchange or conversion transaction, or

''(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.''.

(2) DEFINITIONS AND SPECIAL RULES.—Paragraph (12) of section 501(c) is amended by adding at the end the following new subparagraphs:

''(E) For purposes of subparagraph (C)(ii)—

''(i) The term 'open access transaction' means any transaction meeting the open access requirements of any of the following subclauses with respect to a mutual or cooperative electric company:

''(I) The provision or sale of transmission service or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.

''(II) The provision or sale of electric energy distribution services or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).

''(III) The delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subclause only if such facility is directly connected to distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclause (II).

''(ii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this subparagraph relating to whether or not such company will join a regional transmission organization.

''(iii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.

''(iv) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.

''(v) For purposes of this subparagraph—

''(I) The term 'transmission facility' means an electric output facility (other than a generation facility) that operates at an electric voltage of 69 kV or greater. To the extent provided in regulations, such term includes any output facility that FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002).

''(II) The term 'regional transmission organization' includes an independent system operator.

''(III) The term 'FERC' means the Federal Energy Regulatory Commission.

''(F) The term 'nuclear decommissioning transaction' means—

''(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,

''(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or

''(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.

''(G) The term 'asset exchange or conversion transaction' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—

''(i) generating, transmitting, distributing, or selling electric energy, or

''(ii) producing, transmitting, distributing, or selling natural gas.''.

(b) TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Paragraph (12) of section 501(c), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

''(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

''(ii) For purposes of clause (i), the term 'load loss transaction' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period does not exceed the load loss mitigation sales limit for such period.

''(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.

''(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—

''(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than

''(II) the megawatt hours of electric energy sold during the base year to such members.

''(v) For purposes of clause (iv)(II), the term 'base year' means—

''(I) the calendar year preceding the start-up year, or

''(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

''(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.

''(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes the date of the enactment of this subparagraph or, if later, at the election of the mutual or cooperative electric company—

''(I) the first year that such electric company offers nondiscriminatory open access, or

''(II) the first year in which at least 10 percent of such electric company's sales are not to members of such electric company.

''(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

''(ix) In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.''.

(c) EXCEPTION FROM UNRELATED BUSINESS TAXABLE INCOME.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

''(18) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.''.

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

''(c) CROSS REFERENCE.—

**''For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).''.**

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

## TITLE XXV—ADDITIONAL PROVISIONS

**SEC. 2501. EXTENSION OF ACCELERATED DEPRECIATION AND WAGE CREDIT BENEFITS ON INDIAN RESERVATIONS.**

(a) SPECIAL RECOVERY PERIOD FOR PROPERTY ON INDIAN RESERVATIONS.—Section 168(j)(8) (relating to termination), as amended by section 613(b) of the Job Creation and Worker Assistance Act of 2002, is amended by striking ''2004'' and inserting ''2005''.

(b) INDIAN EMPLOYMENT CREDIT.—Section 45A(f) (relating to termination), as amended by section 613(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking ''2004'' and inserting ''2005''.

**SEC. 2502. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.**

(a) STUDY.—The Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

(2) the recipients of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government's forgone revenue to the aggregate amount of energy actually conserved and tangible environmental benefits gained as a result of such provisions.

(b) REPORTS.—The Comptroller General of the United States shall report the analysis required under subsection (a) to Congress not later than December 31, 2002, and annually thereafter.

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**SA 3827.** Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 486, between lines 10 and 11, insert the following:

(E) NATIONAL FOREST SYSTEM LAND.—The Secretary of Agriculture consider the use of National Forest System land as sites to demonstrate the feasibility of monitoring programs developed under paragraph (1).

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**SA 3288.** Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 532, between lines 7 and 8, insert the following:

**SEC. 1385. AIR QUALITY FORECASTS AND WARNINGS BY NOAA.**

(a) REQUIREMENT FOR FORECASTS AND WARNINGS.—The Secretary of Commerce shall require the Administrator of the National Oceanic and Atmospheric Administration to issue air quality forecasts and air quality warnings as a mission of that agency.

(b) REGIONAL WARNINGS.—In carrying out subsection (a), the Secretary of Commerce shall establish within the National Oceanic and Atmospheric Administration a program to provide region-oriented forecasts and warnings regarding air quality for each of the following regions of the United States:

(1) The Northeast, composed of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, and West Virginia.

(2) The Southeast, composed of Virginia, North Carolina, South Carolina, Georgia, Alabama, and Florida.

(3) The South, composed of Tennessee, Mississippi, Louisiana, Arkansas, Oklahoma, and Texas.

(4) The Midwest, composed of Minnesota, Wisconsin, Iowa, Missouri, Illinois, Kentucky, Indiana, Ohio, and Michigan.

(5) The High Plains, composed of North Dakota, South Dakota, Nebraska, and Kansas.

(6) The Northwest, composed of Washington, Oregon, Idaho, Montana, and Wyoming.

(7) The Southwest, composed of California, Nevada, Utah, Colorado, Arizona, and New Mexico.

(8) Alaska.

(9) Hawaii.

(c) PRIORITY AREA.—The Secretary shall give the highest priority under the program to providing forecasts and warnings regarding air quality within the New England area of the Northeast.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts authorized to be appropriated in section 1384, there are authorized to be appropriated to the Department of Commerce $5,000,000 for each of fiscal years 2002 through 2005 specifically for carrying out the program required under subsection (b) for the Northeast in accordance with the priority established under subsection (c). In addition, there are authorized to be appropriated such sums as may be necessary under this section.

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**SA 3289.** Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 510, between lines 4 and 5, insert the following:

**SEC. 1348. NEW ENGLAND AIR QUALITY STUDY.**

(a) REQUIREMENT FOR STUDY.—The Secretary of Commerce shall carry out a study of the quality of the air within the New England region of the United States.

(b) PURPOSES.—In carrying out the study, the Secretary shall—

(1) determine and assess the effects of transcontinental air flow on the quality of the air in and around the New England region;

(2) determine and assess the effects of naturally occurring emissions on the quality of the air in the New England region, including the quality of the air in selected localities within the region; and

(3) determine, analyze, and quantify the production of ozone and fine particulate pollution through chemical reactions in the atmosphere within the New England region.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce to carry out the study under this section $3,000,000 for each of fiscal years 2002 through 2006.

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**SA 3290.** Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Title V of the amendment, add the following section:

**SEC. 514. CLARIFICATION OF CERTAIN REGULATORY AUTHORITY REGARDING URANIUM AND THORIUM.**

The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by inserting before the period at the end of section 276(a): '', nor shall any such provision be construed to prohibit or otherwise restrict the authority of any state to regulate, on the basis of radiological hazard, uranium or thorium mill tailings, regardless of origin, that the Commission has determined are outside the statutory authority of the Commission or that the Commission has exempted from regulation by rule''.

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**SA 3291.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 144, line 11, strike '' in subparagraph (B)(i)(II)'' and insert ''in subparagraphs (B)(i)(II) and (C)''.

On page 146, between lines 9 and 10, insert the following:

''(C) EXEMPTION FOR CERTAIN PADDS.—During calendar years 2003 through 2005, subparagraphs (A) and (B) shall not apply to any refiner, blender, or importer located in Petroleum Administration for Defense District I or Petroleum Administration for Defense District V.''.

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**SA 3292.** Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table as follows:

On page 146, between lines 9 and 10, insert the following:

''(C) EXEMPTION FOR CERTAIN PADDS.—During calendar years 2003 through 2005, subparagraphs (A) and (B) shall not apply to any refiner, blender, or importer located in Petroleum Administration for Defense District I or Petroleum Administration for Defense District V.''.

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## PRIVILEGE OF THE FLOOR

Mr. DORGAN. Mr. President, I ask unanimous consent floor privileges be granted to Brandon Hirsch for the remainder of the day.

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

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## ENHANCED BORDER SECURITY AND VISA ENTRY REFORM ACT OF 2002

On April 18, 2002, the Senate amended and passed H.R. 3525, as follows:

*Resolved*, That the bill from the House of Representatives (H.R. 3525) entitled ''An Act to enhance the border security of the United States, and for other purposes.'', do pass with the following amendments:

**(1)**Page 2, line 4, strike out **[**2001**]** and insert: *2002*

**(2)**Page 2, in the table of contents, after the item which reads

''Sec. 203 Commission on interoperable data sharing.''

insert:

*Sec. 204. Personnel management authorities for positions involved in the development and implementation of the interoperable electronic data system (''Chimera system'').*

*Sec. 205. Procurement of equipment and services for the development and implementation of the interoperable electronic data system (''Chimera system'').*

**(3)**Page 2, in the table of contents, strike out

**[**TITLE IV—ADMISSION AND INSPECTION OF ALIENS**]**

and insert:

''TITLE IV—INSPECTION AND ADMISSION OF ALIENS''

(4)Page 2, in the table of contents, after the item which reads

''Sec. 403. Time period for inspections.''

insert:

*Sec. 404. Joint United States-Canada projects for alternative inspections services.*

(5)Page 3, after line 15, insert:

*(3) CHIMERA SYSTEM.—The term ''Chimera system'' means the interoperable electronic data system required to be developed and implemented by section 202(a)(2).*

(6)Page 3, line 16, strike out [(3)] and insert: *(4)*

(7)Page 4, line 15, strike out [(4)] and insert: *(5)*

(8)Page 4, line 19, strike out [(5)] and insert: *(6)*

(9)Page 5, line 4, strike out [(6)] and insert: *(7)*

(10)Page 5, line 16, strike out [2002] and insert: *2003*

(11)Page 6, line 1, strike out [2002] and insert: *2003*

(12)Page 6, strike out lines 17 through 20

(13)Page 6, line 21, strike out [(c)] and insert: *(b)*

(14)Page 7, line 2, after ''pay'' insert: *effective October 1, 2002*

(15)Page 8, line 1, strike out [(d)] and insert: *(c)*

(16)Page 8, line 10, strike out [and]

(17)Page 8, line 21, strike out [(e)] and insert: *(d)*

(18)Page 15, line 11, strike out [one year] and insert: *15 months*

(19)Page 15, line 13, strike out [six months] and insert: *one year*

(20)Page 16, line 12, after ''alien'' insert: *(also known as the ''Chimera system'')*

(21)Page 20, line 13, after ''about'' insert: *the*

(22)Page 21, line 7, after ''of'' insert: *Central*

(23)Page 22, line 2, strike out [in this title] and insert: *in section 202*

(24)Page 22, line 24, strike out [against]

(25)Page 23, after line 14, insert:

***SEC. 204. PERSONNEL MANAGEMENT AUTHORITIES FOR POSITIONS INVOLVED IN THE DEVELOPMENT AND IMPLEMENTATION OF THE INTEROPERABLE ELECTRONIC DATA SYSTEM (''CHIMERA SYSTEM'').***

*(a) IN GENERAL.—Notwithstanding any other provision of law relating to position classification or employee pay or performance, the Attorney General may hire and fix the compensation of necessary scientific, technical, engineering, and other analytical personnel for the purpose of the development and implementation of the interoperable electronic data system described in section 202(a)(2) (also known as the ''Chimera system'').*

*(b) LIMITATION ON RATE OF PAY.—Except as otherwise provided by law, no employee compensated under subsection (a) may be paid at a rate in excess of the rate payable for a position at level III of the Executive Schedule.*

*(c) LIMITATION ON TOTAL CALENDAR YEAR PAYMENTS.—Total payments to employees under any system established under this section shall be subject to the limitation on payments to employees under section 5307 of title 5, United States Code.*

*(d) OPERATING PLAN.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit to the Committee on Appropriations, the Committee on the Judiciary, the Select Committee on Intelligence, and the Committee on Foreign Relations of the Senate and the Committee on Appropriations, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, and the Committee on International Relations of the House of Representatives an operating plan—*

*(1) describing the Attorney General's intended use of the authority under this section; and*

*(2) identifying any provisions of title 5, United States Code, being waived for purposes of the development and implementation of the Chimera system.*

*(e) TERMINATION DATE.—The authority of this section shall terminate upon the implementation of the Chimera system.*

***SEC. 205. PROCUREMENT OF EQUIPMENT AND SERVICES FOR THE DEVELOPMENT AND IMPLEMENTATION OF THE INTEROPERABLE ELECTRONIC DATA SYSTEM (''CHIMERA SYSTEM'').***

*(a) EXEMPTION FROM APPLICABLE FEDERAL ACQUISITION RULES.—*

*(1) IN GENERAL.—Notwithstanding any other provision of law, for the purpose of the development and implementation of the interoperable electronic data system described in section 202(a)(2) (also known as the ''Chimera system''), the Attorney General may use any funds available for the Chimera system to purchase or lease equipment or any related items, or to acquire interim services, without regard to any otherwise applicable Federal acquisition rule, if the Attorney General determines that—*

*(A) there is an exigent need for the equipment, related items, or services in order to support interagency information sharing under this title;*

*(B) the equipment, related items, or services required are not available within the Department of Justice; and*

*(C) adherence to that Federal acquisition rule would—*

*(i) delay the timely acquisition of the equipment, related items, or services; and*

*(ii) adversely affect interagency information sharing under this title.*

*(2) DEFINITION.—In this subsection, the term ''Federal acquisition rule'' means any provision of title III or IX of the Federal Property and Administrative Services Act of 1949, the Office of Federal Procurement Policy Act, the Small Business Act, the Federal Acquisition Regulation, or any other provision of law or regulation that establishes policies, procedures, requirements, conditions, or restrictions for procurements by the head of a department or agency of the Federal Government.*

*(b) NOTIFICATION OF CONGRESSIONAL APPROPRIATIONS COMMITTEES.—The Attorney General shall immediately notify the Committees on Appropriations of the House of Representatives and the Senate in writing of each expenditure under subsection (a), which notification shall include sufficient information to explain the circumstances necessitating the exercise of the authority under that subsection.*

(26)Page 23, line 25, strike out [an alien] and insert: *each alien*

(27)Page 24, line 16, strike out [202(a)(3)(B)] and insert: *202(a)(4)(B)*

(28)Page 25, line 21, strike out [October 26, 2003] and insert: *October 26, 2004*

(29)Page 26, line 2, after ''comparison'' insert: *and authentication*

(30)Page 26, line 5, strike out [each report] and insert: *the report required by that paragraph*

(31)Page 26, lines 12 and 13, strike out [October 26, 2003] and insert: *October 26, 2004*

(32)Page 26, line 15, after ''visas and'' insert: *other*

(33)Page 26, line 18, after ''tablish'' insert: *document authentication standards and*

(34)Page 26, line 19, after ''visas and'' insert: *other*

(35)Page 26, lines 24 and 25, strike out [October 26, 2003] and insert: *October 26, 2004*

(36)Page 27, line 3, after ''comparison'' insert: *and authentication*

(37)Page 27, line 4, after ''visas and'' insert: *other*

(38)Page 27, line 13, strike out [and]

(39)Page 27, line 16, strike out [(c)(1).] and insert: *(c)(1); and*

(40)Page 27, after line 16, insert:

*(iii) can authenticate the document presented to verify identity.*

(41)Page 27, line 22, strike out [202(a)(3)(B)] and insert: *202(a)(4)(B)*

(42)Page 28, line 2, strike out [October 26, 2003] and insert: *October 26, 2004*

(43)Page 28, line 9, strike out all after ''biometric'' down to and including ''identifiers'' in line 10 and insert: *and document authentication identifiers that comply with applicable biometric and document identifying*

(44)Page 28, line 16, strike out [October 26, 2003] and insert: *October 26, 2004*

(45)Page 28, line 17, after ''program'' insert: *under section 217 of the Immigration and Nationality Act*

(46)Page 29, line 4, after ''mission'' insert: *to a foreign country*

(47)Page 29, line 23, strike out [The committee] and insert: *Each committee established under subsection (a)*

(48)Page 30, line 1, strike out [PERIODIC REPORTS] and insert: *PERIODIC REPORTS TO THE SECRETARY OF STATE*

(49)Page 30, line 1, strike out [The committee] and insert: *Each committee established under subsection (a)*

(50)Page 30, line 2, strike out [quarterly] and insert: *monthly*

(51)Page 30, line 5, strike out [quarter] and insert: *month*

(52)Page 30, after line 5, insert:

*(f) REPORTS TO CONGRESS.—The Secretary of State shall submit a report on a quarterly basis to the appropriate committees of Congress on the status of the committees established under subsection (a).*

(53)Page 30, line 6, strike out [(f)] and insert: *(g)*

(54)Page 32, strike out all after line 22 over to and including line 5 on page 33 and insert:

*(a) REPORTING PASSPORT THEFTS.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—*

*(1) by adding at the end of subsection (c)(2) the following new subparagraph:*

*''(D) REPORTING PASSPORT THEFTS.—The government of the country certifies that it reports to the United States Government on a timely basis the theft of blank passports issued by that country.''; and*

*(2) in subsection (c)(5)(A)(i), by striking ''5 years'' and inserting ''2 years''; and*

*(3) by adding at the end of subsection (f) the following new paragraph:*

*''(5) FAILURE TO REPORT PASSPORT THEFTS.—If the Attorney General and the Secretary of State jointly determine that the program country is not reporting the theft of blank passports, as required by subsection (c)(2)(D), the Attorney General shall terminate the designation of the country as a program country.''.*

(55)Page 35, strike out lines 1 and 2 and insert:

***TITLE IV—INSPECTION AND ADMISSION OF ALIENS***

(56)Page 35, line 10, strike out all after ''the'' down to and including ''(a)'' in line 11 and insert: *President*

(57)Page 37, line 2, strike out [(i)] and insert: *(j)*

(58)Page 37, strike out lines 3 and 4 and insert:

*(3) by striking ''SEC. 231.'' and inserting the following:*

*''SEC. 231. (a) ARRIVAL MANIFESTS.—For*

(59)Page 37, lines 9 and 10, strike out [an immigration officer] and insert: *any United States border officer (as defined in subsection (i))*

(60)Page 37, line 19, strike out [an immigration officer] and insert: *any United States border officer (as defined in subsection (i))*

(61)Page 39, line 9, strike out [that] and insert: *that,*

(62)Page 39, lines 9 and 10, strike out [, aircraft, or land carriers] and insert: *or aircraft*

(63)Page 39, line 25, strike out [$300] and insert: *$1,000*

(64) Page 40, line 5, strike out [, aircraft, or land carrier] and insert: *or aircraft*

(65) Page 40, line 16, strike out [prescribe.''.] and insert: *prescribe.*

(66) Page 40, after line 16, insert:

*''(i) UNITED STATES BORDER OFFICER DEFINED.—In this section, the term 'United States border officer' means, with respect to a particular port of entry into the United States, any United States official who is performing duties at that port of entry.''.*

(67) Page 40, line 17, strike out all after ''CARRIERS.—'' down to and including ''the '' the second time it appears in line 18 and insert:

*(1) STUDY.—The*

(68) Page 41, after line 2, insert:

*(2) REPORT.—Not later than two years after the date of enactment of this Act, the President shall submit to Congress a report setting forth the findings of the study conducted under paragraph (1).*

(69) Page 41, after line 22, insert:

***SEC. 404. JOINT UNITED STATES-CANADA PROJECTS FOR ALTERNATIVE INSPECTIONS SERVICES.***

*(a) IN GENERAL.—United States border inspections agencies, including the Immigration and Naturalization Service, acting jointly and under an agreement of cooperation with the Government of Canada, may conduct joint United States-Canada inspections projects on the international border between the two countries. Each such project may provide alternative inspections services and shall undertake to harmonize the criteria for inspections applied by the two countries in implementing those projects.*

*(b) ANNUAL REPORT.—The Attorney General and the Secretary of the Treasury shall prepare and submit annually to Congress a report on the joint United States-Canada inspections projects conducted under subsection (a).*

*(c) EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT AND PAPERWORK REDUCTION ACT.—Subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the ''Administrative Procedure Act'') and chapter 35 of title 44, United States Code (commonly referred to as the ''Paperwork Reduction Act'') shall not apply to fee setting for services and other administrative requirements relating to projects described in subsection (a), except that fees and forms established for such projects shall be published as a notice in the Federal Register.*

(70) Page 48, line 16, strike out [or] and insert: *and*

(71) Page 49, line 4, strike out all after ''COMPLIANCE.—'' down to and including ''reviews'' in line 7 and insert: *Not later than two years after the date of enactment of this Act, and every two years thereafter, the Commissioner of Immigration and Naturalization, in consultation with the Secretary of Education, shall conduct a review*

(72) Page 49, line 22, strike out all after ''REVIEWS.—'' down to and including ''reviews'' in line 23 and insert: *Not later than two years after the date of enactment of this Act, and every two years thereafter, the Secretary of State shall conduct a review*

(73) Page 50, line 16, strike out [(c) EFFECT OF FAILURE TO COMPLY.—Failure] and insert: *(c) EFFECT OF MATERIAL FAILURE TO COMPLY.—Material failure*

(74) Page 50, line 24, strike out all after ''1372),'' over to and including ''be.'' in line 5 on page 51 and insert: *shall result in the suspension for at least one year or termination, at the election of the Commissioner of Immigration and Naturalization, of the institution's approval to receive such students, or result in the suspension for at least one year or termination, at the election of the Secretary of State, of the other entity's designation to sponsor exchange visitor program participants, as the case may be.*

(75) Page 54, lines 24 and 25, strike out [proceeding] and insert: *proceedings*

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 774, 775, and 782 through 787; that the nominations be confirmed; that the motions to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; that any statements relating to the nominations be printed in the Record; and that the Senate return to legislative session, without any intervening action or debate.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF JUSTICE

Debra W. Yang, of California, to be United States Attorney for the Central District of California for a term of four years.

Frank DeArmon Whitney, of North Carolina, to be United States Attorney for the Eastern District of North Carolina for a term of four years.

EXECUTIVE OFFICE OF THE PRESIDENT

Barry D. Crane, of Virginia, to be Deputy Director for Supply Reduction, Office of National Drug Control Policy.

Mary Ann Solberg, of Michigan, to be Deputy Director of National Drug Control Policy.

COAST GUARD

The following named officer for appointment as Chief of Staff of the United States Coast Guard under Title 14, U.S.C., Section 50a:

*To be chief of staff*

Vice Adm. Thad W. Allen, 0000

The following named officer for appointment as Vice Commandant of the United States Coast Guard and to the grade indicated under Title 14, U.S.C., Section 47:

*To be vice admiral*

Rear Adm. Thomas J. Barrett, 0000

The following named officer for appointment as Commander, Atlantic Area of the United States Coast Guard and to the grade indicated under Title 14, U.S.C., Section 50:

*To be vice admiral*

Rear Adm. James D. Hull, 0000

The following named officer for appointment as Commander, Pacific Area of the United States Coast Guard and to the grade indicated under Title 14, U.S.C., Section 50:

*To be vice admiral*

Rear Adm. Terry M. Cross, 0000

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

## DISCHARGE AND REFERRAL—S. 1644

Mr. REID. Mr. President, I ask unanimous consent that S. 1644, the Veterans Memorial Preservation Recognition Act of 2001, be discharged from the Veterans Affairs Committee and that measure then be referred to the Committee on the Judiciary.

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

## ORDERS FOR TUESDAY, APRIL 23, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until tomorrow at 10:30 a.m., Tuesday, April 23; that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and there be a period for morning business until 11:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees; that at 11:30 a.m. the Senate resume consideration of the energy reform bill and vote on cloture on the Daschle-Bingaman substitute amendment; further, that the Senators have until 11 a.m. on Tuesday to file second-degree amendments to the energy reform bill; and that the Senate recess from 12:30 to 2:15 p.m. tomorrow for their weekly party conferences.

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

## ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

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

There being no objection, the Senate, at 4:56 p.m., adjourned until Tuesday, April 23, 2002, at 10:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate April 22, 2002:

DEPARTMENT OF DEFENSE

THOMAS FORREST HALL, OF OKLAHOMA, TO BE AN ASSISTANT SECRETARY OF DEFENSE, VICE DEBORAH ROCHE LEE, RESIGNED.

NATIONAL INSTITUTE FOR LITERACY

MARK G. YUDOF, OF MINNESOTA, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM OF TWO YEARS. (NEW POSITION)

CAROL C. GAMBILL, OF TENNESSEE, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM OF THREE YEARS. (NEW POSITION)

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

MICHAEL F. DUFFY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM OF SIX YEARS EXPIRING AUGUST 30, 2006, VICE JAMES CHARLES RILEY.

DEPARTMENT OF JUSTICE

G. WAYNE PIKE, OF VIRGINIA, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF VIRGINIA FOR THE TERM OF FOUR YEARS, VICE LARRY REED MATTOX, TERM EXPIRED.

THE JUDICIARY

JAMES KNOLL GARDNER, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA, VICE JAN E. DUBOIS, RETIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

*To be rear admiral*

REAR ADM. (LH) VIVIEN S. CREA, 0000
REAR ADM. (LH) ROBERT F. DUNCAN, 0000
REAR ADM. (LH) KEVIN J. ELDRIDGE, 0000
REAR ADM. (LH) THOMAS J. GILMOUR, 0000
REAR ADM. (LH) JEFFREY J. HATHAWAY, 0000
REAR ADM. (LH) CHARLES D. WURSTER, 0000

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIGADIER GENERAL THOMAS P. MAGUIRE JR., 0000

*To be brigadier general*

COLONEL LARITA A. ARAGON, 0000
COLONEL ROBERT B. BAILEY, 0000
COLONEL TOD M. BUNTING, 0000
COLONEL LAWRENCE J. CERFOGLIO, 0000
COLONEL EUGENE R. CHOJNACKI, 0000
COLONEL THORNE A. DAVIS, 0000
COLONEL ALLEN R. DEHNERT, 0000
COLONEL DANA B. DEMAND, 0000
COLONEL R. ANTHONY HAYNES, 0000
COLONEL STANLEY J. JAWORSKI JR., 0000
COLONEL DOUGLAS M. PIERCE, 0000
COLONEL RILEY P. PORTER, 0000
COLONEL RICHARD L. RAYBURN, 0000
COLONEL TIMOTHY R. RUSH, 0000
COLONEL RONALD L. SHULTZ, 0000
COLONEL JOHN M. WHITE, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COL. MICHAEL A. DUNN, 0000
COL. ERIC B. SCHOOMAKER, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JAMES E. CARTWRIGHT, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be admiral*

VICE ADM. WALTER F. DORAN, 0000

## CONFIRMATIONS

Executive nominations confirmed by the Senate April 22, 2002:

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF STAFF OF THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 50A:

*To be chief of staff*

VICE ADM. THAD W. ALLEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE COMMANDANT OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 47:

*To be vice admiral*

REAR ADM. THOMAS J. BARRETT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, ATLANTIC AREA OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 50:

*To be vice admiral*

REAR ADM. JAMES D. HULL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, PACIFIC AREA OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 50:

*To be vice admiral*

REAR ADM. TERRY M. CROSS

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

DEBRA W. YANG, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE CENTRAL DISTRICT OF CALIFORNIA FOR A TERM OF FOUR YEARS.

FRANK DEARMON WHITNEY, OF NORTH CAROLINA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF NORTH CAROLINA FOR A TERM OF FOUR YEARS.

EXECUTIVE OFFICE OF THE PRESIDENT

BARRY D. CRANE, OF VIRGINIA, TO BE DEPUTY DIRECTOR FOR SUPPLY REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY.

MARY ANN SOLBERG, OF MICHIGAN, TO BE DEPUTY DIRECTOR OF NATIONAL DRUG CONTROL POLICY.