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. 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 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. 3177, 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.

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 109, line 5, strike "renewable".

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 5, strike "renewable".

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 12, strike "renewable".

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. 10. 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.

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 the Secretary to 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) owns one or more 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).

"(4) The term ‘long-term’ means for a period of one year or more.

SA 3186. Mr. HAGEL submitted an amendment to a provision proposed by amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) 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:

"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 Act, is primarily responsible for the development of measurement, 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.

(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 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 emissions information; and implementation of the Corporate Average Fuel Economy program under chapter 239 of title 49, United States Code, and the Agency’s role in the ozone transport prevention provisions of the Clean Air Act.

(2) The Department of Transportation and the Environmental Protection Agency, the Department of Agriculture, the Department of Commerce, the Department of Defense, the Environmental Protection Agency, the Department of Energy, the Department of Energy, the Department of Commerce, the Department of Transportation and the Environmental Protection Agency, to enter into a Memorandum of Agreement that will—

(1) recognize and maintain existing statutorily mandated 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 production or consumption of fossil 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 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 emissions information; and implementation of the Corporate Average Fuel Economy program under chapter 239 of title 49, United States Code, and the Agency’s role in the ozone transport prevention provisions of the Clean Air Act.

(2) The Department of Commerce shall be primarily responsible for the development of measurement standards 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 emissions information; and implementation of the Corporate Average Fuel Economy program under chapter 239 of title 49, United States Code, and the Agency’s role in the ozone transport prevention provisions of the Clean Air Act.

(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 be subject to Senate and House 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 National Greenhouse Gas Database.

(b) NATIONAL GREENHOUSE GAS DATABASE.—The database shall consist of a registry of greenhouse gas emissions reductions.
VERIFICATION.—An entity may voluntarily report to the Designated Agency or Agencies, for inclusion in the registry portion of the national GHG program:

(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) in the case of each voluntary report, the quantity of greenhouse gas emissions reductions activities carried out since 1990 and verified according to rules implementing this paragraph 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. 13263(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) forest activities that increase forest carbon stocks or reduce forest carbon emissions;
(G) carbon capture and storage;
(H) energy efficiency improvements; 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—
(A) direct emissions; and
(B) indirect emissions from—
(aa) all outsourced activities, contract manufacturing, wastes transferred from the control of the reporting entity, and other relevant in- stances, 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 reductions in net sequestration.

4. INDEPENDENT THIRD-PARTY VERIFICATION.—A reporting entity may—

(A) provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions; and
(B) account for changes in registration of ownership of emissions reductions resulting from a voluntary private transaction between reporting entities.

5. DATA QUALITY.—The rule promulgated under subsection (a) 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 divestitures), 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 in a readable form, and in the public domain 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 data system is integrated with existing Federal, regional, and state greenhouse gas data collection and reporting systems to the maximum extent practicable and avoid duplication of such efforts.

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 generators) in addition to mass emissions of greenhouse gases.

(B) INTERNATIONAL CONSISTENCY.—The greenhouse gas reduction and sequestration activities (and the methods and systems) verified in the United States and 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 reduction trends and current status; and

(3) describes the atmospheric concentrations of greenhouse gases and tracks such information over time.

SA 3187. Mr. BYRD (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) to authorize 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 printed for the use of the Senate for fiscal years 2002 through 2006, and for other purposes; which was ordered printed for the use of the Senate.
(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 been used or have been used only minimally; (ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution of recovered materials in those cement or concrete projects; and

(ii) 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 notify 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.—[12 U.S.C. 6962] (including the guidelines and specifications for implementing those requirements).

SA 3188. Mr. GRAHAM (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 297 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 the Outer Continental Shelf Eastern Gulf of Mexico; and

SEC. 6. REACQUISITION OF CERTAIN NON-PRODUCING LEASES ON THE OUTER CONTINENTAL SHELF OFF THE COAST OF FLORIDA.

(a) Definitions.—In this section:

1. (QUALIFIED LEASE.—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.  

(2) QUALIFIED LESSEE.—The term "section (c).  

(2) QUALIFIED LESSEE.—The term "section (c).  

(2) QUALIFIED LESSEE.—The term "section (c).  

(3) Secretary.—The term "Secretary" means the Secretary of 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 January 1, 2003 and ending on March 30, 2003, the Secretary shall accept the right 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 qualified 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 financial 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; and

(ii) that the deadline for the submission of the financial information and documentation required under paragraph (A); and

(iii) that the deadline for the submission of the financial information and documentation is March 30, 2008.

(C) A DJUSTMENT FOR INFLATION.—The Secretary shall—

(1) complete a final review of the information and documentation submitted under paragraph (A), (A)(i) and (ii) request any additional information that may be necessary to determine the value of credits to be offered under paragraph (A)(i) and (ii) accept credits that may be necessary to determine the value of credits to be offered under paragraph (A)(i) and (ii) accept credits offered under paragraph (A) to reflect changes in the implicit Gross Domestic Product deflator for the period from the date on which the credits were issued under paragraph (7) to October 1, 2012.

(2) OFFER.—Not later than 90 days after the date on which the Secretary completes the initial review under subparagraph (B), the Secretary shall:

(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. 131 et seq.) and any person that complies with the requirements of paragraph (2)(A) shall be subject to the requirements of this section.

(B) LIMITATIONS.—Credits transferred or sold under subparagraph (A) shall be accepted in accordance with paragraph (8).

(D) NOTIFICATION.—

(1) 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.

(2) EXCEPTUAL.—A qualified lessee that participates in the cancellation of a qualified lease under this Act—

(A) consents to the cancellation of any qualified lease; and

(B) will dismiss any civil or administrative action brought by the qualified lessee to contest the cancellation of the leased oil or gas production area.

(E) 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.

(F) 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.

(G) 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), that qualified lessee shall:

(A) accept the offer of the Secretary under paragraph (5) and

(B) agree to pay the amount of credits determined under paragraph (4) in exchange for the cancellation of the qualified lease.

(H) NOTIFICATION.—The Secretary shall:

(A) issue to the qualified lessee credits in the amount determined under paragraph (4).

(B) ACCEPTANCE OF CREDITS.—

(A) IN GENERAL.—Not later than 60 days after the date on which the Secretary consents to the cancellation of any qualified lease on or after October 1, 2012, the Secretary shall accept credits issued under paragraph (7) in the same manner as rental fees and proceeds 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. 131 et seq.).

(B) EXCEPTION.—The Secretary shall not accept credits under subparagraph (A) for oil or gas production in an area that is within 3 miles of the seaward boundary of a coastal State; and

(ii) that is subject to an administrative or legislative leasing moratorium; or

(ii) to pay rental fees on leases in existence on the date of enactment of this Act.

(3) OFFER.—Not later than 90 days after the date on which the Secretary completes the initial review under subparagraph (B), the Secretary shall:

(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. 131 et seq.).

(B) LIMITATIONS.—Credits transferred or sold under subparagraph (A) shall be accepted in accordance with paragraph (8).

(7) Issuer of Credits.—If, not later than 60 days after the date on which the offer is made 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).
(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 the Federal Government involved in the leasing before the effective date of this Act constitutes a breach of a contract or a taking of property under the Constitution of the United States; or (B) the qualified leases have any particular value.

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. BINGMAN) to the bill (S. 517) to authorize 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:

TITLES—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 SUPERCLEANUP TAX.—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 (a) 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) UNDERGROUND STORAGE TANK RATE.—Subsection 4601(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”;
(2) by striking subsection (e) and inserting the following:
(e) APPLICATION OF TAX.—The tax imposed by this subsection 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 4601(b)(1) 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 subsection (a) shall apply to taxable years beginning after 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 Invention Limitations

SEC. 11. PREVENTION OF EVASION OF UNITED STATES TAXES ON NONLIFE INSURANCE COMPANIES THROUGH USE OF REINSURANCE WITH FOREIGN INSURERS.

(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 REINurers.—Subsection (b) of section 832 is amended to read as follows:
(9) DENIAL OF DEDUCTION UNDER PARAGRAPH (5) 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 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, and
(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 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 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 REINSURER.—The term ‘related reinsurer’ means—
(I) a nominally foreign corporation (referred to in this paragraph 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 (i) 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 substantially all of the properties held by or controlled directly or indirectly by the same interests (within the meaning of section 482) as the person making the premium payment.’’

(c) TECHNICAL AMENDMENTS.—
(1) Section 4601(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.—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 7801(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.

(1) IN GENERAL.—The acquiring corporation in a corporate expatriation transaction shall be treated as a domestic corporation.

(2) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term ‘corporate expatriation transaction’ means—
(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 (i) 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 substantially all of the properties held by or controlled directly or indirectly by the same interests (within the meaning of section 482) as the person making the premium payment.’’

(2) IN GENERAL.—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 REINSURER.—The term ‘related reinsurer’ means—
(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.

(3) 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.

S3026 CONGRESSIONAL RECORD — SENATE April 22, 2002
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:

(1) From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid in advance (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.—Subparagraph (A) of section 832(c)(4) is amended by inserting "or a related insurer," after "related reinsurer,."

(B) Exceptions.—This paragraph shall not apply to any premium to the extent that—

(i) the income attributable to the reinsurance attributable to such premium relates to income which is effectively connected with a United States source attributable to the reinsurance of United States risks;

(ii) the related insurer establishes to the satisfaction of the Secretary that the taxable income (determined in accordance with this section) attributable to such insurance 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 1(h); or

(iii) the related insurer elects 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 income is attributable to the reinsurance of United States risks, and

(iv) the Secretary determines that the related insurer is (or was) subject to income tax imposed by a foreign country at a rate greater than 20 percent of the maximum rate of tax specified in section 1(h).
losses but also undermines voluntary compliance with the Internal Revenue Code of 1986.

(b) Effective Dates.—

(1) In General.—The amendment made by this subtitle to chapter 1 of subtitle A is not to apply to corporate expatriation transactions completed after September 11, 2001.

(2) Special Rule.—The amendment made by this subtitle to chapter 1 of subtitle A is not to 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.

SA 3191. Mr. Graham submitted an amendment intended to be proposed to amendment SA 297 proposed by Mr. Daschle (for himself and Mr. Bingham) 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. 3. CUSTOMS USER FEES.


SA 3192. Mr. Graham submitted an amendment intended to be proposed to amendment SA 297 proposed by Mr. Daschle (for himself and Mr. Bingham) 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 II—CURB TAX ABUSES

Subtitle A—Tax Shelters

SEC. 1. SHORT TITLE.

This subtitle may be cited as the “Abusive Tax Shelter Shutdown Act of 2002”.

SEC. 2. 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 the tax than before.

(2) Permitting aggressive and abusive tax shelters not only results in large revenue

(b) Purpose.—The purpose of this subtitle is to eliminate abusive tax shelters by denying the tax attributes claimed to arise from tax transactions that do not meet a heightened economic substance requirement and by repealing the provision that permits legal opinions justifying those transactions not to be treated as having 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:

(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) A transaction has economic substance only if—

(1) the changes in a meaningful way (apart from Federal income tax effects) the taxpayer’s economic position, and

(2) 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 Opinion to be Used to Avoid Penalties on Tax Underpayments Resulting from Transactions Without Significant Economic Substance or Business Purpose.—

(1) 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

(2) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

(3) Treatment of Fees and Foreign Taxes.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses incurred in pre-tax profit under subparagraph (B)(ii).

(4) 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 economic returns to 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) Arrangements and Basis Adjustments.—The form of a transaction with a tax-indifferent party shall 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.

(c) Treatments of Fees and Foreign Taxes.—

(1) 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.

(2) Treatment of Lessors.—In applying subsection (I) of paragraph (1)(B)(iv) 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 property and subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

(d) 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(2), and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

(e) 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.—

(A) Subsection (a) shall be applied with respect to such portion of the underpayment described in subparagraph (B) for—

(i) 20 percent, and

(ii) subsection (d)(2)(B) and section 6664(c) shall not apply.

(B) 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 6662(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(m)(2), or

(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.

(i) Increase in Penalty in Case of Failure To Satisfy Certain Common Law Rules.—

(A) In General.—To the extent that an underpayment is attributable to a disallowance described in paragraph (2)—

(1) subsection (a) shall be applied with respect to such portion of the underpayment described in subparagraph (B) for—

(i) 20 percent, and

(ii) subsection (d)(2)(B) and section 6664(c) shall not apply.

(B) Disablements Described.—A disablement is described in this subsection if such disablement is on account of—

(A) a lack of economic substance (within the meaning of section 6662(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(m)(2), or

(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.

(i) Increase in Penalty Not to Apply if Compliance with Disclosure Requirements.—Paragraph (1)(A) shall not apply if the taxpayer disclosed 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, an understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of—

(i) 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 if in the cases to which subparagraph (C) of this subsection (d) and by inserting after subparagraph (A) of section 6700(a) is amended—

(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) PENALTY FOR FAILING TO DISCLOSE TAX SHELTER INFORMATION WITH REPORTABLE TRANSACTION.

“(A) IMPOSITION OF PENALTY.—Section 6701(a) (relating to imposition of penalty) is amended to read as follows:

“(a) IMPOSITION OF PENALTY.—

“(1) IN GENERAL.—Any person who fails to include with its return of Federal income tax any information required to be included under section 6662(a) with respect to a portable 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.

“(2) AMOUNT OF PENALTY.—Section 6701(b) (relating to amount of penalty) is amended—

(A) by striking “subsection (a)” each place it appears and inserting “subsection (a)(1)”, and

(B) by striking subsection (c) relating to penalties with respect to agreements offered or entered into with respect to a transaction to which the failure relates and inserting “the proper tax treatment of such items, or

“(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 there is a substantial connection between—

(i) a party to a tax shelter or entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(a)(2), and

“(ii) the greater of $500,000 in the aggregate with respect to any tax shelter, entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6662(a)(2), and

“(B) any penalty imposed by subsection (a)(2).

“(E) TAX AVOIDANCE STRATEGY.—For purposes of this section, a tax avoidance strategy means—

“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(a)(2), the penalty shall be equal to 50 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.”

“(F) PENALTY IMPOSED ON SIMILAR STRATEGIES.—Section 6701(f) is amended by inserting at the end the following new subsection:

“(3) TAX SHELTERS.—In the case of—

“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 were substituted for the more likely than not standard.”

“(b) INCREASE IN PENALTY ON PROMOTING TAX AVOIDANCE STRATEGIES.—

“(1) IMPOSITION OF PENALTY.—Any substantial promoter of a tax avoidance strategy if a penalty is imposed under subsection (a) on such promoter with respect to such strategy.

“(2) AMOUNT OF PENALTY.—The penalty shall be equal to 50 percent of the gross proceeds derived (or to be derived) by such person from such activity.”

SEC. 23. MODIFICATIONS OF PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENTS OF LIABILITY IN VOLVING TAX SHELTERS.

(a) IMPOSITION OF PENALTY.—Section 6701(a) (relating to imposition of penalty) is amended to read as follows:

“(a) IMPOSITION OF PENALTY.—

“(1) IN GENERAL.—Any person—

“(A) who aids or assists in, procures, or advises with respect to the preparation or presentation of a return, affidavit, claim, or other document, or

“(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) a penalty is imposed by subsection (a)(1) or

“(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.”

(b) INCREASE IN PENALTY ON PROMOTING TAX AVOIDANCE STRATEGIES.—

“(1) IMPOSITION OF PENALTY.—Any substantial promoter of a tax avoidance strategy if a penalty is imposed under subsection (a) on such promoter with respect to such strategy.

“(2) AMOUNT OF PENALTY.—The penalty shall be equal to 50 percent of the gross proceeds derived (or to be derived) by such person from such activity.”

(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. 24. FAILURE TO MAINTAIN LISTS.

Section 6701(a)(3) (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended by adding at the end the following new subsection:

“(3) FAILURES and LIMITATIONS.—(A) the list of investors in a tax shelter as required by subsection (d) shall be updated at least annually, and

“(B) the list of investors in a tax shelter as required by subsection (d) shall be maintained for a period of 10 years from the date of the last disclosure of such information to the Secretary.”

SEC. 25. PENALTY FOR FAILURE TO DECLARE 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:

“S 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 a reportable transaction to which the failure relates and the proper tax treatment of such items, or

April 22, 2002 CONGRESSIONAL RECORD — SENATE S3029
("(B) $100,000.

For purposes of subparagraph (A), the last sentence of section 666(a) shall apply.

(2) LISTED TRANSACTION.—If the failure under subsection (a) relates to a reportable transaction which is substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011, paragraph (1) 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 by reason of 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.

(2) 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 6011 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 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 6111(d)(1)(A) of the 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 amendments 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 OR TRANSFER OF BUILT-IN LOSSES.

(a) IN GENERAL.—Section 362 (relating to basis to corporations) is amended by adding at the end the following new item:

“(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 transferee immediately before the time of such transfer,

“(B) gain or loss with respect to such property is subject to tax in the hands of the transferee immediately after such transfer.

“In any case in which the transferee is a partnership, the preceding sentence shall be applied by treating each partner in such partnership as having its proportionate share of the property of such partnership.

“(B) 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 (but for this subsection) exceed the fair market value of such property immediately before such transfer.

“(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—(Paragraph (1) of section 338(b) (relating to liquidation of subsidiary) is amended as follows:

“(1) IN GENERAL.—If property is received by a corporate distributee in a complete liquidation of which section 332 applies (or in a transfer described in section 351(b)), the basis of such property in the hands of such distributee shall be the fair market value of such property immediately before such transfer.

“(2) PROPERTY DESCRIBED.—For purposes of subparagraph (A), the term ‘‘property’’ includes property described in paragraph (1) which is distributed in such liquidation.

“(3) ADJUSTMENT.—Subsection (a) of section 338 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 inserting ‘‘or unless there is a substantial basis reduction’’ after ‘‘section 754 is in effect’’.

(c) EFFECTIVE DATE.—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 (a) 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 by adding after the word ‘‘property’’ the words ‘‘where section 754 election or substantial built-in loss’’.

(2) ADJUSTMENT.—(b) ADJUSTMENT TO BASIS OF UNDISTRIBUTED 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 743 (relating to additional 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 743 is amended by adding ‘‘or unless there is a substantial basis reduction’’ after ‘‘section 754 is in effect’’.

(3) SUBSTANTIAL BASIS REDUCTION.—Section 743 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 (a) exceeds 10 percent of the aggregate adjusted basis of partnership property immediately after the distribution.

(4) CLERICAL AMENDMENTS.—

(A) The section heading for section 743 is amended to read as follows:

“Sec. 743. ADJUSTMENT TO BASIS OF UNDISBURSTED PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTION OR SUBSTANTIAL BUILT-IN LOSS.

(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 743 and inserting the following new item:

“Sec. 743. Adjustment to basis of partnership property where section 754 election or substantial built-in loss.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to transfers 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 transfers after the date of the enactment of this Act.

Subtitle B—Reinsurance
(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))."

The amendment made by this subparagraph shall apply to policies issued during the taxable year beginning after December 31, 2003.

(b) Treatment of reinsurance with related reinsurer.—Subsection (b) of section 832 is amended by adding at the end the following new paragraph:

"(9) Denied of deduction under paragraph (4) for reinsurance of United States 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) Exclusions.—This paragraph shall not apply to any premium to the extent that—

(i) the income attributable to the reinsur- ance 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) a 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 includable 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 risks.—The term ‘United States risks’ 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 as in subparagraph (A) of section 832 as the person making the premium payment.

(e) 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 rein- surance recovered from a related reinsurer to the extent a deduction for the premium paid for the reinsurance was disallowed under paragraph (9)."

(f) 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 reports the bill.

Subtitle C—Corporate Inversions

SEC. 51. SHORT TITLE.

This subtitle may be cited as the ‘Corporate Patriot Enforcement Act of 2002’. 
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, and to encourage new nuclear 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—

"(I) conduct modeling and analyses of, and tests on, designs for nuclear power plants to determine total system behavior and the response of the nuclear power plants to hypothetical accidents; and

"(II) standards for limiting negative health effects;

"(III) 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

"(IV) 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 as 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. 2001) is amended by inserting at the end the following:

"Sec. 277. New nuclear reactor technology program.

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. DASCHEL (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 require by section 801 shall include regulations that apply to passenger and non-passenger automobiles after the 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, after the model year 2006, 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-0363(2002)) to be consumed by light-duty vehicles in 2015 with the regulations required by paragraph (1).

"(3) CONSIDERATION OF ALTERNATIVE FUEL TECHNOLOGIES.—The Secretary of Transportation shall 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) any other emerging technical issue relating to new reactor technologies, as determined by the Commission;

"(C) any 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

"(D) any other emerging technical issue relating to new reactor technologies, as determined by the Commission.

"(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.

"(c) CONTENT.—The report required by paragraph (1) shall explain and assess the progress in reducing oil consumption by automobiles as required by this section.

SA 3199. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHEL (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 5 and 6:

"...reduce oil consumption..."

"(b) require..."
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. 101. 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 section 100, and by inserting the following:

SEC. 101. 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 section 100, and by inserting the following:

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. 102. 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 from material 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 for 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) their further development and expansion of existing energy conservation technologies and processes, and—

(2) actions taken, or proposed to be taken, to remove such barriers.

SA 3203. Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire) submitted an amendment intended to be proposed to amendment SA 3917 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. 101. REPORT ON NUCLEAR SECURITY.

REPORT TO CONGRESS.—Not later than 60 days after the date of enactment of this section, the Nuclear Regulatory Commission shall submit to the relevant committees of Congress on any changes and on-going review of the design basis threat since September 11, 2001.

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 254, after line 18, insert the following:

(6) Small duct, high velocity air conditioners and heat pumps, a niche product with external dimensions 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 paragraphs (e) and (p), prescribe a standard for small duct, high velocity equipment.

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 357, between lines 7 and 8, insert the following:

SEC. 102. 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.

(1) 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 RESPPLIER.—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.

SEC. 103. 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 with respect to the portion of the cost of any property taken into account under section 179.

SEC. 104. BASIS REDUCTION.—

(1) IN GENERAL.—For purposes of this section, 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).

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking “and” at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting “, and”, and by inserting after subparagraph (K) the following new subparagraph:

(2) (C) and (3)(C).

(2) Section 179E(f)(1).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.

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 RESPPLIER.—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.

(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 “, and”, and by inserting after subparagraph (K) the following new subparagraph:

(2) (C) and (3)(C).

(2) Section 179E(f)(1).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.
SEC. 3. 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 (ii) 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(e)(16)(B) (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 subpart shall—

(1) apply to the taxable year beginning after such date.

SA 3206. Mr. TORRICEIlli 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. 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.

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 574, between lines 11 and 12, insert the following:

SEC. 1317. PURPOSE.

The purpose of this part is to establish a comprehensive baseline and a reference case, in order to evaluate the effectiveness of the Federal program and to promote the exchange of such information; and

(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 exchanges.

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.

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.

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 three years commencing on the date of enactment of this Act.

Authorization of Appropriations.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

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 476, between lines 16 and 17, insert the following:

PART I—CARBON SEQUESTRATION RESEARCH, DEMONSTRATION PROJECTS, AND OUTREACH

On page 497, between lines 18 and 19, insert the following:

PART II—FOUNDATIONS FOR A NATIONAL CARBON SEQUESTRATION BASELINE 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 of accounting for increases or decreases, relative to a comprehensive baseline and a reference case, in the level of greenhouse gas emissions and sequestration from the United States.

(B) Maintaining.—The term shall include maintenance of the system.

(C) Access.—The system shall be publicly accessible.

(D) Certification.—The system shall be certified by the Secretary.

(E) National.—The system shall be national in scope.

(F) United States.—The term “United States” means the States and the District of Columbia.

(G) Authority.—The term “authority” means the authority established by this Act.

(H) Federal.—The term “Federal” means the Federal Government.

(I) Laws.—The term “laws” means the laws of the United States.

(J) Regulations.—The term “regulations” means the regulations issued by the Secretary.

(K) Standards.—The term “standards” means the standards established by the Secretary.

(L) Policies.—The term “policies” means the policies established by the Secretary.

(M) Technology.—The term “technology” means any method or process for the capture, transportation, and sequestration of greenhouse gases.

(N) Procedures.—The term “procedures” means the procedures established by the Secretary.

(O) Programmes.—The term “programmes” means the programmes established by the Secretary.

(P) Reporting.—The term “reporting” means the reporting requirements established by the Secretary.

(Q) Reporting Requirements.—The term “reporting requirements” means the reporting requirements established by the Secretary.

(R) Reporting System.—The term “reporting system” means the reporting system established by the Secretary.

(S) Reports.—The term “reports” means the reports required by this Act.

(T) Publications.—The term “publications” means the publications required by this Act.

(U) Publications Requirements.—The term “publications requirements” means the publications requirements established by the Secretary.

(V) Publications System.—The term “publications system” means the publications system established by the Secretary.

(W) Systems.—The term “systems” means the systems established by the Secretary.

(X) Authority.—The term “authority” means the authority established by this Act.

(Y) Federal.—The term “Federal” means the Federal Government.

(Z) Laws.—The term “laws” means the laws of the United States.

AA. Regulations.—The term “regulations” means the regulations issued by the Secretary.

BB. Standards.—The term “standards” means the standards established by the Secretary.

CC. Policies.—The term “policies” means the policies established by the Secretary.

DD. Technology.—The term “technology” means any method or process for the capture, transportation, and sequestration of greenhouse gases.

EE. Procedures.—The term “procedures” means the procedures established by the Secretary.

FF. Programmes.—The term “programmes” means the programmes established by the Secretary.

GG. Reporting.—The term “reporting” means the reporting requirements established by the Secretary.

HH. Reporting Requirements.—The term “reporting requirements” means the reporting requirements established by the Secretary.

II. Reports.—The term “reports” means the reports required by this Act.

JJ. Publications.—The term “publications” means the publications required by this Act.

KK. Publications Requirements.—The term “publications requirements” means the publications requirements established by the Secretary.

LL. Publications System.—The term “publications system” means the publications system established by the Secretary.

MM. Systems.—The term “systems” means the systems established by the Secretary.

NN. Authority.—The term “authority” means the authority established by this Act.

OO. Federal.—The term “Federal” means the Federal Government.

PP. Laws.—The term “laws” means the laws of the United States.

QQ. Regulations.—The term “regulations” means the regulations issued by the Secretary.

RR. Standards.—The term “standards” means the standards established by the Secretary.

SS. Policies.—The term “policies” means the policies established by the Secretary.

TT. Technology.—The term “technology” means any method or process for the capture, transportation, and sequestration of greenhouse gases.

UU. Procedures.—The term “procedures” means the procedures established by the Secretary.

VV. Programmes.—The term “programmes” means the programmes established by the Secretary.

WW. Reporting.—The term “reporting” means the reporting requirements established by the Secretary.

XX. Reporting Requirements.—The term “reporting requirements” means the reporting requirements established by the Secretary.

YY. Reports.—The term “reports” means the reports required by this Act.

ZZ. Publications.—The term “publications” means the publications required by this Act.

AAA. Publications Requirements.—The term “publications requirements” means the publications requirements established by the Secretary.

BBB. Publications System.—The term “publications system” means the publications system established by the Secretary.

CCC. Systems.—The term “systems” means the systems established by the Secretary.
carbon release, carbon sequestration, or carbon storage in biomass and soil (excluding carbon release, carbon sequestration, or carbon storage resulting from the planting and 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 that can be measured and assessed over time.

(2) Baseline.—The term "baseline" means a quantification of carbon storage 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.—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) Inclusion.—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 dioxide 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) 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, shall conduct a study to 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

(b) 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—

(A) assesses and describes options for the design and development of a publicly accessible national baseline and accounting system; and

(ii) summaries 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) 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 developing and validating national baseline and accounting systems that are designed—

(iii) type of management practice;

(A) assesses and describes options for the design and development of a publicly accessible, automated baselines and accounting systems that are designed—

(B) to assess trends; and

(ii) summaries and synthesizes relevant findings of the annual reports submitted under subsection (a).

(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;

(iii) type of management practice;

(A) review relevant information, including information developed under the pilot programs under section 1318;

(a) Grants.—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 developing and validating national baseline and accounting systems that are designed—

(ii) summaries and synthesizes relevant findings of the annual reports submitted under subsection (a).

(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;

(iii) type of management practice;

(A) assesses and describes options for the design and development of a publicly accessible, automated baselines and accounting systems that are designed—

(ii) summaries and synthesizes relevant findings of the annual reports submitted under subsection (a).

(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;

(iii) type of management practice;

(A) assesses and describes options for the design and development of a publicly accessible, automated baselines and accounting systems that are designed—

(ii) summaries and synthesizes relevant findings of the annual reports submitted under subsection (a).

(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;

(iii) type of management practice;

(A) assesses and describes options for the design and development of a publicly accessible, automated baselines and accounting systems that are designed—

(ii) summaries and synthesizes relevant findings of the annual reports submitted under subsection (a).

(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;

(iii) type of management practice;
S3036

CONGRESSIONAL RECORD — SENATE
April 22, 2002

(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 purpose of any existing information that the eligible entity would use to carry out the pilot program;
(B) proposed management of, and access by the public, 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, and ensure communication among Federal, State, and local governmental organizations involved in public and private land management, policy, and practice.

(c) PRIORITY IN FUNDING.—
(I) IN GENERAL.—In selecting pilot programs described in this section, the Secretary shall give priority to pilot programs that have the greatest potential for advancing the purpose of this part.

(2) DETERMINATION.—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, and voluntary incentives adopted or proposed by the eligible entity to encourage legal, financial, and other mechanisms that would create incentives for environmentally beneficial activities and how the entity would use information and carbon storage on public and private land; and
(D) the potential for beneficial environmental, social, and economic results throughout the country to include—
(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 of forests, including through reforestation practices; and
(VII) management of water resources.

(3) GUIDELINES FOR PILOT PROGRAMS.—Not later than 1 year after the date of enactment of this Act, the Secretary, in collaboration with Federal, State, and eligible entities desiring to carry out pilot programs, shall develop guidelines for the pilot programs.

(d) 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—
(I) 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;
(II) the Environmental Protection Agency;
(III) the National Aeronautics and Space Administration; and
(IV) other Federal and State, or private sources of information.

(e) 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 $5,000,000 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.

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. BINGMAN) 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 placed on the Senate calendars on April 22, 2002.

(f) FUEL ECONOMY OF THE FEDERAL FLEET

(1) BASELINE AVERAGE FUEL ECONOMY.—The baseline for each fuel economy standard for fiscal year 2002, the average fuel economy for all of the vehicles in that class that are in the agency’s fleet of vehicles in that fiscal year.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on January 1, 2002.

(g) FUEL ECONOMY STANDARDS FOR AUTOMOBILES.

(1) VEHICLES DEFINED AS AUTOMOBILES.—Section 32901(a)(3) of title 49, United States Code, is amended by striking “is rated at not more than 10,000 pounds gross vehicle weight” and inserting “is rated at not more than 22.5 miles per gallon and all that follows through the end and in paragraphs (1) and (3)” after “automobiles.”

(2) REQUIREMENT FOR INCREASED STANDARD.—Section 32902(a) of title 49, United States Code, is amended—
(A) by inserting “after” the term “automobiles.”
(B) by inserting before the period at the end of the third sentence the following: “, subject to paragraph (2),”

(c) 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—

(I) 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;

(II) the Environmental Protection Agency;

(III) the National Aeronautics and Space Administration; and

(IV) other Federal and State, or private sources of information.

(e) 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 $5,000,000 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.

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. BINGMAN) 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 “after” the term “automobiles.”

(b) by inserting before the period at the end of the third sentence the following: “, subject to paragraph (2),”

(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.—

(a) Paragraph (2) of section 32902(a) of such title does not apply with respect to light trucks manufactured before model year 2002.

(b) FUEL ECONOMY STANDARDS FOR AUTOMOBILES USE 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 not more than 10,000 pounds gross vehicle weight” 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 baseline for each fuel economy standard for 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 use in that class shall be the baseline average fuel economy for the agency’s fleet of vehicles in that class.
SA 3215. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2017 proposed by Mr. DASCHLE (for himself and Mr. BINGA-

MAN) 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 3 and all that follows through page 199, line 17, and insert the following:

shall be 1.62 in 2007.

(b) Applicable volume—

(1) Calendar years 2007 through 2012.—For the purpose of subparagraph (A), the applicable volume for any calendar years 2007 through 2011 as provided in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable Volume (billions of gallons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>3.2</td>
</tr>
<tr>
<td>2008</td>
<td>3.5</td>
</tr>
<tr>
<td>2009</td>
<td>3.9</td>
</tr>
<tr>
<td>2010</td>
<td>4.3</td>
</tr>
<tr>
<td>2011</td>
<td>4.7</td>
</tr>
<tr>
<td>2012</td>
<td>5.0</td>
</tr>
</tbody>
</table>

(ii) Calendar years 2012 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—

(a) 5.0 billion gallons of renewable fuels; bears to

(b) 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 promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirements 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 the determinations referred to in subparagraph (B) are as follows:

(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirements of paragraph (2) is used during any 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) Petitions.—The two periods referred to in this paragraph are—

(i) April through September; and

(ii) November through March and October through December.

(E) Exclusions.—Renewable fuels blended or consumed in 2007 in a state which has received a credit pursuant to subparagraph (A) may not be included in the study in subparagraph (A).

(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 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 WAIVER.—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 for public notice and opportunity for comment and for consideration of the comments submitted.

“(C) TERMINATION OF WAIVERS.—A waiver granted under paragraph (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 after the date of enactment, the Administrator shall make adjustments to account for the finding of the study in addition to other factors.

“(D) APPLICABLE VOLUME.—

“(B) APPLICABLE VOLUME.—

“Beginning on page 189, strike line 3 and all that follows through page 198, line 17, and insert the following:

“Applicable volume of renewable fuel

"Calendar year:  (in billions of gallon)

2008 ............................... 3.5

2009 ............................... 3.9

2010 ............................... 4.3

2011 ............................... 4.7

2012 ............................... 5.0

"(II) STATEMENT OF REQUIREMENTS—For the purpose of subparagraph (A), the applicable volume for any calendar years 2008 through 2012 shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Calendar year:</th>
<th>Applicable volume of renewable fuel</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>(in billions of gallon)</td>
</tr>
<tr>
<td>2009</td>
<td>3.5</td>
</tr>
<tr>
<td>2010</td>
<td>3.9</td>
</tr>
<tr>
<td>2011</td>
<td>4.3</td>
</tr>
<tr>
<td>2012</td>
<td>5.0</td>
</tr>
</tbody>
</table>

"(D) APPLICABLE VOLUME.—

“(I) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2008. Not later than November 30 of each of calendar years 2007 through 2011, the Administrator, after consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of 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.

“(7) PREFERENCES FOR SMALL REFINERS.—

“(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries during the previous year. Based on findings of the study in addition to other factors.

“(B) ECONOMIC HARDSHIP.—

“(I) A small refinery may at any time petition the Administrator for an extension of the requirement provided in paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Agriculture and 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.

“(III) 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 an appropriate amount of credits that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits that is greater than the quantity required under paragraph (2).

“(C) LIFE OF CREDITS.—A credit generated under this subsection shall be valid to be used by the person generating the credit or transferred to another person, for the purposes of complying with the requirements of this section, until the date following the year in which the credit was generated or the next calendar year, or if the credit was generated or the next two consecutive calendar years, if the Administrator determines that the credit is needed to help offset the renewable fuel deficiency of the previous year.

“(2) CREDIT PROGRAM.—

“(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits that is greater than the quantity required under paragraph (2).

“(B) USE OF CREDITS.—A person that generates credits under paragraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purposes of complying with paragraph (2).

“(C) LIFE OF CREDITS.—A credit generated under this subsection shall be valid to be used by the person generating the credit or transferred to another person, for the purposes of complying with the requirements of this section, until the date following the year in which the credit was generated or the next calendar year, or if the credit was generated or the next two consecutive calendar years, if the Administrator determines that the credit is needed to help offset the renewable fuel deficiency of the previous year.

“(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits that is greater than the quantity required under paragraph (2).

“(E) 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 the requirement of this section 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 determines that there is an excessive seasonal variation in the use of renewable fuels, the Administrator may—
Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that the adverse impacts. Within 270 days of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each calendar year; and

’’(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 each of the periods specified in subparagraph (D) of each 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 grants under section 206(b) shall not be included in the study in subparagraph (A).

’’(F) 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 or on a national basis. A State that requests a waiver of the requirement under this section—

’’(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economic interest 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 30 days after the date on which the petition is received; but

’’(ii) may extend that period for up to 60 additional days 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.

’’(D) 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 prices, supply and distribution system capabilities, and any impacts on fuel prices.

’’(E) APPLICABLE PERCENTAGES.—Not later than October 31 of each calendar year, 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 notify the Administrator of the Energy Information Administration that it waives the exemption under this Act, the regulations shall provide for the generation of an appropriate volume of renewable fuel credits under this section.

’’(F) CREDIT PROGRAM.—

’’(A) IN GENERAL.—The regulations promulgated to carry out this subsection 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 for biodiesel fuel.

’’(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 the next calendar year, or

’’(iii) in the calendar year in which the Administrator promulgates regulations under paragraph (6).

’’(G) CONCLUSION.—For purposes of this subsection, the term ‘‘biodiesel fuel’’ means any pure biodiesel fuel."
(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 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 SUPPLY.—

(A) STUDY.—For each of calendar years 2009 through 2012, the Administrator of the Energy Information Administration, based on the study of renewable fuels blending and the determinations specified under subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the renewables requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (B) to avoid any adverse impacts. Within 270 days of such enactment, the Administrator shall, consistent with the recommendations of the Secretary of Energy, in whole or in part, the renewables fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2009, on a national, regional or state basis. Such study shall include an analysis of fuel supply prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Administrator may make specific recommendations to the Secretary regarding waiver of the requirements of paragraph (2), in whole or in part, pertaining to the years in which such waivers would result in significant adverse consumer impacts.

(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the quantity of renewable fuels necessary to meet the renewables requirement under paragraph (2) is used during 1 of the periods specified in subparagraph (A), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the renewables requirement of paragraph (2) has been used during each of the periods specified in subparagraph (A) of each subsequent calendar year.

(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

(i) the 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 (A); 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 208(b) shall not be included in the study required by subparagraph (C).

(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) for the purpose of subparagraph (C) to avoid any adverse impacts.

(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) to avoid any adverse 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 notify a small refinery of its extension request not later than 90 days after the receipt of the petition.

(C) CONCLUSION.—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 subtracting volumes of gasoline sales in the year following such notification.

(D) OPT-IN FOR SMALL REFINERS.—A small refinery may at any time notify the Administrator that it wishes to be included in the study referred to in subparagraph (C).

(E) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing the current seasonality of renewable fuel requirements and the determination of the seasonal blending percentage. Based on such study, the Administrator may make specific recommendations to the Secretary regarding waiver of the requirements of paragraph (2) to avoid any adverse impacts.

(F) CREDIT PROGRAM.—

(A) IN GENERAL.—The regulations promulgating the requirements under paragraph (2) of this section shall carry forward a renewables deficit by reducing the national quantity of renewable fuels required under this subsection in 2010 by 1.62 in 2011.

(B) APPLICABLE PERCENTAGES.—The applicable percentage for any of calendar years 2010 through 2012 shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>4.3</td>
</tr>
<tr>
<td>2011</td>
<td>4.7</td>
</tr>
<tr>
<td>2012</td>
<td>5.0</td>
</tr>
</tbody>
</table>

(C) ALLOCATION OF THE 5.0 BILLION GALLONS OF RENEWABLE FUELS.—For the purpose of subparagraph (A), the applicable percentage for the purpose of subparagraph (A) of this section shall be applied 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.

(D) ALLOCATION OF THE 5.0 BILLION GALLONS OF RENEWABLE FUELS.—For the purpose of subparagraph (A), the applicable percentage for the purpose of subparagraph (A) shall be applied 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 the calendar year.

(E) CREDIT PROGRAM.—

(A) IN GENERAL.—The regulations promulgating the requirements under paragraph (2) of this section shall carry forward a renewables deficit by reducing the national quantity of renewable fuels required under this subsection in 2010 by 1.62 in 2011.

(B) APPLICABLE PERCENTAGES.—The applicable percentage for any of calendar years 2010 through 2012 shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>4.3</td>
</tr>
<tr>
<td>2011</td>
<td>4.7</td>
</tr>
<tr>
<td>2012</td>
<td>5.0</td>
</tr>
</tbody>
</table>

(C) ALLOCATION OF THE 5.0 BILLION GALLONS OF RENEWABLE FUELS.—For the purpose of subparagraph (A), the applicable percentage for the purpose of subparagraph (A) shall be applied 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 the calendar year.

(D) ALLOCATION OF THE 5.0 BILLION GALLONS OF RENEWABLE FUELS.—For the purpose of subparagraph (A), the applicable percentage for the purpose of subparagraph (A) shall be applied 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 the calendar year.

(E) CREDIT PROGRAM.—

(A) IN GENERAL.—The regulations promulgating the requirements under paragraph (2) of this section shall carry forward a renewables deficit by reducing the national quantity of renewable fuels required under this subsection in 2010 by 1.62 in 2011.

(B) APPLICABLE PERCENTAGES.—The applicable percentage for any of calendar years 2010 through 2012 shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>4.3</td>
</tr>
<tr>
<td>2011</td>
<td>4.7</td>
</tr>
<tr>
<td>2012</td>
<td>5.0</td>
</tr>
</tbody>
</table>
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 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) RENEWABLE 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 sufficient credits to meet the requirements under paragraph (2) to carry forward a renewable deficit provided that, in the calendar year following the year in which the renewable deficit was created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewable credits to offset the renewables deficit of the previous year.

"(E) 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 determinations necessary to meet the requirements of paragraph (2) during 1 of the periods specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuel required under 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) the excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

(D) PERIODS.—The two periods referred to in this subsection are—

(i) April through September; and

(ii) January through March and October through December.

(E) OPT-IN FOR SMALL REFINERS.—Renewable fuels blended or consumed in 2010 in a state which has received a waiver under section 208(b) shall not be included in the study in subparagraph (A).

"(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 in 2009. This provision shall be interpreted as limiting the Administrator’s authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7) for small refineries.

"(B) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of paragraph (2) if it notifies the Administrator that it waives the exemption under subparagraph (A).

"(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 paragraph (2) if it notifies the Administrator that it waives the exemption under subparagraph (A).

"(E) STUDY.—Not later than 180 days after the date of enactment, the Administrator 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 fuels 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 requirement 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, with the Secretary of Agriculture and the Secretary of Energy, based on the study submitted under subparagraph (D), submit to 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 fuels supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Administrator shall, consistent with the recommendations of the Secretary of Agriculture and the Secretary of Energy, determine whether to waive the requirements of paragraph (2) in whole, or in part, for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and add the following:

shall be 1.62 in 2011.

(B) APPLICABLE VOLUMES FOR FISCAL YEARS 2011 AND 2012.—For the purpose of subparagraph (A), the applicable volume for any calendar years 2011 and 2012 shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Volume (in billions of gallons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>4.7</td>
</tr>
<tr>
<td>2012</td>
<td>5.0</td>
</tr>
</tbody>
</table>

(C) CALENDAR YEAR 2011 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—

(aaa) 5.0 billion gallons of renewable fuels; bears to

(bbb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

(D) APPLICABLE PERCENTAGES.—Not later than December 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, blender, 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 blend percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall take into account the use of renewable fuels by exempt small refiners during the previous year.

(4) CELLULOSIC BIOMASS ETHANOL.—For the purposes of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

"(A) CREDIT PROGRAM.—

"(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits under subparagraph (A) by refiners, blenders, distributors or importers of gasoline that contains a quantity of renewable fuel that is greater than the quantity of renewable fuel required under paragraph (2). Such regulations shall provide for the transfer or prohibition of credits to ensure that the amount of credits required 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) UNIFORMITY.—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, and
(ii) in the calendar year in which the credit was transferred by the person to another person.

"(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions requiring that, if a refiner, blender, distributor or importer, as appropriate, is unable to purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided for in paragraph (2) for 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 renewable credits to offset the renewables deficit of the previous year.

"(E) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

"(1) STUDY.—For each of calendar years 2011 and 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuel use and price, and determine whether there are excessive seasonal variations in the use of renewable fuels.

"(2) 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 paragraph (6), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirements of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

"(3) 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 period-on-period 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 blends or consumed in 2011 in a state which has received a waiver under section 202(b) shall not be included in the study in subparagraph (A).

"(F) 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 fuels required under this subsection—

(i) based on a determination by the Administrator, after public notice and opportunity for comment, that any reduction 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 receive and act on any petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

(i) 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, in consultation with the Secretary of Agriculture and the Secretary of Energy, if the Secretary waives the requirement under paragraph (2) to avoid any such adverse impacts. Within 270 days after the date of enactment, the Secretary of Agriculture and the Secretary of Energy, in consultation with the State, may modify the waiver or terminate the waiver. Each such modification or termination shall be published in the Federal Register.

"(D) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete a study assessing whether the renewable fuels requirements under paragraph (2) will likely result in significant adverse consumer impacts or severe economic or environmental impacts or effects on small refiners. Based on the findings of the study, the Secretary shall determine whether the renewable fuels requirement under paragraph (2) is likely to result in significant adverse consumer impacts in 2011, on a national, regional or state basis. Such study shall evaluate renewables fuels and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary of Energy shall determine whether the renewable fuels requirement under paragraph (2) is likely to result in significant adverse consumer impacts in 2011, or severe economic or environmental impacts or effects on small refiners. Each such determination shall be published in the Federal Register.

"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. The amendment provides that, on a national basis, any adjustments to the renewable fuels requirement under paragraph (2) would occur only if the Secretary of Energy determines that no adverse economic impacts or severe economic or environmental impacts, or effects on small refiners would result from such adjustments.

"(i) Calendar year: (In billions of gallons)

<table>
<thead>
<tr>
<th>Year</th>
<th>Billion of gallons</th>
</tr>
</thead>
<tbody>
<tr>
<td>2012</td>
<td>0.5</td>
</tr>
<tr>
<td>2013</td>
<td>0.5</td>
</tr>
<tr>
<td>2014</td>
<td>0.5</td>
</tr>
</tbody>
</table>

"(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, by 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 determination of the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refineries during the previous year.

(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

(5) CREDIT PROGRAM.—(A) REGULATIONS.—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 by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

(B) REGULATIONS.—A person that generates credits under subparagraph (A) may use the credits, 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.

(6) 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 prior to that calendar year following the year in which the renewables deficit is created or shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewable credits to offset the renewables deficit in the previous year.

(7) 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 seasonal variations in the use of renewable fuels.

(B) REGULATION OF EXCESSIVE SEASONAL VARIATION.—For calendar year 2013, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C) of this paragraph (7), 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 this subsection.

(8) WAIVERS.—

"(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may, at any time, waive the requirement of paragraph (2) in whole, or in part, under paragraph (7) of this subsection.

(B) ECONOMIC HARDSHIP.—

"(i) A small refinery may at any time petition the Administrator for a hardship exemption

(ii) may extend that period for up to 60 days from the date on which the petition is granted under subparagraph (A) to the date on which the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Agriculture, shall consider the findings of the study in addition to other economic factors.

(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the Administrator may, at any time, waive, in whole or in part, the renewable fuels requirement under paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Agriculture, shall consider the findings of the study in addition to other economic factors.

(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).

(E) DETERMINATIONS.—Not later than 180 days after the date of enactment, the Secretary of Agriculture and 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 include information on the supply and distribution system capabilities. Based on such study, the Administrator 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 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.
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."

SA 3222. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2017 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) 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."

SA 3223. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2017 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) 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 3 and all that follows through page 198, line 17, and insert the following:

"shall be 1.62 in 2006."

"(B) APPLICABLE VOLUME.—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:

"(i) the ratio that—

"(aa) 5.0 billion gallons of renewable fuels; or

"(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012;"

"(ii) the ratio that—

"(aa) 5.0 billion gallons of renewable fuels; or

"(bb) divide the applicable percentage, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refineries during the previous year.

"(4) CREDITS.—The regulations promulgated 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 renewable credits to offset the renewables deficit of the previous year.

"(5) APPLICABLE VOLUME.—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:

"(i) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

"(ii) divide the applicable percentage, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refineries during the previous year.

"(6) CREDIT PROGRAM.—The regulations promulgated 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 renewable credits to offset the renewables deficit of the previous year.

"(7) WAIVERS.—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 one of the periods specified in subparagraph (D) of each subsequent calendar year; and

"(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

"(8) PETITIONS.—The two periods referred to in this paragraph are:

"(i) April through September; and

"(ii) January through March and October through December.

"(9) EXCLUSIONS.—Renewable fuels blended or consumed in 2006 in a state which has received a waiver 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).

"(10) 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 promulgated regulations under subsection (k) before the credit is generated.

"(11) CREDIT PROGRAM.—The regulations promulgated 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 renewable credits to offset the renewables deficit of the previous year.

"(12) CREDITS.—The regulations promulgated 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 renewable credits to offset the renewables deficit of the previous year.
“(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 by notification by a State or the United 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 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) LIMITATION 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 paragraph (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.

“(D) 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 requirements 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, in consultation 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—

SA 3225. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2017 proposed by Mr. DASCHE (for himself and Mr. BINGMAN) 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 thereto on page 198, line 17, and insert the following:

“shall be 1.62 in 2005.

“(1) APPLICABLE VOLUME.

“(1) CALENDAR YEARS 2005 THROUGH 2012.—For the purpose of paragraph (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

“(H) ECONOMIC HARDSHIP.—

“(1) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirements 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.

“(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, the Administrator and the Secretary of Energy shall complete for the Administrator an estimate of the volume of gasoline sold or imported into the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each calendar year, through 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 consider as a single application 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 refineries during the previous year.

“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.

“(D) 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 by the small refinery beginning in the year following such notification.

“(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may sell or transfer the credits to another person, for the purpose of complying with paragraph (2).

“(C) LIFE OF CREDITS.—A credit generated under subparagraph (A) 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 the next calendar year, or

“(iii) in a calendar year after the calendar year in which the credit is generated.

“(E) INABILITY TO GENERATE CREDIT.

“(F) INABILITY TO PURCHASE CREDIT.

“(G) INABILITY TO MEET REQUIREMENT.

“(H) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.

“(I) 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), determines that the renewables requirement under subparagraph (D) of the calendar year; and

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 to interfere with the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

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 2003 to 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:


(f) Reporting to Congress—Any amendment to the law, all Federal land within the boundary of Finger Lakes National Forest in the State of New York is withdrawn from—

(1) mineral leasing, reclamation, or disposal under the public land laws;

(2) location, entry, and patent under the mining laws;

(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’’ (42 U.S.C. 6250 b(i)));

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:

At the end of Title VI, insert the following:

SEC. 616. Northwest Home Heating Oil Re-Serve.

Section 6250b(b)(1) of the Energy and Conservation Policy Act (42 U.S.C. 6250b(b)(1)) is amended by inserting after ‘‘mid-October through March’’ the words ‘‘mid-October through March’’.

SA 3229. 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. 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 Administration, 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, 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) and describing 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.

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 the Secretary 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 #990) is amended by striking the following subparagraph (D), renumbering “(D)” as “(E)” and inserting the following:

“(D) to provide 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 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 reemployment of employees whose employment is ended or who are laid off; and (vi) paid training or retraining programs, that the Commission concludes in its discretion would reasonably protect the interests of employees affected by the proposed transaction; and”.

SA 3320. 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 may authorize the issuance of one or more bonds of the Bonneville Power Administration to promote the development of the Columbia River Basin.

“(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 one time—

“(A) to provide funds to assist in financing the construction, improvement, 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.).”.

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 the Secretary 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 332 and insert the following:

TITLE XIII—CLIMATE CHANGE SCIENCE AND TECHNOLOGY

Subtitle A—Department of Energy Programs

Subsection A—Department of Energy Global Climate Change Research

(a) PROGRAM DIRECTION.—The Secretary, acting through the Office of Science, shall conduct a comprehensive research program to understand 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 to—

(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 new 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. The emphasis shall be on integrating 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;

(4) $225,000,000 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; and

“(B) remove and sequester greenhouse gases from emissions streams; and

“(C) reduce 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 “subsections (1) through (4)”;

(B) in paragraph (3)—

(i) in subparagraph (A), by striking “and”; and

(ii) in subparagraph (S), by striking the period at the end and inserting “; and”;

(C) 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; and

“(ii) advanced fossil energy technology; and

“(iii) advanced nuclear energy technologies; and

“(iv) fuel cell technologies for residential, industrial and transportation applications; and

“(v) carbon sequestration and technologies, including agricultural and forestry practices that store and sequester carbon; and

“(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

and fund other Federal agencies in developing and conducting research and demonstration projects that address soil carbon fluxes (losses and gains)
and net emissions of methane and nitrous oxide from cultivation and animal management activities.

(3) COOPERATIVE STATE RESEARCH, EXTEN-
SION, AND EDUCATION SERVICE.—
(A) IN GENERAL.—The Secretary of Agri-
culture, 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 National Resources Conservation Service and other Federal agencies.
(C) 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 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 base-
lines for measuring the quantities of carbon and other greenhouse gases sequestered and;
(C) evaluate leakage and performance issues.

(2) REQUIREMENTS.—To the maximum ex-
tent 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 ENVIRONMENT-
AL IMPACTS.—All applied research under paragraphs (1) and (2) shall be conducted with an empha-
sis on minimizing adverse environmental impacts.

(4) NATIONAL RESOURCES CONSERVA-
TION SERVICE.—The Secretary of Agriculture, acting through the Natural Resources Conser-
vation Service, shall collaborate with other Federal agencies, including the National Institute of Standards and Tech-
ology, in developing new measuring tech-
niques and equipment or adapting existing techniques and equipment to enable cost-effec-
tive and accurate monitoring and verification, for a wide range of agricultural and forestry practices, of—
(A) changes in soil carbon content in agri-
cultural soils, plants, and trees; and
(B) net emissions of other greenhouse gases.

(5) COOPERATIVE STATE RESEARCH, EXTEN-
SION, AND EDUCATION SERVICE.—
(A) IN GENERAL.—The Secretary of Agri-
culture, 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 ap-
plied research under paragraph (1), the Coop-
erative State Research, Extension, and Edu-
cation Service shall consult with the Na-
tional Resources Conservation Service and the Agricultural Research Service to ensure that proposed research areas are complement-
ary with and do not duplicate research projects underway at the Agricultural Research Service and other Federal agencies.
(c) RESEARCH CONSORTIA.—
(1) IN GENERAL.—The Secretary of Agri-
culture may designate not more than two re-
sources research consortia for the purpose of combining existing research projects under this section, with the require-
ment that the consortia propose to conduct basic research under subsection (a) and ap-
plied research under subsection (b).
(2) SELECTION.—The consortia shall be se-
lected in a competitive manner by the Coopera-
tive State Research, Extension, and Edu-
cation Service.

(3) ELIGIBLE CONSORTIUM PARTICIPANTS.—
Entities eligible to participate in a consort-
ium include—
(A) land grant colleges and universities;
(B) private research institutions;
(C) State geological surveys;
(D) agencies of the Department of Agri-
culture;
(E) research centers of the National Aero-
nautics and Space Administration and the Department of Energy;
(F) other Federal agencies;
(G) representatives of agricultural business-
nesses and organizations with demonstrated expertise in the area of research; and
(H) representatives of the private sector with demonstrated expertise in these areas.

(4) DEVELOPMENT OF BENCHMARK STAND-
ARDS.—Before issuing a request for proposals for applied research under paragraph (1), the Secretary of Agriculture shall consult 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 Govern-
ment, academic, and private sectors) to—
(A) discuss benchmark standards of preci-
sion 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 this conference; and
(C) evaluate results of analyses on base-
line, permanence, and leakage issues.

(2) DEVELOPMENT OF BENCHMARK STAND-
ARDS.—
(A) IN GENERAL.—The Secretary shall de-
velop benchmark standards for measuring the carbon content of soils and plants (in-
cluding trees) that—
(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).

(C) REPORT.—Not later than 180 days after the conclusion of the conference under para-
graph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Com-
mittee on Agriculture, Nutrition, and For-
estry, of the Senate a report on the results of the conference.

(e) ALLOCATION 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 fis-
cal year, at least 90 percent shall be allo-
cated for competitive grants by the Coopera-
tive State Research, Extension, and Edu-
cation Service.

SEC. 1312. CARBON SEQUESTRATION DEM-
ONSTRATION PROJECTS AND OUT-
REACH.
(a) DEMONSTRATION PROJECTS.—
(1) DEVELOPMENT OF MONITORING PRO-
GRAMS.—
(A) IN GENERAL.—The Secretary of Agri-
culture, acting through the Natural Re-
sources Conservation Service and in coopera-
tion with local extension agents, experts from land grant universities, and other local agri-
cultural or conservation organizations, shall develop user-friendly programs that combine measurement tools and modeling techniques in an integrated package to mon-
tor the carbon sequestering benefits of con-
servation practices and net changes in green-
house gas emissions.

(B) EVALUATION OF IMPACTS.—
(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.

(2) PROJECTS.—
(A) IN GENERAL.—The Secretary of Agri-
culture, acting through the Farm Service Agency, shall establish a competitive grant program under which projects use the monitoring programs developed under paragraph (1) to de-
monstrate the feasibility of methods of meas-
uring, verifying, and monitoring carbon se-
questration, including—
(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 IMPACTS.—
(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.

(C) ELIGIBLE PROJECTS.—Proposals for projects under subparagraph (A) shall be ap-
proved by the appropriate agency of each State, in cooperation with interested local jurisdictions and State agricultural and con-
servation organizations.

(D) LIMITATION.—Not more than 10 projects under subparagraph (A) may be approved in con-
junction with applied research projects under section 1311(b) until benchmark meas-
urement and assessment standards are estab-
lished 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 Re-
search, Extension, and Education Service shall widely disseminate information about the economic and environmental benefits that can be generated by adoption of con-
servation practices (including benefits from increased sequestration of carbon and re-
duced emission of other greenhouse gases).

(2) PROJECT RESULTS.—The Cooperative State Research, Extension, and Education Service shall inform farmers, ranchers, and other agricultural and energy offices in each State of—
(A) the results of demonstration projects under subsection (a); and
(B) the ways in which the methods demon-
strated in the projects might be applicable to the operations of those farmers and ranch-
er participants.

(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.—Not later than 90 days after the date of enactment of this Act, and on the April 1st of each year thereafter, the Secretary of Agriculture shall submit to Congress a report on its activities during the preceding calendar year.

(2) DUTIES.—The Interagency Working Group shall:

(A) develop a national development, demonstration, and deployment of clean energy technology program that would otherwise be implemented.

(B) make assessments and recommendations regarding the distinct technological, market, regional, and stakeholder challenges necessary to carry out the program; and

(C) 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.

(3) CLOSURE.—The Interagency Working Group shall submit a plan to Congress pursuant to 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 Act, the Secretary shall establish an Interagency Working Group to coordinate activities of United States persons in the energy sector and countries in transition, and other partner countries.

(2) MEMBERSHIP.—The term ‘interagency working group’ means the Interagency Working Group on Clean Energy Technology Exports established under subsection (b).

(3) DUTIES.—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.

(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).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated through 2006.

(1) IN GENERAL.—There are authorized to be appropriated 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 (b).

(d) ANNUAL REPORT.—Not later than 90 days after the date of enactment of this Act, and on the April 1st of each year thereafter, the Secretary shall submit a report to Congress on its activities during the preceding calendar year. The report shall include a description of the technology, policy, program, and other relevant Federal efforts.

(2) MEMBERSHIP.—The interagency working group shall be chaired by representatives appointed by the agency heads under paragraph (1) and shall also include representatives from the Department of Agriculture, the Department of Commerce, and the Administrator of the U.S. Agency for International Development.

(3) DUTIES.—The interagency working group shall:

(A) develop a national development, demonstration, and deployment of clean energy technology program that would otherwise be implemented.

(B) make assessments and recommendations regarding the distinct technological, market, regional, and stakeholder challenges necessary to carry out the program; and

(C) 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.

(f) 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 clean energy technology as part of that program.

(g) REPORT ON USE OF FUNDS.—Not later than October 1, 2002, and each year thereafter, the Secretary shall submit a report to Congress on its activities during the preceding calendar year. The report shall include a description of the technology, policy, program, and other relevant Federal efforts.

(h) 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 subsidies provided under the World Bank, the Export-Import Bank, the Overseas Private Investment Corporation, the Trade and Development Program, and other Federal programs and policies.

(i) REPORT ON USE OF FUNDS.—Not later than October 1, 2002, and each year thereafter, the Secretary 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 energy policy commitments in developing countries, countries in transition, and other partner countries, including efforts pursuant to multilateral energy technology agreements.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to...
“(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 five 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 to build technological capacity within the host country. Such research must be related to the technologies being developed and shall involve host 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 the 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. 7651).

“(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 paragraph (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 incentives and credits under this section should be continued, expanded, reduced, or eliminated.

“(G) ORGANIZATION 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 TO THE GLOBAL CHANGE RESEARCH ACT OF 1990.

Except as otherwise expressly provided, whenever an amendment or a repeal is expressed in terms of an amendment 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. CHANGED AND DEFINITIONS.

Part 3 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. 2921) is amended—

(1) by striking “and Environment” and inserting “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 “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,”;

(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 established by section 104 (15 U.S.C. 2932) of the Global Change Research Act of 1990 (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 additional subcommittees and working groups as it sees fit.

SEC. 1334. CHANGE IN NATIONAL GLOBAL CHANGE RESEARCH PLAN.

Section 104 (15 U.S.C. 2932) is amended—

(1) by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively;

(2) by inserting before subsection (b), as redesignated, the following:

“(A) ESTABLISHMENT.—There is established an integrated program office established in the Office of Science and Technology Policy an integrated program office for the global change research program.

“(B) 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.

“(C) REVIEW.-The integrated program office shall—

“(A) manage, working in conjunction with the Committee, interagency coordination and 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 that budget recommendations and 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, partnerships projects that address critical research objectives or operational goals of the program, including those projects that would be identified by the program, and for which project resources are shared among at least two agencies participating in the program; and

“(E) receive and provide recommendations on, in conjunction with the Committee, all annual appropriations requests from Federal agencies or departments participating in the program.

“(2) Methods for integration information to planning and decision-making other tools for planning and decision making by government, communities and the private sector;

“(3) 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 decision-makers, as well as other end-users, for the formulation of effective decisions and strategies for measuring, predicting, preventing, mitigation, and adapting to climate change;

“(4) by adding at the end of subsection (c) the following:

“(5) by adding “the Integrated Program Office” before “Committee” in paragraph (1) of subsection (d), as redesignated.

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) by inserting before subsection (b), as redesignated, the following:

“(A) INTEGRATED PROGRAM OFFICE.—There shall be an integrated program office which 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.

“(B) REVIEW.—The integrated program office shall—

“(A) manage, working in conjunction with the Committee, interagency coordination and 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 that budget recommendations and 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, partnerships projects that address critical research objectives or operational goals of the program, including those projects that would be identified by the program, and for which project resources are shared among at least two agencies participating in the program; and

“(E) receive and provide recommendations on, in conjunction with the Committee, all annual appropriations requests from Federal agencies or departments participating in the program.

“(2) 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.—

“(A) COMMITTEE TO DEVELOP LIST OF PRIORITIES.—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 sense of this directive, as provided 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 conducting international research in the Pacific region. There are authorized to be appropriated to the National Science Foundation $75,500,000.

SEC. 1345. NATIONAL CLIMATE SERVICE PLAN.

The Act (15 U.S.C. 2901 et seq.) 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:

"(5) in coordination with the private sector, after conducting international research in the Pacific region. There are authorized to be appropriated to the National Science Foundation $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:

"PART II—NATIONAL CLIMATE SERVICES AND MONITORING

SEC. 1341. AMENDMENT OF NATIONAL CLIMATE PROGRAM ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the 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;" and

(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 conservation, 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 "and 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:

"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 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 array of national climate observing systems that build 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, integrate information to predict regional and local climate changes and impacts;

"(5) in coordination with the private sector, improve the ability 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 to conduct research on abrupt climate change; and describe past instances of abrupt climate change;

"(1) to test the output of these models 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.

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 uniform reporting 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 as covered by sources of measurement and reporting system established under section 1102.

SEC. 1348. ARCTIC RESEARCH AND POLICY.


(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;" and

(3) by striking "2003," as redesignated; and

(4) by striking "2004," and inserting "2006."

"(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;

"(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 $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 subsections (a) through (d) of this section.

SECTION 1351. OCEAN AND COASTAL OBSERVING SYSTEM

(a) ESTABLISHMENT.—The President, through the National Ocean Research Leadership Council, 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) observing, assessing and responding to natural and human-induced changes in oceanic and coastal processes, 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.

(b) 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) Broadband 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) Focusd research programs.

(7) Technology development programs to develop new observing technologies and techniques, including data management and dissemination.

(c) FUNDING.—For the purpose of carrying out this section, 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 $415,000,000 in fiscal year 2006.

Subtitle E—Climate Change Technology

SECTION 1361. NIST GREENHOUSE GAS FUNCTION ASSURANCE ACT

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The Director is authorized to make grants to appropriate Federal agencies, including the Environmental Protection Agency, to establish and maintain monitoring networks, measurement systems, and standards and reference material standards which will enable the monitoring of greenhouse gases.

(b) PUBLIC OUTREACH AND EDUCATION.—(1) The Director shall develop, in cooperation with appropriate Federal agencies, a public outreach and education program focused on the development and dissemination of accurate and reliable greenhouse gas monitoring systems.

(2) The program described in paragraph (1) shall include—

(A) public education programs to enhance public understanding of the importance of greenhouse gas monitoring systems;

(B) technical assistance to Federal agencies in implementing greenhouse gas monitoring systems; and

(C) support for research on the development of new technologies for greenhouse gas monitoring systems.

SEC. 1362. DEVELOPMENT OF NEW MEASUREMENT TECHNOLOGIES

(a) IN GENERAL.—The Secretary of Commerce shall establish a program to develop, in consultation with appropriate Federal agencies, new measurement technologies (including technologies to measure carbon changes due to human-induced and natural processes) to enhance greenhouse gas monitoring systems.

(b) FUNDING.—For the purpose of carrying out this section, there are authorized to be appropriated $255,000,000 in fiscal year 2003, $315,000,000 in fiscal year 2004, $390,000,000 in fiscal year 2005, and $415,000,000 in fiscal year 2006.

SEC. 1363. CLIMATE CHANGE STANDARDS AND PROCESSES

(a) IN GENERAL.—In general, the National Institute of Standards and Technology shall develop and maintain measurement standards and reference material standards which will enable the monitoring of greenhouse gases.

(b) PROHIBITION.—The National Institute of Standards and Technology shall not be required to develop greenhouse gas measurement standards.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, 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 $415,000,000 in fiscal year 2006.

Subtitle F—Cleaner Technologies

SECTION 17. CLIMATE CHANGE STANDARDS AND PROCESSES

(a) IN GENERAL.—In general, the National Institute of Standards and Technology shall—

(1) establish and maintain an integrated ocean and coastal observing system; and

(2) provide representation at international meetings on ocean observing programs and coordinate relevant Federal activities with those of other nations.

(b) 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) Broadband 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) Focusd research programs.

(7) Technology development programs to develop new observing technologies and techniques, including data management and dissemination.

(8) Public outreach and education.

(c) FUNDING.—For the purpose of carrying out this section, 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 $415,000,000 in fiscal year 2006.
standards and tools under this subsection that include software to assist designers in selecting alternate building materials, performance data on materials, artificial intelligence-based procedures for identifying sub-systems and ‘smart’ buildings, and improved test methods and rating procedures for evaluating the energy performance of residential and commercial appliances and products.

“(d) NATIONAL VOLUNTARY LABORATORY ACREDITATION PROGRAM.—The Director shall utilize the National Voluntary Laboratory Accreditation Program under this section to establish a program to include specific calibration and 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 580,000 small businesses in the United States. The Manufacturing Extension Partnership Program shall be authorized to establish, as appropriate, regional or national technology centers.

SEC. 1365. AUTHORIZATION OF APPROPRIATIONS.
There are authorized to be appropriated to the Director to carry out the purposes of this Act $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 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 Change Assessment Act of 1990 (15 U.S.C. 2901 et seq.), regional vulnerability to phenomena associated with climate change and climate variability, including—

(A) extreme weather events; (B) sea level rise and shifts in the hydrological cycle; (C) natural hazards, including tsunami, drought, floods, and fire; and (D) alteration of ecological communities including at the ecosystem or watershed levels;

(2) identify regional adaptation needs and develop and implement mitigation and adaptation plans for short- and long-term actions that may be taken at the national, regional, State, and local levels in response to climate change;

(3) reduce vulnerability of human life and property;

(4) improve resilience to hazards;

(5) minimize economic impacts; and

(6) reduce threats to critical biological ecological processes.

(d) INFECTION 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.

(e) AUTHORIZATION OF APPROPRIATIONS.
There are authorized to be appropriated to the Secretary of Commerce $1,500,000 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 such regional assessments. In preparing the regional assessments, the Secretary shall collect and compile current information on climate change, local and regional 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 establish, within 3 years after the date of enactment of this Act, a program to implement the requirements of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) has the meaning given it by that Act, or coastal States for the purposes of developing and implementing regional adaptation plans. The Plan shall include recommendations regarding—

(1) 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 identify special needs 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 recommend both short- and long-term adaptation strategies and shall include recommendations regarding—

(1) Federal climate program modifications;

(2) areas that have been identified as high risk through mapping and assessment;

(3) mitigation strategies 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 and coastal communities; 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 training to coastal States and local governments as they develop and implement adaptation or mitigation strategies and plans.

(d) COASTAL RESPONSE PILOT PROGRAM.

SEC. 1373. ARCTIC RESEARCH CENTER.

The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and 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 $80,000,000 appropriated to the Secretary of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the National Oceanic and Atmospheric Administration, $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, and 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 agenda needs to forecast a plan for adaptation, to develop coastal and land use changes related to global climate change or climate variability.

(b) REQUIREMENTS.—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) use 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 national framework for planning strategies for adaptation to coastal zone and land use changes related to global climate change or climate variability;

(5) use or encourage contributions from non-Federal sources;

(6) involve the participation of commercial entities that process raw or lightly processed data, and remotely sensed data, with other geospatial information, to create data products that have significant value added to the original data base;

(7) together taken 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 adaptation to coastal and land use consequences of global climate change or climate variability.

(d) BUDGET.—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 the award 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 two public workshops to disseminate the lessons learned from the pilot project as widely as feasible.

(f) REGULATIONS.—The Center shall issue regulations concerning application, selection, and implementation procedures for pilot projects, and guidelines for reports and workshops required 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 information about 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; and

(2) $20,000,000 for fiscal year 2004; and

(3) $22,500,000 for fiscal year 2005; and

(4) $25,000,000 for fiscal year 2006.

SEC. 1385. DATABASE INFORMATION SYSTEM.

The Administrator shall establish a database information system to be known as the National Climate Data Center.

SEC. 1386. ACCESS.

The database information system established under section 1385 shall—

(1) be compatible with the International Telecommunications Union’s Global Telecommunication System, with the United States National Data Network, with the United States National Telecommunications Network, and with national, regional, State, and local telecommunication networks;

(2) be open to the public and to intergovernmental and international agencies and institutions for purposes of scientific research, education, and public information dissemination; and

(3) be made available to appropriate persons for research purposes.

SEC. 1387. CONSULTATION.

The Administrator shall consult with the National Science Foundation, the Director of the National Oceanic and Atmospheric Administration, and the Administrator of the Environmental Protection Agency, the Council on Environmental Quality, and the Federal Coordinating Council for Science, Engineering, and Technology, before making any determination, decision, or establishment under this section.

SEC. 1388. TITLES.

There are hereby established the following titles:

TITLE D—INTEGRATION OF ENERGY POLICY AND CLIMATE CHANGE POLICY

TITLES I—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 evidence that the observed warming of the last 50 years is likely to have been due to the increase of greenhouse gas concentrations accurately reflects the observed increases in 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 variably influenced by the warming 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, and that the warming has led to an increase in global average temperature, sea level rise, and snow 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 measures with the aim of “... reducing their 1990 levels anthropogenic emissions of carbon dioxide and other greenhouse gases” under the principle that “policies and measures should be based on 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 and developing 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 “developing 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 . . . should be agreed on a country-specific, environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continued to evolve 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 take on the essential responsibility to help reduce the risks of climate change and its impacts. Future international efforts in this regard should focus on recognizing the equitable sharing of 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...
(b) **SENSE OF CONGRESS.**—It is the sense of the United States Congress that the United States government should demonstrate international leadership and responsibility in reducing the health, environmental, and economic risks posed by climate change by: (i) taking proper action to ensure significant and meaningful reductions in emissions of greenhouse gases from all sectors; (ii) creating flexible international and domestic mechanisms, including joint implementation, technology deployment, tradable credits for emissions reductions and carbon sequestration projects that will reduce, avoid, or sequester greenhouse gas emissions; and (iii) 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—

(A) **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, may substantially lower emissions of greenhouse gases, other pollutants; and (C) may generate substantially smaller or less hazardous quantities of solid or liquid waste.

(B) **DEPARTMENT.**—The term “Department” means the Department of Energy.

(C) **FEDERAL AGENCY.**—The term “Federal agency” has the meaning given the term “agency” in section 551 of title 5, United States Code.

(D) **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.

(B) an anthropogenic aerosol (such as black soot) that absorbs solar radiation and influences climate.

(F) **INTERAGENCY TASK FORCE.**—The term “Interagency Task Force” means the Interagency Task Force established under section 1014(e).

(G) **KEY ELEMENT.**—The term “key element”, with respect to the Strategy, means—

(A) the definition of interim emission mitigation levels, that, coupled with specific mitigation approaches and after taking into account actions by other nations (if any), would advance stabilization of greenhouse gas concentrations; and (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, the National Academy of Sciences shall provide a high degree of emphasis on bold, breakthrough technologies that will make possible a profound transformation of the energy, transportation, industrial, agricultural, cultural, 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.

(E) **LONG-TERM GOAL OF THE STRATEGY.**—The term “long-term goal of the Strategy” means the long-term goal in section 1013(a)(1).

(F) **MITIGATION.**—The term “mitigation” means actions that reduce, avoid, or sequester greenhouse gases.

(G) **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.

(H) **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 scenarios.

(I) **SECRETARY.**—The term “Secretary” means the Secretary of Energy.

(J) **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 States’ declaration of its intention at the United Nations Conference on Climate Change, done at New York on May 9, 1992.

(K) **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—

(i) have the long-term goal of stabilization of greenhouse gas concentrations through actions that can be taken by the United States and other nations;

(ii) 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;

(iii) incorporate the 4 key elements;

(iv) 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;

(v) consider the broad range of activities and actions that can be taken by United States public and private sectors; and (vii) greenhouse gas emissions both within the United States and in other nations through the use of market mechanisms, which may include, but are not limited to, mitigation activities, terrestrial sequestration, earning offsets through carbon capture or project-based activities, trading of emissions credits that create and keep domestic, and the application of the resulting credits from any of the above within the United States;

(vi) 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.

(b) **MITIGATION.**—Incorporate mitigation approaches leading to the development and deployment of advanced technologies and practices that will reduce, avoid, or sequester greenhouse gas emissions;

(c) **ECONOMIC AND ENVIRONMENTAL IMPACTS**—(A) be consistent with the goals of energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States;

(d) **ACCOUNTING.**—(A) the diversity of energy sources and technologies;

(B) supply-side and demand-side solutions; and

(C) national infrastructure, energy distribution, and transportation systems;

(e) **INTERNATIONAL TREATIES,準協定,和条約.**—(A) be based on an evaluation of a wide range of approaches for achieving the long-term goal of the Strategy, including evaluation of—

(i) a variety of cost-effective Federal and State policies, programs, standards, and incentives;

(ii) policies that integrate and promote innovative, market-based solutions in the United States and in foreign countries; and

(iii) 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;

(f) **IMPLEMENTATION.**—(A) provide for an implementation framework to achieve the long-term goal of the Strategy; and

(B) be consistent with the goals of energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States.
(B) provide specific recommendations concern-
ing—
(1) measures determined to be appropriate for short-term implementation, giving preference to those that are technologically feasible measures that will—
(I) produce measurable net reductions in United States greenhouse gases by 2010, consistent with 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 potential for long-term implementa-
(1) 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 technolo-
gies, and efficiency options;
(iii) such changes in institutional and techni-
cology systems are necessary to adapt to cli-
imate change in the short-term and the long-
term;
(iv) such review, modification, and en-
hancement of the scientific, technical, and economic efforts of the United States, and improvements to the data result-
ing from research, as are appropriate to im-
prove the accuracy of predictions concerning climate change, 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 develop-
ment of climate-friendly technologies.
(12) recognize that the Strategy is intended to guide the nation’s effort to address cli-
imate change, but it shall not create a legal obligation on any person or enti-
y 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 pub-
lic-private sector actions that bear on the long-term goals.
(14) be developed in a manner that provides for meaningful participation by, and con-
sultation among, Federal, State, tribal, and local governments, including government-in-the-street, non-governmental organizations, 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 prac-
ticable, public awareness, outreach, and in-
formation-sharing to further the under-
standing of the full range of climate change-
related issues; and
(17) include 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 an explanation of how the measures recommended by the Strategy will achieve its long-term goal;
(19) include any recommendations for leg-
islation, regulation, or 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 actions that the President should take.
(22) address how the United States should engage foreign governments in developing an
international response to climate change; and
(23) incorporate initiatives to open mar-
kets and promote the deployment of a range of climate change solutions developed in the United States and abroad.
(b) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this section, through the Interagency Task Force and the Director, shall submit to Congress the Strategy, in the form of a report that—
(1) a description of the Strategy and its goals, including how the Strategy addresses each of the 4 key elements;
(ii) the development of Federal programs and activities intended to carry out the Strategy;
(3) a description of how the Strategy will, over a period of time, affect the Federal government’s implementation of the long-term goal of the Strategy and its consistent with other energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States;
(4) a description of provisions in the Strateg-
y that ensure that it minimizes any ad-
verse short-term and long-term social, eco-
omic, and environmental impacts, including ensuring that the Strateg-
y is developed in an economically and en-
vironmentally sound manner;
(5) evidence that the Strategy has been de-
veloped in a manner that provides for par-
ticipation by, and consultation among, Fed-
eral, State, tribal, and local government agencies, non-governmental organizations, academia, scientific bodies, industry, the public, and other interested parties;
(6) a description of Federal activities that promote, to the maximum extent prac-
ticable, public awareness, outreach, and in-
formation-sharing to further the under-
standing of the full range of climate change-
related issues; and
(7) recommendations for legislative or ad-
ministrative 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 im-
prove mitigation or adaptation 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 Presi-
dent 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—
(i) describes the Strategy, its goals, the Federal programs and activities intended to carry out the Strategy through techno-
logical, scientific, mitigation, and adaption activities;
(ii) evaluates the Federal programs and activities implemented as part of this Strategy against the goals and implementation dates outlined in the Strategy;
(iii) assesses the progress in implementation of the Strategy;
(iv) incorporates the technology program reports required pursuant to section 1015(a)(9) and subsections (d) and (e) of section 1321;
(v) describes any changes to Federal pro-
grams 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 im-
prove mitigation or adaptation activities;
(vi) describes all Federal spending on cli-
mate change for the current fiscal year and each of the five previous years; categorized by Federal agency and program function (in-
cluding scientific research, energy research and development, regulation, education, and other activities);
(vii) estimates the budgetary impact for the current fiscal year and each of the five previous years of any Federal tax credits, tax de-
ductions or other incentives claimed by tax-
payers that are directly or indirectly attrib-
utable to greenhouse gas emissions reduction activities;
(viii) 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;
(ix) evaluates international research and de-
velopment 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
(x) makes recommendations for legislative or administrative actions or adjustments that will accelerate progress towards meet-
ing the near-term and long-term goals con-
tained in the Strategy.
(e) NATIONAL ACADEMY OF SCIENCES REVIEW.—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 Academy of Sciences, in consultation with the Direc-
tor of the White House Office and the Inter-
agency Task Force, shall enter into appro-
priate arrangements with the National Acad-
emy of Sciences to conduct a review of the Strategy or update.
(2) CRITERIA.—The review by the National Acad-
emy of Sciences shall consider—
(A) the adequacy and effort of the discus-
sion of the totality of all public, private, and public-private sector actions with respect to the Strategy, including the adequacy of the budget and the effec-
tiveness with which each Federal agency is carrying out its part of the Strategy;
(B) the adequacy of the budget and the ef-
fectiveness with which each Federal agency is carrying out its part of the Strategy;
(C) current scientific knowledge regarding climate change and its impacts; and
(D) current understanding of human social and economic responses to climate change, and responses of natural ecosystems to cli-
imate change;
(E) advancements in energy technologies that reduce, avoid, or sequester greenhouse gases or otherwise mitigate the risks of cli-
mate change;
(F) current understanding of economic costs and benefits of mitigation or adapta-
tion activities;
(G) the existence of alternative policy op-
tions that could achieve the long-term goal at lower economic, environmental, or social cost; and
(H) international activities and the actions taken by the United States and other na-
tions to achieve the long-term goal of the Strategy.
(f) REPORT.—Not later than 1 year after the date of submittal to the Congress of the Strategy or update, as appropriate, the Na-
atl Academy of Sciences shall prepare and submit to the Congress and the Presi-
dent a report concerning the results of its re-
view, 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 Na-

tion 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 White House Office, 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; and

(i) use of available appropriations.—From funds made available to Federal agencies under this title, the President shall, through December 31, 2007, make available to Federal agencies for the purpose of research and development on climate change policies, programs, and activities, such sums as may be necessary.

(b) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies under this title, the President shall make available to Federal agencies such sums as may be necessary.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—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 2007 through 2010.

(d) INTERAGENCY TASK FORCE.—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 of the White House Office, who shall serve as Chair;

(B) the Secretary of State;

(C) the Secretary of Commerce;

(D) the Secretary of Energy;

(E) the Director 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 other Federal agencies as the President considers appropriate.

(3) STRATEGY.—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);

(II) represent an energy technology research and development program that directly supports the Strategy by—

(1) focusing on high-risk, bold, breakthrough technologies;

(2) providing significant promise of contributing to the long-term goal of the Strategy by—

(a) reducing the emissions of greenhouse gases;

(b) removing and sequestering greenhouse gases from emission streams; or

(c) reducing the emissions of greenhouse gases from the atmosphere;

(III) not being addressed significantly by other Federal programs; and

(IV) representing a substantial advance beyond technology available on the date of enactment of this subtitle; and

(f) implementing the fundamental new research and development partnerships among various Department, other Federal, and State programs, particularly between basic science and applied technology partners, 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; and

(g) 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; and

(2) AUTHORIZATION OF APPROPRIATIONS.—

(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies under this title, the President shall provide such sums as are necessary to carry out the duties of the White House Office under this title.

(II) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies under this title, the President shall provide such sums as are necessary to carry out the duties of the White House Office under this title.

(3) 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 2007 through 2010, to remain available through September 30, 2011.
(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, the Secretary shall:

(i) the scale of the climate change challenge;

(ii) the functions of the Federal agencies on the Interagency Task Force positively or negatively contribute to climate change solutions;

(iii) give analytical support to the White House Office, particularly in support of the development of the Strategy and associated progress reporting;

(iv) foster the development of tools, data, and capabilities to ensure that—

(A) the United States has a robust capability for evaluating alternative climate change response options; and

(B) the Department Office provides long-term analytical continuity during the terms of service of successive Presidents;

(C) advise the Secretary on all aspects of climate change-related issues, including necessary Department Office organization for management, budgeting, and personnel allocation in the programs involved in climate change response-related activities;

(D) work with other agencies toward meeting the goals of the energy technology research and development program described in this section;

(E) assesses the activities of the Department Office;

(F) 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

(G) makes 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 3315 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. 6701 et seq.), subchapter VI of chapter 33 of title 5, United States Code, and other Department personnel authorities, to obtain staff for apportioned and apportionless positions.

(d) RELATIONSHIP TO OTHER DEPARTMENT PROGRAMS.—Each project carried out by the Department Office shall be—

(1) for collaboration 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 stage of development to warrant the concurrent existence of the Department Office and the appropriate office described in paragraph (1), transferred to the appropriate office, along with the research and development project to the point at which non-Federal funding can provide substantial support for the project.

(c) CoLABORATION AND COST SHARING.—

(1) WITH OTHER FEDERAL AGENCIES.—Projects supported by the Department Office may be supported by, 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 1405, 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, high-reward research and development that do not need to make industrial partnerships or cost sharing a requirement, if such a requirement would bias the activities of the Department Office toward incremental innovation.

(C) REEVALUATION ON TRANSFER.—At such time as any bold, breakthrough research and development program reaches a sufficient level of technological maturity that the program is transferred to a program office of the Department Office under this section, 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.

(2) USE OF AVAILABLE APPROPRIATIONS.—

(A) IN GENERAL.—The Department Office shall foster the development and application of advanced computational tools, data, and models that maximize the capabilities of other Federal agencies, support integrated assessment of alternative climate change response scenarios and implementation of the Strategy.

(B) PROGRAMS.—

(1) 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 on the international market on—

(1) whether engineered sequestration and terrestrial sequestration will be acceptable technologies from regulatory, economic, and international perspectives;

(2) whether carbon dioxide sequestered in geological formations or ocean systems is stable and has inconsequential leakage rates on a geologic time-scale; and

(3) the extent to which forest, agricultural, and other terrestrial systems are suitable 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 Office shall conduct assessments of deployment of climate-friendly technology.

(6) ANALYSIS.—During development of the Strategy and the annual report submitted under subsection (a)(3), 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.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—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, $450,000,000 for each of the fiscal years 2003 through 2011, to remain available through September 30, 2011.

(3) ADDITIONAL 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—
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. 6616(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 such 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, and Administrator of the Environmental Protection Agency shall publish a jointly developed methodology for preparing estimates of annual greenhouse gas emissions from all Federally owned, leased, or operated facilities and emission sources, including stationary, mobile, and indirect emissions as may 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).

SEC. 2. ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824h(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, 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:

(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;

(iii) produce significant gains in operational and economic efficiency;

(iv) 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 existence of just and reasonable wholesale rates.

"(2) CONDITIONS ON GRANTS OF AUTHORITY.—The Commission shall—

(A) ensure the 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 authority.

"(4) INEFFECTIVENESS OF OTHER PROVISIONS.—

Section 203 of this Act (relating to market-based rates) is amended by adding at the end the following:

"(b) 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 effects of the market power exercised.

Subtitle B—Remedies to the Public Utility Holding Company Act

SEC. 211. 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 PROTECTION 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) the assurances of employment to employees of acquired companies; and

(E) the 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. 79q–5a, 79q–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 distributing natural gas or other gas in enclosed portable containers or distribution to tenants or employees of the
company operating such facilities for their 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) 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 at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of electricity and 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 company engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce.

(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 natural gas utility company.

(16) STATE COMMISSION.—The term “State commission” means any commission, board, agency, or officer, by whatever name designated by the laws of a State, having 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 entitled to vote or which is the equivalent thereof with respect to the direction or management of the affairs of a company.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.


SEC. 224. ACCELERATED RE audits, and other materials upon an order of the Commission or any State commission finding that the production of such materials will aid the Commission or the State commission in carrying out its responsibilities.

(b) COURT JURISDICTION.—Any United States district court 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 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, accounts, 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 affiliate or associate 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 fair 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.

(b) 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.

(c) REQUIREMENTS. Rules required under subsection (a) 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 thereof;
(4) any sale, lease, or transfer of assets, goods or services by a public utility company to its holding company or 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 thereof;
(6) information necessary to monitor and regulate a holding company or affiliate thereof is made available to the Commission; and
(7) assets, goods, or services 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 unless employee protection arrangements the Commission concludes are fair and equitable.

(2) LIMITATION ON AUTHORITY. Nothing in this section shall limit the authority of any State to prevent holding company diversification from adversely affecting electricity or natural gas consumers.

SEC. 226. ELECTRIC UTILITY MERGER PROVISIONS.

Section 2(a) of the Federal Power Act (16 U.S.C. 824a(a)) as amended by section 202) is amended by striking paragraph (4) and inserting the following:

"(4) ELECTRIC UTILITY MERGER PROVISIONS."

"(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 protective arrangements for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 2. ELECTRIC UTILITY MERGER PROVISIONS.

Section 2(a) of the Federal Power Act (16 U.S.C. 824a(a)) as amended by section 202) is amended by striking paragraph (4) and inserting the following:

"(A) APPROVAL. '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 protective arrangements for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 3. ELECTRIC UTILITY MERGER PROVISIONS.

Mr. WELSTON, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JORDAN offered the following 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:

SEC. 2. ELECTRIC UTILITY MERGER PROVISIONS.
“(1) enhance competition in wholesale electricity markets; and
“(2) if a State commission request the Commission to consider the effect of the proposed construction under retail electricity markets, enhance competition in retail electricity markets;
“(ii) produce significant gains in operational 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) General.—The Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:

“SEC. 218. REMEDIAL MEASURES FOR MARKET POWER—

(1) In general.—Not later than 270 days after the date of enactment of this section, 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; and

(C) to prevent the abuse of market power and market manipulation;

“(2) To protect the public interest; and

“(B) to ensure the maintenance of just and reasonable rates and rates based on cost of service in the wholesale markets.

“(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, 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 a grant of authority 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 service that is subject to the authorization.”

(b) INITIAL SUMMARY OF OTHER PROVISIONS—

Section 203 of this Act (relating to market-based rates) shall be of no effect.

(b) REMEDIAL MEASURES FOR MARKET POWER.

“(a) DEFINITION OF MARKET POWER.—In this section, the term ‘market power’ 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 and appropriate to define 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 date 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 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 subsidiary companies of holding companies.

(9) VOTING SECURITY.—The term “voting security” means any security presently entitled to vote, or held, by one or more persons and owned for the purpose of exercising voting power at any meeting of shareholders of a holding company or any affiliate of such company; and

(c) COST RECOVERY.—The cost of any audit conducted by the Commission, in consultation with appropriate State commissions, shall be treated as confidential only if provided to the Commission or State commission in carrying out its responsibilities.

(d) 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.

(e) COST RECOVERY.—The cost of any audit of a holding company or affiliate thereof shall be borne by holding company and any affiliate thereof. 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.

(f) CREDIBILITY.—If the information provided to the Commission or State commission shall be treated as confidential only if the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(g) INFORMATION.—If the information provided to the Commission or State commission shall be treated as confidential only if the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(h) AUDITING.—If the information provided to the Commission or State commission shall be treated as confidential only if the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

the books and records of each holding company and each affiliate or associate company thereof.

(f) PREEMPTION.—Nothing in this section shall limit the authority of any State to prevent holding company diversification from adversely affecting electric or natural gas consumers.

SA 3235. Mr. DAYTON (for himself, Mr. WELLMORE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW and Mr. JEFFORDS (for Co-sponsors)) to amend section 205 of the Federal Power Act (16 U.S.C. 796) (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) enhance competition in wholesale electricity markets; and

(ii) produce significant gains in operational and economic efficiency; and

(iii) result in a corporate and capital structure that facilitates effective regulatory oversight.''

SEC. 218. REMEDIAL MEASURES FOR MARKET POWER.

SEC. 219. REMEDIAL MEASURES FOR MARKET POWER.

This section 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 organization, or 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.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms ‘‘exempt wholesale generator’’ and ‘‘foreign utility company’’ have the same meaning as in sections 203 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79q–5a, 79q–5b), as those sections existed on the day before the effective date of this Act.

(7) GAS UTILITY COMPANY.—The term ‘‘natural gas company’’ means a person engaged in the transportation of natural gas in interstate commerce, and the sale of such gas for ultimate public consumption for domestic, commercial, industrial, or any other use.

(8) HOLDING COMPANY.—The term ‘‘holding company’’ means an individual or company.

(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 to a public utility to charge for the transportation of natural gas in interstate commerce, and the transportation of natural gas for resale.

(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 company, or group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing, which is engaged in the transportation of natural gas in interstate commerce, or which is engaged in the transportation of natural gas in interstate commerce, and the sale of such gas for ultimate public consumption for domestic, commercial, industrial, or any other use.

(14) PUBLIC UTILITY COMPANY.—The term ‘‘public utility company’’ means an electric utility company or a gas utility company.

(15) STATE.—The term ‘‘State’’ means the United States of America, any State or political subdivision of a State that, under the laws of such State, is engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

SEC. 2. ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) 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.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding after (e) the following:

‘‘(f) 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 promulgate such rules and procedures as the Commission determines are necessary and appropriate for the rate protection of utility customers with respect to jurisdictional rates.

(2) 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 is consistent with such company.

(3) NO LIMITATION ON FEDERAL ANTITRUST PROVISIONS.—The provisions of this Act concerning antitrust enforcement shall not be construed to limit the applicability of any other Federal law prohibiting antitrust violations or to limit or restrict any other Federal law, regulation, or policy governing the transportation of natural gas in interstate commerce.

(4) E XEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The term ‘‘exempt wholesale generator’’ means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy.

(5) E XEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The term ‘‘foreign utility company’’ means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy.

SEC. 221. SHORT TITLE.

This subtitle may be cited as the ‘‘Public Utility Holding Company Act of 2002’’.
interstate commerce or the sale of such gas in interstate commerce for resale.  

(12) PERSON.—The term “person” means an individual or company.  

(13) PERSON OR COMPANY.—The term “public utility” means any person who owns or operates facilities used for transmission of electric energy at wholesale in interstate commerce, or who sells 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 are determined by the person owning the majority of the voting securities of such holding company, or the majority of the outstanding voting securities of such person, or more than 10 percent of the outstanding voting securities of which are owned, controlled, or held with power to vote, 10 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, by such holding company.  

(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.  

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 missionary efforts in interstate commerce to the extent of 0 percent, without reducing its missionary efforts in interstate commerce.

amended by striking paragraph (4) and inserting the following:

(4) APPROVAL.—  

(A) IN GENERAL.—After notice and opportunity for hearing, the Commission finds that the proposed transaction will serve the public interest, the Commission shall approve the transaction.  

(B) MINIMUM 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) enhance competition in wholesale electricity markets; and  

(ii) if a State commission requests the Commission to make a finding in the context of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;  

(iii) produce significant gains in operational and economic efficiency; and  

(iv) 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:  

(2) 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 to be necessary and sufficient to—  

(A) maintain competitive wholesale markets;  

(B) effectively monitor market conditions and trends;  

(C) prevent the abuse of market power and market manipulation;  

(D) protect the public interest; and  

(E) 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 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) any other means, by which a public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to any rate, charge, or service that is subject to jurisdictional rates.  

SEC. 3 . 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 alleging market power, 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 party is alleged to possess 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. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.  


SEC. 224. ACCESS TO BOOKS AND RECORDS.  

SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.  


The term “affiliated” 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.  

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.  

The term “foreign utility company” means any company that is subject to the jurisdiction of a foreign public utility commission or a national or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.  

The term “gas utility company” means any company that owns or operates facilities used for the distribution of electric energy for sale.  

The term “utility company” means any company that owns or operates facilities used for 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.  

The term “holding company” means—  

(A) any company that directly or indirectly owns or controls, or has the power to exercise market power or manipulate the market, 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 have exercised, directly or indirectly, by such holding company, a controlling influence over the management and policies of any public utility company or a gas utility company.  

Beginning on page 28 strike lines 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
(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 do-

sale for ultimate public consumption for do-

(11) NATURAL GAS COMPANY.—The term “natural gas company” means any person who owns or operates facilities used for transmission of elec-

tric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(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 the 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, as determined by 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 pro-

tection of utility customers with respect to rates that such person be subject to the obliga-

tions, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term “voting security” means any security presently enti-

ting the owner or holder thereof to vote in the direction or management of the affairs of a company.


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, records, and any other materials upon an order of the Commission or any State commission find-

ing that the production of such materials will assist the Commission in carrying out its responsibilities.

(b) COURT JURISDICTION.—Any United States district court located within the State in which the State commission is seek-

ing to examine personnel or materials de-

scribed in subsection (a), or within the Dis-

tRICT OF Columbia or within any State in which any public utility is headquartered, or within any State in which the State com-

mission is seeking to enforce compliance with this section.

(c) COST RECOVERY.—The cost of any audit of a holding company or any affiliate or asso-

ciate 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 pro-

vided to the Commission or State commis-

sion shall be treated as confidential if it is 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 con-

sultation with appropriate State commis-

sions, shall conduct an audit every 3 years of the books and records of each holding com-

pany 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 affil-

iate thereof to produce books and records.

SA 3238. Mr. DAYTON (for himself, Mr. WOLLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. THABENOW, and Mr. JEFFORDS) submitted an amendment to S. 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorized funding the De-

partment of Energy to enhance its mis-

sions through technology transfer and 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 in-

sert the following:

SEC. 2. ELECTRIC UTILITY MERGER PROVI-

SIONS. Section 203(a) of the Federal Power Act (16 U.S.C. 824a) is amended by striking paragraph (4) and in-

serting the following:

(4) APPROVAL.—(A) IN GENERAL.—After notice and oppor-

tunity for hearing, if the Commission finds that the proposed transaction will serve the public interest, the Commission shall ap-

prove the transaction;

(B) MINIMUM REQUIRED FINDINGS.—In mak-

ing the finding under subparagraph (A) with respect to a proposed transaction, the Com-

mission shall, at a minimum, find that the proposed transaction will:

(i) enhance competition in wholesale electricity markets; and

(ii) if a State commission requests the Commission to consider the effect of the pro-

posed transaction on competition in retail electricity markets, enhance competition in retail electricity markets;

(III) produce significant gains in oper-

ational and economic efficiency; and

(iii) result in a corporate and capital structure that facilitates effective regula-

tory oversights.

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 ad-

ding 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 sub-

section, the Commission shall adopt such rules and procedures as it determines are necessary to define and deter-

mine the conditions necessary—

(A) to maintain competitive wholesale markets;

(B) to effectively monitor market condi-

tions and trends;
(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms “exempt wholesale generator” and “foreign utility company” have the same meaning as in sections 79z–3, 79z–5a, and 79z–5b, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–3, 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 to retail customers of any gas in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use or use for resale of 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, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and shall consult with appropriate State commissions in carrying out its responsibilities.

(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) PUBLIC UTILITY COMMISSION.—The term “public utility commission” means any commission, board, agency, or officer, by whatever name designated, that is a regulatory or policy-making body with respect to public utility matters of a State that, under the laws of such State, has jurisdiction to regulate public utilities.

(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) prior to such transaction, the Commission finding that the production of such materials will assist the Commission or the State commission in carrying out its responsibilities.

(17) VOTING SECURITY.—The term “voting security” means any security presently entitling the person who holds such security to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company or affiliate thereof.

(18) UTILITY.—The term “utility” means any person, the management or policies of which are protected against the financial risks of holding company diversification and transactions with and among holding companies or subsidiaries thereof so as to make it necessary for the rate protection of utility consumers from holding company diversification and transactions with and among holding companies or subsidiaries thereof to be at terms that are no less favorable to the public utility company than the cost to such holding company or affiliate thereof.

(19) UTILITY COMPANY.—The term “utility company” means—

(A) any company, 10 percent or more of the outstanding voting securities of which are available to the public; and

(20) UTILITY CONSUMER.—The term “utility consumer” means—

(A) any person, the management or policies of which are protected against the financial risks of holding company diversification and transactions with and among holding companies or subsidiaries thereof so as to make it necessary for the rate protection of utility consumers from holding company diversification and transactions with and among holding companies or subsidiaries thereof to be at terms that are no less favorable to the public utility company than the cost to such holding company or affiliate thereof.

(21) UTILITY RATE.—The term “utility rate” means any rate of a public utility company or any affiliate or associate company thereof that is set, or is presumed to be set, in accordance with this section.

(22) UTILITY RATE PROTECTION.—The term “utility rate protection” means the protection of utility consumers from holding company diversification and transactions with and among holding companies or subsidiaries thereof so as to make it necessary for the rate protection of utility consumers from holding company diversification and transactions with and among holding companies or subsidiaries thereof to be at terms that are no less favorable to the public utility company than the cost to such holding company or affiliate thereof.

(23) UTILITY TRANSPARENCY.—The term “utility transparency” means the manner in which the management or policies of which are protected against the financial risks of holding company diversification and transactions with and among holding companies or subsidiaries thereof so as to make it necessary for the rate protection of utility consumers from holding company diversification and transactions with and among holding companies or subsidiaries thereof to be at terms that are no less favorable to the public utility company than the cost to such holding company or affiliate thereof.
(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 enable the Government to encourage and monitor greenhouse gas emission reductions.

SEC. 1102. DEFINITIONS.

In this title:
(a) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.
(b) 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—
(1) regulations promulgated under section 1104(c); and
(2) relevant standards and methods developed under this title.
(c) DATABASE.—The term "database" means the National Greenhouse Gas Database established under section 1104.

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 enter into a memorandum of agreement with the heads of Federal agencies, to be known as the "National Greenhouse Gas Database", to establish, verify, and maintain a database, to be known as the "National Greenhouse Gas Database", to enable the collection of data on greenhouse gas emissions by entities, and to 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 shall provide for the following functions for the designated agencies:
(1) establishment of procedures and protocols necessary to in subsection (a) are that an entity (other than an entity described in paragraph (2)) that—
(i) soil carbon sequestration; and
(ii) forest preservation and reforestation activities; and
(iii) provide for adjustments to data by entities that are known for having a significant effect on greenhouse gas emissions, 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 in accordance with the requirements described in subsection (b) 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 each 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 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 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 commodifying 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) a reduction in greenhouse gas emissions that has 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 section 105(b)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13256); or
(ii) any other Federal or State voluntary greenhouse gas emission reduction program; and
(iii) any project or activity for the reduction of greenhouse gas emissions or sequestration of a greenhouse gas that is required by 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.

(4) 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 making available the information described in that subparagraph poses a risk to national security.

(5) 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.

(6) 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 greenhouse gas emissions;
(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 exchange;
(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 gases, 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 validation 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 greenhouse gas emissions and reduction credits 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
SEC. 1106. MEASUREMENT AND VERIFICATION.

(a) Standards.—

(1) Standards developed under paragraph (1); and

(2) transferred or traded based on value created and included in the aggregate national anthropogenic greenhouse gas emissions under which the National Academy of Sciences under which the National Academy of Sciences shall determine if such methods and standards developed under paragraph (1); and

(i) the date that is 1 year 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

(ii) the date that is 1 year after the date on which the methods and standards developed 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 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.

(b) Review of Participation.—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 preceding the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(B) not later than 5 years after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(c) Public Participation.—The Secretary of Commerce, the Administrator, and the Secretary of Energy 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) each 90-day period referred to in paragraph (1), in coordination with the Secretary of Agriculture, the Secretary of Commerce and the Secretary of Energy shall, after receiving the comments and suggestions of interested parties, adopt the methods and standards developed under subsection (a) for use in implementing the database.

(d) Experts and Consultants.—

(1) 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.

(b) Alternative 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 accuracy 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 in the registry, 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; and

(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

(c) Use of Funds.—Funds appropriated under this title (other than section 3109 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 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 preceding the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or

(ii) the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(B) not later than 5 years after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and

(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. 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) not later than 3 years after the date of enactment of this Act, the President shall—

(a) of this section. The report shall contain or require 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 during 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 provisions 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.
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, and coordinate the schedule for all major actions by the applicant, the Commission, affected Federal and State agencies, Indian Tribes, and other affected parties, to achieve resolution at any 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 processes.

(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 streamlined processes 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.

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 191, line 6, strike ''refiners'' and insert ''energy''.

On page 199, line 21, strike ''(2) EFFECTIVE DATE.—This subsection'' and insert the following: ''(2) EXCEPTIONS.—This subsection shall not apply to other''.

On page 205, line 5, strike ''(B)'' and insert ''(C)''.

On page 233, line 18, strike ''(k)'' and insert ''paragraph''.

SA 3243. Mr. BINGAMAN (for 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 13, strike line 24 and all that follows through page 570, line 7 and insert the following:

SEC. 170. 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 eighteen 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.

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 insert ''distributors''.

On page 187, line 20, strike ''distributors''.

On page 191, line 6, strike ''refiners'' and insert ''refiners''.

On page 191, line 17, strike ''distributors''.

On page 198, line 24 and all that follows through page 200, line 12, strike ''importer, or distributor'' and insert ''or importer''.

On page 205, line 5, strike ''(2) EFFECTIVE DATE.—This section'' and insert the following:

''(2) EXCEPTIONS.—This subsection shall apply to other certificates of public convenience and necessity, and (C) encourage the use of new and existing energy conservation technologies and energy recovery in industrial processes, as barriers to market entry for emerging energy technologies.''

On page 222, line 23, strike ''(B)'' and insert ''(C)''.

On page 233, line 18, strike ''(k)'' and insert ''paragraph''.

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 148, strike lines 4 through 22, renumber the subsequent section accordingly.

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 222, line 23, strike ''(B)'' and insert ''(C)''.

On page 233, line 18, strike ''(k)'' and insert ''paragraph''.

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 ''the date of enactment of this section'' and insert ''is''.

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:

At the end of title VI the following:

`SEC. 612. PRESERVATION OF OIL AND GAS SOURCE 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."

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. 613. RESOLUTION 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 after enactment of this Act, the Secretary shall report to Congress on her proposal to resolve these conflicts.

SA 3249. Mr. BINGAMAN (for Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 297 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 under paragraph (2)(A), require that savings resulting from the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits the United States Government and the contractor shall cooperate to the extent necessary to implement such contract under paragraph (1) to include 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 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; or

(B) a replacement facility under section 801(a)(3)....

(2) ENERGY SAVINGS CONTRACT.—Section 803(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, assurance, 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 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. 6293(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.

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.—Section (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 "$1,500";

(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";

(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 percentage of the credit amount is: maximum available power is:"

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 2.5 percent but less than 5 percent</td>
<td>Maximum available power is $250.</td>
</tr>
<tr>
<td>At least 5 percent but less than 10 percent</td>
<td>Maximum available power is $500.</td>
</tr>
<tr>
<td>At least 10 percent but less than 20 percent</td>
<td>Maximum available power is $750.</td>
</tr>
<tr>
<td>At least 20 percent but less than 30 percent</td>
<td>Maximum available power is $1,000.</td>
</tr>
<tr>
<td>At least 30 percent</td>
<td>Maximum available power is $1,500.</td>
</tr>
</tbody>
</table>

(2) by striking "$500" in paragraph (2)(B)(1)(I) and inserting "$1,500";

(3) by striking "$1,000" in paragraph (2)(B)(1)(II) and inserting "$1,500";

(4) by striking "$1,500" in paragraph (2)(B)(1)(III) and inserting "$2,000";

(5) by striking "$2,000" in paragraph (2)(B)(1)(IV) and inserting "$2,500";

(6) by striking "$2,500" in paragraph (2)(B)(1)(V) and inserting "$3,000";

(7) by striking "$3,000" in paragraph (2)(B)(1)(VI) and inserting "$3,500";

(8) by striking "$3,500" in paragraph (2)(B)(1)(VII) and inserting "$4,000";

(9) by striking the dash and all that follows through "for 2004" in paragraph (3)(B) and inserting "for 2004:

(c) CONFORMING AMENDMENTS FOR VEHICLE CREDITS.—

(1) Section 30B(c)(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 (b) of section 30B of such Code, as added by this Act, is amended to read as follows:

"(b) 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.”.

(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 “$4,000” 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 table and all that follows through “for 2004” in paragraph (3)(B) and inserting—

(10) by inserting “The credit amount is:

<table>
<thead>
<tr>
<th>Percent of the Year</th>
<th>Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>10%</td>
<td>$500</td>
</tr>
<tr>
<td>15%</td>
<td>$750</td>
</tr>
<tr>
<td>20%</td>
<td>$1,000</td>
</tr>
<tr>
<td>25%</td>
<td>$1,500</td>
</tr>
<tr>
<td>30%</td>
<td>$2,000</td>
</tr>
<tr>
<td>35%</td>
<td>$2,500</td>
</tr>
<tr>
<td>40%</td>
<td>$3,000</td>
</tr>
<tr>
<td>45%</td>
<td>$3,500</td>
</tr>
<tr>
<td>50%</td>
<td>$4,000</td>
</tr>
<tr>
<td>55%</td>
<td>$4,500</td>
</tr>
</tbody>
</table>

For any other property placed in service after December 31, 2002, and purchased before January 1, 2010, and for any other property placed in service after September 30, 2002, and purchased before January 1, 2007, the maximum available credit is $6,000.”.

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:

SEC. 2. 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 “$4,000” 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 table and all that follows through “for 2004” in paragraph (3)(B) and inserting—

(10) by inserting “The credit amount is:

<table>
<thead>
<tr>
<th>Percent of the Year</th>
<th>Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>10%</td>
<td>$500</td>
</tr>
<tr>
<td>15%</td>
<td>$750</td>
</tr>
<tr>
<td>20%</td>
<td>$1,000</td>
</tr>
<tr>
<td>25%</td>
<td>$1,500</td>
</tr>
<tr>
<td>30%</td>
<td>$2,000</td>
</tr>
<tr>
<td>35%</td>
<td>$2,500</td>
</tr>
<tr>
<td>40%</td>
<td>$3,000</td>
</tr>
<tr>
<td>45%</td>
<td>$3,500</td>
</tr>
<tr>
<td>50%</td>
<td>$4,000</td>
</tr>
<tr>
<td>55%</td>
<td>$4,500</td>
</tr>
<tr>
<td>60%</td>
<td>$5,000</td>
</tr>
</tbody>
</table>

For any other property placed in service after December 31, 2002, and purchased before January 1, 2010, and for any other property placed in service after September 30, 2002, and purchased before January 1, 2007, the maximum available credit is $6,000.”.

SEC. 3. MODIFICATIONS TO THE INCENTIVES FOR CERTAIN REFUELING PROPERTY.

(a) MODIFICATIONS TO NEW QUALIFIED FUELING STATION CREDIT.—Subsection (c) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking “calendar year 2004” in clause (i) and inserting “calendar years 2004 and 2005”,

(2) by striking “$4,000” in paragraph (1)(A) and inserting “$6,000”,

(3) by striking “$2,500” in paragraph (1)(B)(i) and inserting “$3,000”,

(4) by striking “$3,000” in paragraph (1)(B)(ii) and inserting “$5,000”, and

(5) by striking “$6,000” in subsection (e) and inserting “$8,000”.
amended to read as follows:

Subsection (l) of section 30C of the Internal Revenue Code of 1986, as amended by this Act, is amended to read as follows:

(2) in the case of property relating to hydrogen, after December 31, 2011, and
(3) in the case of any other property, after December 31, 2011.

(c) 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.

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:

(c) CONFORMING AMENDMENTS FOR VEHICLE CREDITS.—

SEC. 3. TREATMENT OF CERTAIN DEVELOPMENT INCOME OF COOPERATIVES.

(a) IN GENERAL.—Subparagraph (C) of section 591(c)(12), as amended by this Act, is amended by striking (C) and inserting (B), and (iv) in clause (ii) of section 591(c)(12), as amended by this Act, is amended by striking (B) and inserting (A).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SA 3256. Mr. NICKLES (for himself, Mr. BREXAUX, 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:

(f) CREDIT AMOUNT.—For purposes of this section—

(b) Special rule.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed for purposes of this section which were used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

SA 3257. Mr. MURkowski submitted an amendment intended to be proposed to amendment SA 217 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) 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:

SEC. 45M. ALASKA NATURAL GAS.

(c) APPLICATION OF RULES.—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 natural gas entering any intake or tie-in point which was derived from areas 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 unrelated persons in the United States, for taxable years ending after the date described in section 45M(f)(1).
pursuant to amendment SA 2917 proposed by Mr. DASCHEL (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 63, line 13, after "geothermal," insert "waste heat produced as a by-product of an agronomic or agricultural manufacturing process;"

SA 3260. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHEL (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;"

SA 3261. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHEL (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 64, line 24, after "geothermal," insert "waste heat produced as a by-product of an agronomic or agricultural manufacturing process;"

SA 3262. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHEL (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. DASCHEL (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:

"(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) ALASKA ALASKA NATURAL GAS CREDIT.—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) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), 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 subsection (i)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) ALASKA ALASKA NATURAL GAS CREDIT.—For purposes of subsection (a), the term "Alaska natural gas credit" means the credit allowable under subsection (a) by reason of section 45M(a).

"(c) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), 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 subsection (i)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) ALASKA ALASKA NATURAL GAS CREDIT.—For purposes of subsection (a), the term "Alaska natural gas credit" means the credit allowable under subsection (a) by reason of section 45M(a)."

"(B) ALASKA ALASKA NATURAL GAS CREDIT.—

"(c) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), 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 subsection (i)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) ALASKA ALASKA NATURAL GAS CREDIT.—For purposes of subsection (a), the term "Alaska natural gas credit" means the credit allowable under subsection (a) by reason of section 45M(a)."

"(c) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), 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 subsection (i)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) ALASKA ALASKA NATURAL GAS CREDIT.—For purposes of subsection (a), the term "Alaska natural gas credit" means the credit allowable under subsection (a) by reason of section 45M(a)."

"(c) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), 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 subsection (i)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) ALASKA ALASKA NATURAL GAS CREDIT.—For purposes of subsection (a), the term "Alaska natural gas credit" means the credit allowable under subsection (a) by reason of section 45M(a)."

"(c) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), 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 subsection (i)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) ALASKA ALASKA NATURAL GAS CREDIT.—For purposes of subsection (a), the term "Alaska natural gas credit" means the credit allowable under subsection (a) by reason of section 45M(a)."
VerDate Mar 15 2010 20:49 Jan 09, 2014 Jkt 081600 PO 00000 Frm 00083 Fmt 4624 Sfmt 0634 E:\2002SENATE\S22AP2.REC S22AP2mmaher on DSKCGSP4G1 with SOCIALSEC

States Code.

shall not be considered a motor vehicle as defined by section 30102(6) of title 49, United States Code, a low-speed electric bicycle.

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 by section 30102(6) of title 49, United States Code.

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:

"(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 pilot program 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 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 National Cleaner Air Diesel 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 scientifically 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 in the subsection, not to exceed $2 million."

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 as a by-product of an agronomic or agricultural manufacturing process."

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.’"

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’.

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 305, 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; and

(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—

(1) the guarantee is conditioned on the loan agreement being valid from the time of the loan guarantee, regardless of whether the loan is paid at a rate determined by the Secretary of Energy; and

(g) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guaranteed 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.

(b) GUARANTEER FEE.—The recipient of a loan guaranteed under subsection (b) shall pay the Secretary an annual fee of 0.25 percent of the guaranteed amount.

(h) 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.

(i) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually report to Congress an account of the activities of the Secretary under this section.
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 tribal corporation or village cooperative in existence on or after the date of enactment of this Act, is amended by inserting ‘‘ and’’ after ‘‘Indian tribe’’.

(2) MUNICIPAL SOLID WASTE FACILITY.—The term ‘municipal solid waste facility’ means a facility—

(A) owned by the taxpayer which is originally placed in service on or after the date of enactment of this subparagraph.

(B) owned by the taxpayer which is originally placed in service before the date of enactment of this subparagraph.

(C) owned by an association the majority of the interest in which is owned, directly or indirectly, by an Indian tribe.

(D) a corporation, partnership, or business association the majority of the interest in which is owned, directly or indirectly, by an Indian tribe.

(e) INFFECTIVENESS OF OTHER PROVISION.—Section 263 (relating to a Federal purchase requirement) shall be of no effect.

SA 3271. Ms. CANTWELL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGA- MAN) 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:


(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).
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 the project. The Secretary may request such importation of energy and a ranked 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.

SA 3274. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology partnerships and programs 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. 4. TRANSMISSION EXPANSION.

Section 205 of the Federal Power Act is amended by inserting after subsection (b) the following:

"(1) RULEMAKING.—Within six months of enactment of this Act, the Commission shall issue final rules governing the pricing of transmission services.

(2) Existing leases or permits for 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 revenues received 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 waters 200 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) Deep water 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 18 years after the date of enactment of this Act, 30 percent of any revenues 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. The 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.

" 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."

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 partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

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 lies.

"(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 person may propose an alternative condition.

"(c) ACCEPTANCE OF PROPOSED ALTERNATIVE CONDITION.—Notwithstanding subsection (a), the Secretary may accept an alternative condition proposed under subsection (b), and the Commission shall include in the license the alternative condition, if the Secretary determines, based on substantial evidence, that the alternative condition—

(1) provides for the adequate protection and use of fish and other resources;

(2) will cost less to implement, or result in improved operation of the project 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 prescription under subsection (a) or alternative condition that the Secretary accepts under paragraph (1), 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 for 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 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 prescription under subsection (a) or alternative condition that the Secretary accepts under paragraph (1), 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 for this section, than the fishway initially prescribed by the Secretary; and

"(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 section, each Secretary concerned shall, by regulation, establish a procedure to expeditiously resolve any conflict arising under this section."

SEC. 302. RELICENSING STUDY.

(a) DEFINITION OF NEW LICENSING CONDITION.—In this section, the term “new licensing 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));

(3) section 10(e) of the Federal Power Act (16 U.S.C. 803(e));

(4) PROCEDURE.—Not later than 1 year after the date of enactment of this section, each Secretary concerned shall, by regulation, establish a procedure to expeditiously resolve any conflict arising under this section."

SEC. 303. RELICENSING STUDY.

(a) DEFINITION OF NEW LICENSING CONDITION.—In this section, the term “new licensing 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));

(3) section 10(e) of the Federal Power Act (16 U.S.C. 803(e));

(4) PROCEDURE.—Not later than 1 year after the date of enactment of this section, each Secretary concerned shall, by regulation, establish a procedure to expeditiously resolve any conflict arising under this section."

SEC. 304. RELICENSING STUDY.

(a) DEFINITION OF NEW LICENSING CONDITION.—In this section, the term “new licensing 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));

(3) section 10(e) of the Federal Power Act (16 U.S.C. 803(e));

(4) PROCEDURE.—Not later than 1 year after the date of enactment of this section, each Secretary concerned shall, by regulation, establish a procedure to expeditiously resolve any conflict arising under this section."

SEC. 305. RELICENSING STUDY.

(a) DEFINITION OF NEW LICENSING CONDITION.—In this section, the term “new licensing 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));

(3) section 10(e) of the Federal Power Act (16 U.S.C. 803(e));
against a worsening of their positions related to employment; (iv) assurances of employment to employees of acquired companies; (v) assurances of priority of reemployment if a plant or employment is ended or who are laid off; and (vi) paid training or retraining programs, that the Commission concludes will fairly and equitably protect employees and classes affected by the proposed transaction; and"

**SA 277. 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. BINGMAN) 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:

"At the appropriate place, insert:

"Notwithstanding any other provision of this Act, the conditions to be considered by the Commission, when considering the proposed disposition, consolidation, acquisition or control also include the following: employee protective arrangements, defined as a program whereby it may be necessary to preserve the 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 for other purposes; which was ordered to lie on the table; as follows:

On page 205, line 9 insert the following:

**SEC. 830. 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, hydrocarbon, methanol or ethanol at more than 85 percent by volume, or propane. Vehicles designed to operate solely on gasoline or diesel derived from fossil fuels, and vehicles that Secretary determines 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 or provides for the use of alternative fuel vehicles in an intermodal application to demonstrate the transportation of people, goods, or services by using alternative fuel vehicles.

(3) INTERMODAL APPLICATION.—The term ‘‘intermodal application’’ means transportation activities that are conducted so that 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 purposes of alternative-fuel vehicles, infrastructure necessary to directly support a project funded by the grant including fueling and other support equipment, and the maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.

(3) APPLICATIONS.—(a) REQUIREMENTS.—The Secretary shall establish 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 replacement or degradation of the project, an estimate of the air pollution reductions due to 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 State or local governments and which by assistance and which by assistance from non-federal partners. An applicant may carry out a project under partnership with private or other public entities.

(4) SELECTION CRITERIA.—In evaluating applications, the Secretary shall consider each..."
applicants’ previous experience with similar projects and shall give priority consideration to applications that are most likely to maximize protection of the environment and demonstrate commitment by the applicant to ensure funding for the project and to ensure that the project will be maintained or expanded after federal assistance is 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 vehicle training devices through the pilot program and 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 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) TRAINING 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 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, including vocational and technical programs, and have the capability of offering courses or academic programs in pedagogy 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 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 achieved.

(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 Department of Transportation in assuring that the objectives of demonstrating intermodal activities with alternative fuel vehicles are more fully achieved.

(4) 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.

(5) TRAINING FUNDING.—There are authorized to be appropriated to the Secretary $200,000,000 to carry out this program, to remain available until expended.

(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.

SA 3280. Mr. SCHUMER (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. ASPEN (for himself and Mr. BINGHAM) 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 lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

(1) dedicated energy crops and trees;

(2) wood and wood residues;

(3) plants;

(4) grasses;

(5) agricultural residues;

(6) fibers;

(7) animal wastes and other waste materials; and

(8) municipal solid waste,

(B) RENEWABLE FUEL.—

(i) IN GENERAL.—The term ‘renewable fuel’ means motor vehicle fuel that—

(1) 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, municipal solid waste plant, 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.

(iii) INCLUSION.—The term ‘renewable fuel’ includes cellulosic biomass ethanol and biodiesel (as defined in section 314(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)).

(B) 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 (PAD) areas, shall not contain more than 10 percent by volume. The regulations shall contain compliance provisions for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this section are met, shall be robust where refiners or importers 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 1,650,000,000 gallons in 2004.

(B) APPLICABLE VOLUME.—

(1) CALENDAR YEARS 2001 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:

<table>
<thead>
<tr>
<th>Year</th>
<th>Volume (in billions of gallons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>2.3</td>
</tr>
<tr>
<td>2005</td>
<td>2.6</td>
</tr>
<tr>
<td>2006</td>
<td>2.9</td>
</tr>
<tr>
<td>2007</td>
<td>3.2</td>
</tr>
<tr>
<td>2008</td>
<td>3.5</td>
</tr>
<tr>
<td>2009</td>
<td>3.9</td>
</tr>
<tr>
<td>2010</td>
<td>4.3</td>
</tr>
<tr>
<td>2011</td>
<td>4.7</td>
</tr>
<tr>
<td>2012</td>
<td>5.0</td>
</tr>
</tbody>
</table>

(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—

(1) 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, for an estimated number of gallons of actual volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by September 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, to refiners, blenders, and importers, as appropriate, for the coming calendar year, to ensure that the requirements of subparagraphs (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 BIODIESEL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.35 gallons 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—

(1) issued to the person under subparagraph (C); (ii) obtained by purchase or other transfer under subparagraph (E) or (F); or

(B) BORROWING OF CREDITS.—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 (F).

(C) ISSUANCE AND TRACKING OF CREDITS.—

(I) PROGRAM.—The Administrator shall establish a program to issue, monitor the sale of, and track credits, of which—

(1) APPLICABLE PERCENTAGE.—Not later than October 31 of each calendar year, the Administrator shall—

(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

(aa) the number of actual gallons of renewable fuel blended into gasoline in that calendar year; and

(bb) 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, for 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) issue credits to another person, for purpose of satisfying the requirements of paragraph (2) for the coming calendar year; and

(iii) upon approval of the plan by the Administrator, implement the plan.

(H) Waivers.—

(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the obligation under 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 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 not later than 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

(D) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) 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 to the Administrator 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, by regulation, may—

(i) extend the Reid vapor pressure limitation established by paragraph (4) to all fuel blends containing 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.

"(6) EFFECTIVE DATE.—

(A) 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.

(B) 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 basis of a survey of renewable fuel required under this subsection—

(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) the first day of the first high ozone season for the area that begins not later than 180 days after the date of receipt of the petition.

(ii) 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—

(aa) conventional gasoline containing ethanol; (bb) reformulated gasoline containing ethanol; and (cc) conventional 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 person or entity that holds the credits to—

(A) keep, for a period of 3 years from the date of the determination of the Administrator, records of such credits and make such records available as are necessary to ensure that the survey conducted
Mr. KENNEDY to the bill (S. 1) to exempt to nuclear facilities in a State pursuant to orders of the Governor or other appropriate authority of the State.

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. MAN). 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:

**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, 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.

(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”;

(B) by inserting before the period the following: “. . . and all members of the National Guard on duty described in the following sentence”;

(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”.

SA 3282. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHEL (for himself and Mr. BINGMAN) to the bill (S. 317) 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:

(2) **RENEWABLE FUEL PROGRAM.**—

(“A”) Not later than one 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 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—

(B) **APPLICABLE VOLUME.**—For the purpose of subparagraph (A), the applicable volume for any of fiscal years 2004 through 2012 shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Applicable Volume of Renewable Fuel</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>(2.3) billion gallons</td>
</tr>
<tr>
<td>2005</td>
<td>(2.6) billion gallons</td>
</tr>
<tr>
<td>2006</td>
<td>(2.9) billion gallons</td>
</tr>
<tr>
<td>2007</td>
<td>(3.2) billion gallons</td>
</tr>
<tr>
<td>2008</td>
<td>(3.5) billion gallons</td>
</tr>
<tr>
<td>2009</td>
<td>(3.9) billion gallons</td>
</tr>
<tr>
<td>2010</td>
<td>(4.3) billion gallons</td>
</tr>
<tr>
<td>2011</td>
<td>(4.7) billion gallons</td>
</tr>
<tr>
<td>2012</td>
<td>(5.0) billion gallons</td>
</tr>
</tbody>
</table>

**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 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. 2. 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, 40B, and 40C 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.

SA 3284. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHEL (for himself and Mr. BINGMAN) to the bill (S. 317) 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:

**SEC. 3. LANDFILL GAS.**

(a) **CREDIT FOR PRODUCING LANDFILL GAS FUEL.**—

(1) **GENERAL.**—Section 29, as amended by this Act, is amended by adding at the end the following new paragraph:

“(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 (a) shall be applied by substituting ‘2002' for ‘1992’.

(2) **ADDITIONAL DEFINITION.**—Section 29(d) is amended by adding at the end the following new subparagraph:

“(B) 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.**—

(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 (A) and inserting “or”, and by adding at the end the following new subparagraph:

“(B) 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 a biodegradation of municipal solid waste for 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 subsection.

“(ii) MODIFICATION OF INFLATION ADJUSTMENT FACTOR.—In the case of electricity sold by a facility described in paragraph (1), 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 subsection. In the case of electricity sold after 2002, subparagraph (B) of subsection (d)(2) shall be applied by substituting ‘2002’ for “1992”.

(3) **COORDINATION WITH SECTION 28.**—The term ‘qualified energy resources’ shall not include any landfill gas the production of

---

**CALIBRATIVE TABLE.**

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Market Share percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>2.3%</td>
</tr>
<tr>
<td>2005</td>
<td>2.6%</td>
</tr>
<tr>
<td>2006</td>
<td>2.9%</td>
</tr>
<tr>
<td>2007</td>
<td>3.2%</td>
</tr>
<tr>
<td>2008</td>
<td>3.5%</td>
</tr>
<tr>
<td>2009</td>
<td>3.9%</td>
</tr>
<tr>
<td>2010</td>
<td>4.3%</td>
</tr>
<tr>
<td>2011</td>
<td>4.7%</td>
</tr>
<tr>
<td>2012</td>
<td>5.0%</td>
</tr>
</tbody>
</table>
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 division shall apply to electricity sold after the date of the enactment of this Act.

SA 3285. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its transmission 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.

(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 interoperability 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) Refueling infrastructure.—

(A) In general.—The Secretary shall support the installation of the necessary refueling infrastructure at the fleet sites.

(B) Integration.—Whenever feasible, the refueling 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 vehicle 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); and

(C) assesses the results of the program and recommends any modifications in the program that may be necessary to achieve the purposes of this section.

(2) Reimbursement.—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) $125,000,000 for fiscal year 2006;

(5) $60,000,000 for fiscal year 2007; and

(6) $10,000,000 for fiscal year 2008.

SEC. 9. STUDY OF FUEL CELL USE IN FEDERAL BUILDINGS.

(a) Definitions.—In this section:

(1) In general.—The Secretary shall conduct a study of how to encourage the appropriate use of fuel cells in federally funded buildings.

(b) Requirements.—In conducting the study, the Secretary shall—

(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) provide high-reliability and high-quality power for load;

(iv) serve as uninterruptible power systems required for computer operations;

(v) provide operating flexibility;

(vi) reduce demand for power from and load on the electric transmission and distribution grid through distributed generation;

(vii) provide—

(A) heat and power for use in buildings; and

(B) hydrogen or oxygen for various uses;

(viii) function in hybrid configurations with renewable power sources; and

(ix) reduce air and water pollution;

(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as are necessary to carry out the program.

SEC. 10. PILOT PROGRAM FOR USE OF FEDERAL FUEL CELL VEHICLES.

(a) Definitions.—In this section:

(1) In general.—The Secretary shall conduct a study of how to encourage the appropriate use of fuel cells in federally funded buildings.

(b) Requirements.—In conducting the study, the Secretary shall—

(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) provide high-reliability and high-quality power for load;

(iv) serve as uninterruptible power systems required for computer operations;

(v) provide operating flexibility;

(vi) reduce demand for power from and load on the electric transmission and distribution grid through distributed generation;

(vii) provide—

(A) heat and power for use in buildings; and

(B) hydrogen or oxygen for various uses;

(viii) function in hybrid configurations with renewable power sources; and

(ix) reduce air and water pollution;
(1) The heading for subsection (c) of section 45 is amended by inserting “and, except as otherwise provided in subsection (c),” before “the term ‘qualified facility’”.

(2) The heading for subsection (d) of section 45 is amended by inserting “the term ‘qualified facility’” before “shall apply to electricity sold after the date of the enactment of this Act.”

(2) 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) is amended by inserting “and, except as otherwise provided in subsection (c),” before “the term ‘qualified facility’”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act.

(2) DEFINITIONS.—Section 45(c) relating to definitions and special rules, as amended by this Act, is amended by inserting “and” before “qualified facility owned by” at the end of subparagraph (A)(ii). (C)(ii) and after “thereof, the District of Columbia, any agency thereof, or any agency or instrumentality of any of the foregoing, or an Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.”

(b) TRANSFER OF CREDIT.—(1) In general.—Section 45(d)(1)(A) (defining credit) is amended by inserting “and” before “qualified facility owned by” at the end of subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

(c) REGULATIONS.—The Secretary shall prescribe regulations to ensure that any credit described in clause (2) is claimed once and not reassigned by any other person.

(d) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subparagraph (A)(ii) from the transfer of any credit under clause (1) shall be treated as arising from the exercise of an essential governmental function.

(e) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subparagraph (A)(i), any credit to which subparagraph (A)(i) applies may be transferred by such person to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation incurred under chapter I 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.

(f) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A) applies shall not be treated as income for purposes of section 50(c)(12).

(g) TREATMENT OF UNRELATED PERSONS.—For purposes of this chapter for the taxable year an amount equal to the sum of—

(a) ALLOWANCE OF CREDIT.—(1) In general.—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—

(B) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.

(ii) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under subsection (c), and

(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.

(i) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under subsection (c), and

(2) TRANSFER OF CREDIT.—(1) In general.—Section 45(d)(1)(A) (defining credit) is amended by inserting “and” before “qualified facility owned by” at the end of subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

(II) REGULATIONS.—The Secretary shall prescribe regulations to ensure that any credit described in clause (i) is claimed once and not reassigned by any other person.

(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential governmental function.

(iv) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subparagraph (A)(i), any credit to which subparagraph (A)(i) applies may be transferred by such person to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation incurred under chapter I 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.

(v) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A) applies shall not be treated as income for purposes of section 50(c)(12).

(vi) TREATMENT OF UNRELATED PERSONS.—For purposes of this chapter for the taxable year an amount equal to the sum of—

(A) new qualified fuel cell motor vehicle credit determined under subsection (c), and

(b) new qualified alternative fuel motor vehicle credit determined under subsection (d).

(2) 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—

(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subparagraph (A)(i), any credit to which subparagraph (A)(i) applies may be transferred by such person to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation incurred under chapter I 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.
model year city fuel economy with respect to a vehicle to be determined in accordance with the following tables:

"(i) In the case of a passenger automobile:

<table>
<thead>
<tr>
<th>Gross Vehicle Weight</th>
<th>City Fuel Economy</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,500 lbs or less</td>
<td>9.4 mpg</td>
</tr>
<tr>
<td>2,000 lbs or less</td>
<td>8.0 mpg</td>
</tr>
<tr>
<td>2,500 lbs or less</td>
<td>7.0 mpg</td>
</tr>
<tr>
<td>3,000 lbs or less</td>
<td>6.0 mpg</td>
</tr>
<tr>
<td>3,500 lbs or less</td>
<td>5.0 mpg</td>
</tr>
<tr>
<td>4,000 lbs or less</td>
<td>4.0 mpg</td>
</tr>
<tr>
<td>4,500 lbs or less</td>
<td>3.0 mpg</td>
</tr>
<tr>
<td>5,500 lbs or less</td>
<td>2.0 mpg</td>
</tr>
<tr>
<td>6,750 lbs or less</td>
<td>1.5 mpg</td>
</tr>
<tr>
<td>7,000 lbs or more</td>
<td>1.0 mpg</td>
</tr>
</tbody>
</table>

"(ii) In the case of a light truck:

<table>
<thead>
<tr>
<th>Gross Vehicle Weight</th>
<th>City Fuel Economy</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,500 lbs or less</td>
<td>9.4 mpg</td>
</tr>
<tr>
<td>2,000 lbs or less</td>
<td>8.0 mpg</td>
</tr>
<tr>
<td>2,500 lbs or less</td>
<td>7.0 mpg</td>
</tr>
<tr>
<td>3,000 lbs or less</td>
<td>6.0 mpg</td>
</tr>
<tr>
<td>3,500 lbs or less</td>
<td>5.0 mpg</td>
</tr>
<tr>
<td>4,000 lbs or less</td>
<td>4.0 mpg</td>
</tr>
<tr>
<td>4,500 lbs or less</td>
<td>3.0 mpg</td>
</tr>
<tr>
<td>5,500 lbs or less</td>
<td>2.0 mpg</td>
</tr>
<tr>
<td>6,750 lbs or less</td>
<td>1.5 mpg</td>
</tr>
<tr>
<td>7,000 lbs or more</td>
<td>1.0 mpg</td>
</tr>
</tbody>
</table>

"(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 fuel 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 241(d) of the Clean Air Act for that make and model year, and

"(ii) for 2004 and later model vehicles, has received a certificate of conformity under the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(l) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer during the taxable year is the credit amount determined under paragraph (2).

"(4) CREDIT AMOUNT.—(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

<table>
<thead>
<tr>
<th>Gross Vehicle Weight</th>
<th>Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,500 lbs or less</td>
<td>$500</td>
</tr>
<tr>
<td>2,000 lbs or less</td>
<td>$600</td>
</tr>
<tr>
<td>2,500 lbs or less</td>
<td>$700</td>
</tr>
<tr>
<td>3,000 lbs or less</td>
<td>$800</td>
</tr>
<tr>
<td>3,500 lbs or less</td>
<td>$900</td>
</tr>
<tr>
<td>4,000 lbs or less</td>
<td>$1,000</td>
</tr>
<tr>
<td>4,500 lbs or less</td>
<td>$1,100</td>
</tr>
<tr>
<td>5,000 lbs or less</td>
<td>$1,200</td>
</tr>
<tr>
<td>5,500 lbs or less</td>
<td>$1,300</td>
</tr>
<tr>
<td>6,750 lbs or less</td>
<td>$1,400</td>
</tr>
<tr>
<td>7,000 lbs or more</td>
<td>$1,500</td>
</tr>
</tbody>
</table>

"(B) INCREASE FOR FUEL EFFICIENCY.—(i) The amount determined under subparagraph (A) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by the following percentage of the maximum available power:

<table>
<thead>
<tr>
<th>Percent of Maximum Power</th>
<th>Increased Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25%</td>
<td>$250</td>
</tr>
<tr>
<td>50%</td>
<td>$500</td>
</tr>
<tr>
<td>75%</td>
<td>$750</td>
</tr>
<tr>
<td>100%</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

"(ii) If such vehicle has a gross vehicle weight rating of more than 14,000 pounds:

<table>
<thead>
<tr>
<th>Percent of Maximum Power</th>
<th>Increased Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25%</td>
<td>$250</td>
</tr>
<tr>
<td>50%</td>
<td>$500</td>
</tr>
<tr>
<td>75%</td>
<td>$750</td>
</tr>
<tr>
<td>100%</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

"(iii) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

<table>
<thead>
<tr>
<th>Percent of Maximum Power</th>
<th>Increased Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25%</td>
<td>$250</td>
</tr>
<tr>
<td>50%</td>
<td>$500</td>
</tr>
<tr>
<td>75%</td>
<td>$750</td>
</tr>
<tr>
<td>100%</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

"(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 fuel 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 241(d) of the Clean Air Act for that make and model year, and

"(ii) for 2004 and later model vehicles, has received a certificate of conformity under the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(l) of the Clean Air Act for that make and model year vehicle,

"(C) the original use of which commences with the taxpayer during the taxable year is the credit amount determined under paragraph (2).

"(4) CREDIT AMOUNT.—(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

<table>
<thead>
<tr>
<th>Gross Vehicle Weight</th>
<th>Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1,500 lbs or less</td>
<td>$500</td>
</tr>
<tr>
<td>2,000 lbs or less</td>
<td>$700</td>
</tr>
<tr>
<td>2,500 lbs or less</td>
<td>$900</td>
</tr>
<tr>
<td>3,000 lbs or less</td>
<td>$1,100</td>
</tr>
<tr>
<td>3,500 lbs or less</td>
<td>$1,300</td>
</tr>
<tr>
<td>4,000 lbs or less</td>
<td>$1,500</td>
</tr>
<tr>
<td>4,500 lbs or less</td>
<td>$1,700</td>
</tr>
<tr>
<td>5,000 lbs or less</td>
<td>$1,900</td>
</tr>
<tr>
<td>5,500 lbs or less</td>
<td>$2,100</td>
</tr>
<tr>
<td>6,750 lbs or less</td>
<td>$2,300</td>
</tr>
<tr>
<td>7,000 lbs or more</td>
<td>$2,500</td>
</tr>
</tbody>
</table>

"(B) INCREASE FOR FUEL EFFICIENCY.—(i) The amount determined under subparagraph (A) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by the following percentage of the maximum available power:

<table>
<thead>
<tr>
<th>Percent of Maximum Power</th>
<th>Increased Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25%</td>
<td>$250</td>
</tr>
<tr>
<td>50%</td>
<td>$500</td>
</tr>
<tr>
<td>75%</td>
<td>$750</td>
</tr>
<tr>
<td>100%</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

"(ii) If such vehicle has a gross vehicle weight rating of more than 14,000 pounds:

<table>
<thead>
<tr>
<th>Percent of Maximum Power</th>
<th>Increased Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25%</td>
<td>$250</td>
</tr>
<tr>
<td>50%</td>
<td>$500</td>
</tr>
<tr>
<td>75%</td>
<td>$750</td>
</tr>
<tr>
<td>100%</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

"(iii) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

<table>
<thead>
<tr>
<th>Percent of Maximum Power</th>
<th>Increased Credit Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>25%</td>
<td>$250</td>
</tr>
<tr>
<td>50%</td>
<td>$500</td>
</tr>
<tr>
<td>75%</td>
<td>$750</td>
</tr>
<tr>
<td>100%</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

"(D) DEFINITIONS.—

"(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this paragraph, 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 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 Otto cycle 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 on-board sources of stored energy:

"(A) 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.

"(B) A rechargeable energy storage system.

"(iii) MAXIMUM AVAILABLE POWER.—

"(i) PASSENGER AUTOMOBILE OR LIGHT TRUCK.—For purposes of subparagraph (A), the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a
(1) **HEAVY DUTY HYBRID MOTOR VEHICLE.**—For purposes of this paragraph (1), the term ‘maximum available power’ means the maximum power available 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.

(2) **NEW QUALIFIED HYBRID MOTOR VEHICLE.**—For purposes of this subsection, the term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

(1) which draws propulsion energy from onboard sources of stored energy which are both—

(A) an internal combustion or heat engine using combustible fuel, and

(B) a rechargeable energy storage system.

(2) for 2002 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(l) of the Clean Air Act for that make and model year, and

(3) 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(l) of the Clean Air Act for that make and model year vehicle, and

(4) **NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.**—For purposes of this subsection—

(A) **ALLOWANCE OF CREDIT.**—Except as provided in paragraph (5), the credit determined under this subsection is an amount equal to—

(1) $5,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds;

(2) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds;

(3) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds; and

(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—

(i) liquefied petroleum gas,

(ii) liquefied natural gas,

(iii) gaseous matter which releases energy when consumed by an auxiliary power unit.

(C) **MOTOR VEHICLE.**—For purposes of this section—

(i) the term ‘motor vehicle’ has the meaning given such term by title 49, Code of Federal Regulations, as in effect on the date of the enactment of this section;

(ii) the term ‘qualified alternative fuel motor vehicle’ means any motor vehicle—

(A) which draws propulsion energy from onboard sources of stored energy which are both—

(1) an internal combustion or heat engine using combustible fuel, and

(2) an alternative fuel;

(B) which operates using at least 90 percent alternative fuel and not more than 25 percent petroleum-based fuel;

(C) which is made by a manufacturer.

(3) **CREDIT FOR MIXED-FUEL VEHICLES.**—For purposes of this subsection—

(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) of this paragraph (5), which—

(1) is certified by the manufacturer as being able to perform efficiently in normal use or lease, but not for resale, and

(2) is made by a manufacturer.

(C) **75/25 MIXED-FUEL VEHICLE.**—For purposes of this subsection, the term ‘75/25 mixed-fuel vehicle’ means any motor 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 any motor vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

(4) **APPLICATION WITH OTHER CREDITS.**—For purposes of this subsection—

(A) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease property), the amount of such credit so allowed (determined without regard to subsection (e))—

(B) with respect to any credit allowable under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year;

(C) with respect to any credit allowable under subsection (b) or (c), shall be reduced by the amount of credit attributable to such cost, and

(D) with respect to any credit otherwise allowable to the entity under this section.

(5) **PROPERTY USED BY TAX-EXEMPT ENTITIES.**—In the case of a credit amount which is allowable with respect to a motor vehicle which is exempt from the tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to such 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 such credit otherwise allowable to the entity under this section.

(6) **RECAPTURE.**—The Secretary shall, by regulations, provide for recapturing the benefit of such 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 property), but not more than 10 percent of less than the economic life of a vehicle.

(7) **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) and with respect to the portion of the cost of any property taken into account under section 179.

(8) **ELECTION TO NOT TAKE CREDIT.**—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not take such credit.

(9) **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 which succeed the unused credit year.

(B) Rules.—Rules similar to the rules of section 2003 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

(3) CONFORMING AMENDMENTS.—

(A) Section 33(d)(1)(B)(iii) is amended by striking ‘‘(30B(c)(10),’’ after ‘‘30B(d)(4),’’.

(B) The heading of section 33(a) is amended by striking ‘‘qualified clean-fuel vehicle refueling property’’ and inserting ‘‘qualified electric vehicle refueling property’’. 

(4) The table of sections for subpart B of part IV of chapter 49, United States Code, is amended by inserting the following table:

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>30B</td>
<td>Alternative motor vehicle credit.</td>
</tr>
</tbody>
</table>

(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 Phase I light duty vehicle standards prescribed by the Secretary of Transportation, as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002, the credit shall be limited to $3,000, or

(B) In the case of a vehicle which is not a clean fuel vehicle, the credit shall be limited to $1,500.

(B) by redesignating paragraph (3) as paragraph (2).

(2) The heading of section 30 is amended by striking ‘‘BATTERY’’ after ‘‘QUALIFIED’’ and inserting ‘‘qualified electric vehicle refueling property’’.

(3) The heading of subparagraph (A) of section 30(d) is amended by striking ‘‘qualified clean-fuel vehicle refueling property’’ and inserting ‘‘qualified electric vehicle refueling property’’.

(4) The heading of subparagraph (B) of section 30(d) is amended by striking ‘‘qualified clean-fuel vehicle refueling property’’ and inserting ‘‘qualified electric vehicle refueling property’’.

(b) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for any cost taken into account for any retail clean-fuel vehicle refueling 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 chapter 49, United States Code, is amended by inserting the following new section:

(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 allowed 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 by section 501(c)(3) of the Internal Revenue Code of 1986, the credit shall be allowable, 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 which is attributable to such cost.
"(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.

"(f) Basis Reduction.—For purposes of this title, the basis of any property shall be reduced by the cost of such property with respect to which a credit is allowed under subsection (a).

"(g) No Double Benefit.—No deduction shall be allowed under section 179A with respect to all property with respect to which such 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 allowed under such 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.

"(1) Carryforward Allowed.—

"(1) 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' 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 (b) by striking the period at the end of paragraph (b) and inserting 'that period, plus the period ending in April 30, 2006.'

(2) Section 55(c)(2), as amended by this Act, is amended by inserting '2006.' after '2005,'.

(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 last entry relating to section 309 the following new entry:

"Sec. 30C. Clean-fuel vehicle refueling property credit.

(c) Effective Date.—The amendments made by this section shall apply to any property placed in service after September 30, 2006, 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 for a purpose to propel a 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:

<table>
<thead>
<tr>
<th>Year</th>
<th>Applicable Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>30 cents</td>
</tr>
<tr>
<td>2003</td>
<td>30 cents</td>
</tr>
<tr>
<td>2004</td>
<td>40 cents</td>
</tr>
<tr>
<td>2005 and 2006</td>
<td>50 cents</td>
</tr>
</tbody>
</table>

(2) Alternative fuel.—The term 'alternative fuel' means—

"(A) liquefied natural gas, liquefied petroleum gas, or 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 the Treasury) of gasoline having a Btu content of 114,000.

(4) Qualified motor vehicle.—The term 'qualified motor vehicle' means any motor vehicle that is a 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.

(5) No Double Benefit.—No deduction shall be allowed under section 179A with respect to any qualified motor vehicle.

(6) Basis Reduction.—For purposes of this section, the basis of such property shall be reduced by the amount of the credit determined under subsection (a) for the taxable year following the unused credit year (referred to as the 'unused credit year' in this subsection).

(7) Carryforward.—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' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

(8) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (7).

(9) Regulations.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

(10) Termination.—This section shall not apply to any property placed in service after December 31, 2006.

(b) Conforming Amendments.—

(1) Section 39(d) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by inserting '2006' after '2005.'.

(2) Section 55(c)(2) is amended by inserting '2006.' after '2005.'.

(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 last entry relating to section 309 the following new entry:

"Sec. 30C. Clean-fuel vehicle refueling property credit.

(c) Effective Date.—The amendments made by this section shall apply to any property placed in service after September 30, 2006.

 april 22, 2002
"(1) 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)(3)(A)(ii), as added 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 UNDER SECTION 78.—Section 78 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

«SEC. 78. ALCOHOL FUEL CREDIT.»

"Gross income includes an amount equal to—

"(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a), and
"(2) the alcohol credit determined with respect to the taxable year under section 40(a).

(c) CONFORMING AMENDMENT.—Section 1366 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new sub-section:

"(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(c)(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 striking ‘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 amounts the credits determined under section 40A for taxable years beginning after the date of the enactment of this Act.

SEC. 2007. INCREASED FLEXIBILITY IN ALCOHOL FUELS TAX CREDIT.

(a) ALCOHOL FUELS CREDIT MAY BE TRANSFERRED.—Section 40 (relating to alcohol to alcohol use as fuel) is amended by striking 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 ethanol tert-butyl ether to the extent that such tax credit is transferred 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 40B,
"(B) is required to register under section 40B, and
"(C) obtains a certificate from the taxpayer described in paragraph (1) which identifies the amount of alcohol used in such production.

"(II) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to assure that any credit described in paragraph (1) is claimed once and not reassigned by a qualified assignee.

(b) ALCOHOL FUELS CREDIT MAY BE TRANSFERRED AGAINST MOTOR FUELS TAX LIABILITY.—

"(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 1 (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 GIVE CREDIT AGAINST MOTOR FUELS TAXES.—There is hereby allowed as a credit against the taxes imposed by section 40A, any credit allowed under paragraph (1) or (2) of section 40(a) with respect to alcohol used in the production of ethanol tert-butyl ether to the extent—

"(1) such credit is claimed by the taxpayer or the qualified assignee under section 40(a) 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 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 credits and to prescribe the taxable periods with respect to which the credit may be claimed.

"(2) CONFORMING AMENDMENT.—Section 40(c) is amended by inserting ‘or section 40(c)(1), or section 4104’.

"(3) CLERICAL AMENDMENT.—The table of sections of subtitle B of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Credit against motor fuels taxes.

"(a) ELECTION TO HAVE BIODIESEL FUELS USED AS FUEL, ETC.—

"(1) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(I) DEFINITIONS.—For purposes of this section—

"(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. 7415), and
"(ii) the requirements of the American Society of Testing and Materials D6751.

"(B) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

"(1) DEFINITION.—The term ‘biomass-based diesel fuel’ means a mixture, the biodiesel mixture rate for which is not less than 1 cent for each whole percentage point of biodiesel in such mixture.

"(2) QUALIFIED BIODIESEL MIXTURE.—

"(A) IN GENERAL.—The biodiesel mixture rate for any 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.

"(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under subsection (d) of section 40A, and subsection (b)(1)(B) of section 40A, for purposes of this section—

"(1) CREDIT AGAINST MOTOR FUELS TAX LIABILITY.—

"(i) the amount of the alcohol mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

"(2) CREDIT AGAINST MOTOR FUELS TAX LIABILITY.—

"(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, and
"(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 subsection (d) of section 52 shall apply.

"(C) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

"(1) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(I) DEFINITIONS.—For purposes of this section—

"(i) the requirements of the American Society of Testing and Materials D6751.

"(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 subsection (d) of section 52 shall apply.

"(C) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

"(1) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(I) DEFINITIONS.—For purposes of this section—

"(i) the requirements of the American Society of Testing and Materials D6751.

"(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 subsection (d) of section 52 shall apply.

"(C) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

"(1) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(I) DEFINITIONS.—For purposes of this section—

"(i) the requirements of the American Society of Testing and Materials D6751.
“(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 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 inserting ‘‘40B(e),’’ after ‘‘40A(e),’’.

“(3) CONFORMING AMENDMENTS.—

(A) Section 38(d), as amended by this Act, is amended by adding at the end the following new paragraph:

‘‘(12) NO CARRIAGEBACK OF BIODIESEL FUELS CREDITS.—Notwithstanding any other provision of law, no portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credits 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’’ and inserting ‘‘and’’ and ‘‘40B(e)’’, 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 ‘‘40A(e),’’.

(D) The table of sections for part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40B the following new item:

‘‘Sec. 40B. Biodiesel used as fuel.’’.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) METOT FUEL EXCISE TAXES ON BIODIESEL MIXTURES.—

(1) IN GENERAL.—Section 40B1 relating to manufactured fuel tax on petroleum products is amended by adding at the end the following new subsection:

‘‘(k) BIODIESEL MIXTURES.—Under regulations prescribe 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 socribed 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 40B1 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)(1)), 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) 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 40B1 at a rate not determined under section 40B1(f) is used by any person in producing a qualified biodiesel mixture, the amount equal to the per gallon applicable biodiesel mixture rate (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 under section 40B1(b)(1) 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.—

(1) ELIGIBLE CONTRACTOR.—The term ‘‘eligible contractor’’ means the person who constructs the qualifying new home 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, tax 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 shall not be taken into account under this section.

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

(A) ELIGIBLE CONTRACTOR.—The term ‘‘eligible contractor’’ means the person who constructs the qualifying new home 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, construction of which is substantially completed after the date of the enactment of this section, and (B) the construction of which has 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).

(7) CERTIFICATION.—

(A) IN GENERAL.—A certification described in subsection (b)(1)(A) 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).

(2) CREDIT FOR ENERGY EFFICIENT APPLIANCES.—

(a) IN GENERAL.—A credit determined under this section for the taxable year which is attributable to the credit determined under section 45G for any taxable year which is attributable to the credit determined under section 45G may be carried back to the taxable year in which the credit is determined under section 45G(a) or carried forward for 20 years to any taxable year

which is attributable to the credit determined under section 45G(a).

(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—

(1) CATEGORIES.—For purposes of this section, the terms ‘clothing washer’ means a residential clothes washer, including a residential style coin operated washer.

(2) CLOTHES WASHER.—The term ‘clothes washer’ includes a residential clothes washer, including a residential style coin operated washer.

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

(c) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term ‘qualified energy efficient appliance’ means—

(A) a clothes washer described in subparagraph (A)(i), (ii) clothes washers described in paragraph (A)(ii), (iii) refrigerators described in paragraph (A)(ii), and (iv) refrigerators described in paragraph (B)(ii).

(d) LIMITATION ON MAXIMUM CREDIT.—

(1) IN GENERAL.—The maximum amount of credit allowed under subsection (a) with respect to a taxpayer for the taxable year which is attributable to the credit determined under subsection (b)(1)(A), and (B) is $30,000,000.

(2) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit), as amended by this section, shall be—

(i) the number of appliances in such category which were produced by the taxpayer during calendar years 1999, 2000, and 2001.

(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

(iii) a refrigerator which consumes at least 15 percent less kWh per year than such energy conservation standards.

(e) SPECIAL RULES.—

(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.

(f) LIMITATION ON CARRYBACK.—Subsection (d) of section 39, as amended by this Act, is

(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

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

(h) DEFINITIONS.—For purposes of this section, the term ‘qualified energy efficient appliance’ includes—

(1) the new energy efficient home credit determined under section 45G(a).

(2) ELIGIBLE PRODUCTION.—

(a) IN GENERAL.—A certification described in subsection (b)(1)(B), the Secretary shall establish recognition qualifying new home—

(iii) the new energy efficient home credit determined under section 45G(a).

(f) 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.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.
SEC. 2103. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT APPLIANCES.—

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 (relating to non-refundable personal credits) is amended by striking "(relating to general business credit), as amended by this Act," and inserting after such paragraph (theo) the following new paragraph:

"(1) 25% for each electric water heater,"

(b) Limitation on Carryback.—Section 39(d) (relating to carryback of credits) is amended by inserting after the last paragraph thereof the following new paragraph:

"(1) the credit allowable under subsection (a) for the taxable year减 the sum of the credits allowable under subsection (a) for the taxable year preceding taxable year.

(c) Effective Date.—The amendments made by this section shall apply to credits allowed after December 31, 2001, in taxable years beginning after such date.

SEC. 2101. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.—

(a) In General.—Subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by striking "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.

(b) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—The term ‘Tier 2 energy efficient building property’ means an expenditure for property which is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the Secretary of Energy, determines necessary to reduce energy consumption by at least 15% and an energy efficiency ratio (EER) of at least 12.5.

"(ii) there is an electric heat pump water heater which has an heating seasonal performance factor (HSPF) of at least 3.0, 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 water heater which has a coefficient of performance of at least 1.25 for heating and of at least 0.80 in the standard Department of Energy test procedure.

"(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 geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.

"(f) Labor Costs.—Expenditures for labor costs properly allocable to the preparation, assembly, or original installation of the property described in paragraphs (1), (2), (4), (5), or (6) and for piping or wiring to connect such property to the dwelling unit shall be taken into account for purposes of this section.

"(g) 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 such of such individuals as 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 paragraph (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.

"(h) Tenant-stockholder in Cooperatives.—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 a 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 substantially all of the units of which are used as residences.

(4) ALLOCATION IN CERTAIN CASES.—If less than 90 percent of the use of an item of property 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), the amount of 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 into account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).

(7) 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 in the taxable year in which the construction or reconstruction of property—

(A) which is located in the United States,

(B) which is located in a possessions area,

(C) which is located in any other place to which the Internal Revenue Code applies, and

(D) which is eligible for a foreign tax credit under section 901, shall be the sum of the basis of such property immediately before the expenditure and the amount of the credit so allowed.

(g) TERMINATION.—The credit allowed under this section shall not apply to amounts of tax expenditures attributable to expenditures for property placed in service after December 31, 2001.

(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:

(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

(A) the tax liability (as defined in section 26(a)) for such taxable year, minus—

(i) the amount of the regular tax liability for such year (as defined in section 26(a)(1)) multiplied by a factor determined under paragraph (3) of section 26(b), and

(ii) the amount of the Federal alternative minimum tax for such taxable year (as defined in section 56(c)) determined by applying to such minimum tax the factor determined under paragraph (3) of section 26(b), minus

(B) the sum of the credits allowable under this section (other than this section and section 25D) for such taxable year.

(2) CONFORMING AMENDMENTS.—

(A) Section 25C(c), as added by subsection (a), is amended by striking ‘‘subsection (b)(3)’’.

(B) Section 23(b)(4)(B) is amended by inserting ‘‘section 23(c)’’.

(C) Section 24(b)(3)(B) is amended by striking ‘‘23 and 25B’’ and inserting ‘‘23, 25B, and 25C’’.

(D) Section 25(b)(1)(C) is amended by inserting ‘‘or 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 90(h) is amended by striking and inserting ‘‘25B, and 25C’’.

(H) Section 1400C(c) is amended by striking ‘‘and 25B’’ and inserting ‘‘25B, and 25C’’.

(I) 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 25C(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(c), 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 striking ‘‘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 striking paragraph (30) and inserting the following new paragraph:

‘‘Sec. 25C. Residential energy efficient property.’’

(e) EFFECTIVE DATE.—The amendments made by this Act shall apply to taxable years beginning 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.—Paragraph (2) of subsection 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 (b) 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 90-1999 (as described in paragraph (2)).

Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

‘‘(e) QUALIFIED COMMERCIAL BUILDING PROPERTY.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term ‘‘qualified 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 (D) of this paragraph as provided under paragraph (5).


"(2) 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 such—

"(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 designated 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 (ii).

"(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 systems, 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 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.

"(v) 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 time-clocks.

"(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) METHODS OF COMPUTER SOFTWARE.—For purposes of this paragraph, the term 'qualified computer software' means software—

"(i) 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

"(ii) 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 efficient commercial buildings property installed in or owned by a governmental entity, 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 the tax year.

"(B) METHODS OF CALCULATION.—The Secretary shall consult with the National Electrical Manufacturers Association, 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 (D) of this paragraph as provided under paragraph (5).

"(C) PROFESSIONAL SERVICES.—The Secretary shall consult with non-profit 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.

"(D) BASIS REDUCTION.—For purposes of this subsection, a deduction is allowed with respect to any property which is used predominantly outside the United States or with respect to property which is used predominantly outside the United States or with respect to property which is used predominantly outside the United States or with respect to property which is used predominantly outside the United States.

"(3) TERMINATION.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with property—

"(i) the plans for which are not certified under subsection (d)(5) on or before December 31, 2007, and

"(ii) the construction of which is not completed on or before December 31, 2009.

"(b) CONFORMING AMENDMENTS.—

"(1) Section 10002 of 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:

"(1) 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 first and second sentences of subparagraph (I) and inserting "179B, or 179A;".

"(c) CLERICAL AMENDMENT.—The table of sections for part VI of chapter B of title VI of subtitle A of title I of the Internal Revenue Code 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. 219E. ALLOWANCE FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.

"(a) IN GENERAL.—Part VI of chapter B of title VI of subtitle A of title I of the Internal Revenue Code is amended by inserting after section 179B the following new section:

"Sec. 179C. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.

"(1) 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 the cost of a qualified energy management device placed in service during the taxable year of the purchase or use of electricity or natural gas by the taxpayer for purposes of this paragraph.

"(b) MAXIMUM DEDUCTION.—The deduction allowed by this paragraph 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 measure the consumption of electricity or 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.—Qualified energy management devices 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 property taken into account under section 179A.

"(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) as amended by this Act, and

“(2) ORDINARY INCOME RECUPARATION.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 179.

“(b) Conforming Amendments.—(1) Section 28(a)(1), as amended by this Act, is amended by striking ‘‘(or’’ at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ‘‘and’’, and by adding at the end the following new subparagraph:

“(J) expenditures for which a deduction is allowed under section 179.

“(2) Section 312(k)(3), as amended by this Act, is amended by striking ‘‘or 179B’’ each place it appears in the heading and text and inserting ‘‘or 179B’’.

“(3) Section 1016(a), as amended by this Act, is amended by striking ‘‘and’’ at the end of subparagraph (G), by striking the period at the end of subparagraph (H), and inserting ‘‘, and’’, and by adding at the end the following new subparagraph:

“(3D) to the extent provided in section 179C(a).

“(4) Section 245(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 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 starting 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 such subparagraph and inserting ‘‘, or’’ at the end of clause (ii), 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) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—The term ‘qualified energy management device’ means any qualified energy management device as defined in section 179C(b) which—

“(A) is placed in service by a taxpayer who is a supplier of electric energy or natural gas services, and

“(B) produces—

“(I) electric energy in the form of electrical or mechanical energy capacities,

“(ii) which has an electric capacity of more than 50 kilowatts or a mechanical energy capacity of more than 50 horsepower or an equivalent combination of electrical and mechanical energy capacities,

“(ii) which produces—

“(I) at least 20 percent of its total useful energy in the form of thermal energy, and

“(ii) has the following 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.

“(16) SPECIAL RULES.—

“(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a section 179C property is the fraction

“(a) the numerator of which is the total useful electrical, thermal, and mechanical energy produced by the system at normal operating rates, and expected to be consumed in its normal application, and

“(b) 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 for the energy efficiency percentage 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.

“(17) PUBLIC UTILITY PROPERTY.—

“(1) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property with respect to the taxpayer, the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

“(2) 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 that would (but for this subparagraph) have a 22-year class life of years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.

“(d) 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.—The unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 25C that may be carried back to the taxable year ending before January 1, 2003.

“(e) Conforming Amendments.—(1) Section 25C(e)(6), as added by this Act, is amended by striking section 48(a)(6)(C)’’ and inserting ‘‘section 48(a)(6)(C)’’.

“(2) Section 29(b)(3)(A)(I)(II), as amended by this Act, is amended by striking ‘‘section 48(a)(6)(C)’’ and inserting ‘‘section 48(a)(6)(C)’’.

“(f) 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.—Subsection (d) of subchapter A of chapter 1 (relating to non-refundable personal credits), as amended by this Act, is amended by inserting after section 25D the following new section:

“SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.

“(1) 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.

“(2) LIMITATIONS.

“(A) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling shall not exceed $300.

“(B) 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 allowed to the taxpayer for the dwelling during any 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) with respect to the dwelling during all prior taxable years.

“(C) Carryforward of unused credit.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 25A for such 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 prescribed criteria for such component in the 2000 International Energy Conservation Code, any energy efficient building envelope component which is described in subsection (C)(4)(D) 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 use (as measured in terms of energy cost to the taxpayer), if—

“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 ‘‘heat and power system property’’. “Vice.—The term ‘qualified energy management device means any qualified energy management device as defined in section 179C(b) which—

“property used to transport the energy source to the facility or to distribute energy produced by the facility.

“(2) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property with respect to the taxpayer, the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

“(3) CERTAIN EXCEPTION NOT TO APPLY.—The matter following paragraph (3)(D) shall not apply to combined heat and power system property.

“(4) EXTENSION OF DEPRECIATION RECOVERY PERIOD.—If a taxpayer is allowed credit under this section for combined heat and power system property that would (but for this subparagraph) have a 22-year class life of years or less under section 168,
"(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 or sole residence (within the meaning of section 121).
   "(2) the original use of such component or combination of measures commences with the taxable year in which 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 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) require that any computer software used to support a performance-based method certification under clause (1)(B), the Secretary shall establish requirements based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.
      "(2) 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 the energy efficient components and home energy rating organization, or
            "(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.
      "(3) FORM.—A certification described in subsection (d) shall be provided by—
         "(A) the original use of such component or combination of measures described in such subsection shall be—
            "(i) determined by the energy efficient components and home energy rating organization, or
            "(ii) require that any computer software used to support such expenditure shall be reduced by the amount of the credit so allowed.
      "(4) REGULATIONS.—
         "(i) GENERAL.—Section 25D(b), as amended by this Act, is amended by striking “23 and 25C” and inserting “25D,” after “25C,”.
         "(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (1). Such software shall meet procedures and methods for calculating and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specific procedures, methods and testing protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.
      "(2) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (1). Such software shall meet procedures and methods for calculating and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specific procedures, methods and testing protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.
      "(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 and the utility meter of the dwelling.
      "(4) REGULATIONS.—
         "(i) IN GENERAL.—In prescribing regulations under this subsection for certification methods described in paragraph (2), 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 for the following period of the results. Such regulations shall—
            "(I) 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.
            "(ii) provide that any calculation procedures be fuel neutral such that the same energy savings 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 for the end of the period.
      "(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term ‘dwelling unit’ 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 section, the term ‘dwelling unit’ includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).
   "(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.
   "(i) CREDITS ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—
      "(1) IN GENERAL.—Section 25D(b), as added by this Act, is amended by striking “25C” and inserting “25D,” after “25C,”.
      "(2) CONFORMING AMENDMENTS.—
         "(A) Section 25D(c), as added by subsection (a), is amended by striking “section 26(a)” and inserting “section 26,”.
         "(B) Section 25D(d)(2)(B), as amended by this Act, is amended by striking “25C” and inserting “25D,”.
         "(C) Section 24(b)(3), as amended by this Act, is amended by striking “25C” and inserting “25D,”.
         "(D) Section 25D(e)(1)(C), 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” and inserting “and”,.
      "(4) The table of sections for subpart IV of chapter A of part I, as amended by this Act, is amended by inserting after the section relating to section 25C the following new item:
         "Sec. 25D. Energy efficiency improvements to existing homes.”.
      "(5) EFFECTIVE DATES.—
         "(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this Act shall apply to tax years beginning after December 31, 2002, in taxable years ending after such date.
         "(2) CERTIFICATION.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—
            "(A) the amount 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.”.
HOUSE RESOLUTION NO. 44

IN THE HOUSE OF REPRESENTATIVES

A resolution to designate the House of Representatives as the Committee of the Whole House on the State of the Union.

April 4, 2002

Mr. NUNN presented the following resolution, which was adopted by unanimous consent:

RESOLUTION
Whereas the President of the United States, in his address to the two Houses of Congress on January 22, 2002, reviewed the progress that the United States has made in the war against terrorism and against the nation that took up arms against people everywhere who would use them; and
Whereas that address also spoke to the American people about the need to address the serious economic challenges that the Nation faces, including the war on terrorism; and
Whereas the President of the United States on January 22, 2002, reviewed the progress that the United States has made in the war against terrorism and against the nation that took up arms against people everywhere who would use them.

Now, therefore, be it
Resolved by the House of Representatives, the right of the House of Representatives in Committee of the Whole to consider the Message of the President of the United States, is hereby granted, this day of January, two thousand and two.

Passed the House of Representatives April 4, 2002.

Barbara Boxer, Speaker of the House of Representatives.
(as defined by section 179(d)(2)), by the taxpayer after such date, or fitting or repowering of which is completed after such date of the enactment of section 45I.''.

BEFORE EFFECTIVE DATE.—No portion of the 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.

(c) Transitional Rule.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Code, is amended by adding at the end thereof the following new section:

"Sec. 45I. Credit for production of advanced clean coal technology units.

(a) In General.—For purposes of section 45I, any property if the lessee and lessor of such property if the lessee and lessor of 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 section. Such an election, once made, may be revoked only with the consent of the Secretary.

(b) Computation of Credit.—For purposes of this section, the term ‘‘advanced clean coal 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 7,700 (7,850 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),

(C) has a net thermal efficiency (HHV) of not less than 43.9 percent (39 percent for units placed in service before 2009, and 40.9 percent in the case of units placed in service after 2008 and before 2013),

(D) is a qualifying integrated gasification combined cycle technology unit. —The term ‘‘qualifying 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 (7,850 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).

(e) General Definitions.—Any term used in this section which is not defined in this subsection shall have the meaning given in section 45I.
(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation to 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 incurrence 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 by a regulation described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology and technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

(4) DEFINITIONS.—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), the amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property).

(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 ‘qualified 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 progress expenditures for the term ‘qualified progress expenditures’ means the amount which, for purposes of this subsection, is properly chargeable (during such taxable year) to capital account with respect to such property.

(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of progress expenditures, 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 and erected’ includes reconstructed and erected.

(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT TO BE TAKEN INTO ACCOUNT.—The term ‘qualified progress expenditures’ 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.

(E) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulation 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.

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

(g) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by including at the end of the section the following new paragraph:

(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 qualified advanced clean coal technology production credit of any taxpayer for any taxable year.

(b) APPLICABLE AMOUNT.—For purposes of applying this subsection the applicable amount is determined by—

(A) the kilowatt hours of electricity 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 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).

(c) 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).
The design net heat rate is:

<table>
<thead>
<tr>
<th>Service Duration</th>
<th>Not more than 8,400</th>
<th>More than 8,400 but not more than 8,550</th>
<th>More than 8,550 but less than 8,750</th>
</tr>
</thead>
<tbody>
<tr>
<td>For 1st 5 years</td>
<td>$0.0060</td>
<td>$0.0025</td>
<td>$0.0010</td>
</tr>
<tr>
<td>For 2nd 5 years</td>
<td>$0.0038</td>
<td>$0.0010</td>
<td>$0.0010</td>
</tr>
</tbody>
</table>

(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

The design net heat rate is:

<table>
<thead>
<tr>
<th>Service Duration</th>
<th>Not more than 7,770</th>
<th>More than 7,770 but not more than 8,125</th>
<th>More than 8,125 but less than 8,350</th>
</tr>
</thead>
<tbody>
<tr>
<td>For 1st 5 years</td>
<td>$0.0105</td>
<td>$0.0085</td>
<td>$0.0075</td>
</tr>
<tr>
<td>For 2nd 5 years</td>
<td>$0.0090</td>
<td>$0.0068</td>
<td>$0.0055</td>
</tr>
</tbody>
</table>

(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

The design net heat rate is:

<table>
<thead>
<tr>
<th>Service Duration</th>
<th>Not more than 7,380</th>
<th>More than 7,380 but not more than 7,720</th>
</tr>
</thead>
<tbody>
<tr>
<td>For 1st 5 years</td>
<td>$0.0140</td>
<td>$0.0120</td>
</tr>
<tr>
<td>For 2nd 5 years</td>
<td>$0.0115</td>
<td>$0.0090</td>
</tr>
</tbody>
</table>

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

The unit design net thermal efficiency (HHV) is:

<table>
<thead>
<tr>
<th>Service Duration</th>
<th>Not less than 40.6 percent</th>
<th>Less than 40.6 but not less than 40 percent</th>
<th>Less than 40 but not less than 39 percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>For 1st 5 years</td>
<td>$0.0060</td>
<td>$0.0025</td>
<td>$0.0010</td>
</tr>
<tr>
<td>For 2nd 5 years</td>
<td>$0.0038</td>
<td>$0.0010</td>
<td>$0.0010</td>
</tr>
</tbody>
</table>

(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.

"(4) 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 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) 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.

Title C.—Treatment of Persons Not Able to Use Entire Credit

Section 221. Treatment of Persons Not Able to Use Entire Credit.

(a) In General.—Section 45, as added by this Act, is amended by adding at the end the following new subsection:
  "(1) 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 the production of the qualifying clean coal technology production credit determined under this Act, is amended by adding at the end the following new paragraph:
        "(21) the qualifying advanced clean coal
technology production credit determined under section 45J(a).
      "(B) Credit Treated as Business Credit.—
Section 38(b), as amended by this Act, is amended 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) 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
(A) QUALIFIED MARGINAL WELL.—The term ‘qualified marginal well’ means a domestic well—
(i) the production from which during the taxable year, was 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) CONTROLLED GROUP.—
(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 by the person (which is attributable to the holder of an operating interest).
(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a 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 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 a qualified marginal well during such period.
(E) CREDIT TREATED AS BUSINESS CREDIT.—
Section 29(c)(1), 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 striking at the end the following new paragraph:

(22) the marginal oil and gas well production credit determined under section 45K(a).

(F) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—
Subsection (c) of section 45K, as amended by this Act, is amended by adding at the end the following new paragraph:

(23) No carryback of marginal oil and gas well production credit before effective date.

(G) COORDINATION WITH SECTION 29.—
Section 29(a)(1), as amended by this Act, is amended by striking ‘There’ and inserting ‘At the election of the taxpayer’.

(H) CERCLA AMENDMENT.—The table of sections for part 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.’.

(E) 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. EXPANDING UTILITIES' USE OF NATURES 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—

(i) a pipeline, appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, or

(ii) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a common point of the point at which such gas first reaches—

(I) a gas processing plant;

(ii) an interconnection with a transmission pipeline certified by the Federal Energy Regulatory Commission as an interstate transmission service;

(iii) an interconnection with an intra-state transmission pipeline, or

(iv) a direct interconnection with a local distribution company, a government, a storage facility, or an industrial consumer.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(b)(3)(B) is amended by inserting after subparagraph (C) the following new paragraph:

‘(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 of subpart A (relating to increased 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.

(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.

(2) EXCESS.—The aggregate costs which may be taken into account under this section for any taxable year may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year.

(3) 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 205,000 barrels, the applicable percentage shall be reduced by 25 percent.

(b) LIMITATION.—

(1) IN GENERAL.—The aggregate costs which may be taken into account under this section for any taxable year may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year.

(2) 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 205,000 barrels, the applicable 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.

(c) 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.

(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements 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.

(d) COORDINATION WITH OTHER PROVISIONS.—Section 29(b) shall not apply to amounts which are treated as expenses under this section.

(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) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ‘or’ at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by adding at the end the following new subparagraph:

‘(2) expenditures for which a deduction is allowed under section 179C.’.

(2) Section 365A(c)(3) is amended by inserting ‘179C,’ after ‘section 179C’.

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking ‘or’ and inserting ‘and’ after subsection (a)(1) and by adding at the end the following new paragraphs:

‘(D) expenditures for which a deduction is allowed under section 179D.’.

‘(E) expenditures for which a deduction is allowed under section 179D.’.

(4) Section 101(b), as amended by this Act, is amended by striking ‘and’ and inserting ‘or’ at the end of subparagraph (A) and by adding at the end the following new paragraph:

‘(D) expenditures for which a deduction is allowed under section 179D.’.

(5) Section 124(a), as amended by this Act, is amended by inserting ‘179D,’ after ‘section 179C’.

(6) Section 312(k)(3)(B), as amended by this Act, is amended by striking ‘or’ and inserting ‘and’ at the end of subparagraph (A) and by adding at the end the following new paragraphs:

‘(D) expenditures for which a deduction is allowed under section 179D.’.

‘(E) expenditures for which a deduction is allowed under section 179D.’.

(7) The table of sections for part V of subchapter B of chapter 1, as amended by this Act, is amended by striking ‘or’ and inserting ‘and’ at the end of subparagraph (A) and by adding at the end the following new paragraph:

‘(D) expenditures for which a deduction is allowed under section 179D.’.

(8) The table of sections for part V of subchapter B of chapter 1, as amended by this Act, is amended by striking ‘or’ and inserting ‘and’ at the end of subparagraph (A) and by adding at the end the following new paragraph:

‘(D) expenditures for which a deduction is allowed under section 179D.’.

(9) Section 179C is amended by striking ‘or’ and inserting ‘and’ at the end of subparagraph (A) and by adding at the end the following new paragraph:

‘(D) expenditures for which a deduction is allowed under section 179D.’.

SEC. 2304. ENVIRONMENTAL TAX CREDIT.

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

SEC. 2304. ENVIRONMENTAL TAX CREDIT.

(1) IN GENERAL.—The marginal oil and gas well production credit determined under section 45K(a).
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 facility 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 such 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 amount determined under section 263(a) with respect to such facility during such taxable year.

(2) APPLICABLE PERCENTAGE.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 263(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 219D.

(2) APPLICABLE PERIOD.—The term ‘applicable period’ means, with respect to any facility for any taxable year, the period beginning on the date which is 1 year after the date of the enactment of this Act and ending with the date which is 1 year after the date on which such facility has been completed and qualified capital costs paid or incurred in connection with such facility are determined under the applicable EPA regulations with respect to such facility.

(d) CERTIFICATION.—

(1) REQUIRED.—Not later than the date which is 1 year after the date of the enactment of this Act, the taxpayer shall certifies 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.

(e) 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.

(f) REVIEW PERIOD.—Any application shall be reviewed and notice of certification, if applicable, shall be made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2001.

(b) MAXIMUM CREDIT.—

(1) IN GENERAL.—Except as provided in paragraph (b), the applicable percentage is 25 percent.

(2) REDUCED PERCENTAGE.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 263(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 219D.

(2) APPLICABLE Period.—The term ‘applicable period’ means, with respect to any facility for any taxable year, the period beginning on the date which is 1 year after the date of the enactment of this Act and ending with the date which is 1 year after the date on which such facility has been completed and qualified capital costs paid or incurred in connection with such facility are determined under 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 Act.

(d) CERTIFICATION.—

(1) REQUIRED.—Not later than the date which is 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 in connection with the development of crude oil and geophysical and geophysical expenses for any taxable year shall be included in the amount described in paragraph (1) and shall be included in the amount determined under section 45L(a).

(2) 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 taxable year to which the payment period described in paragraph (3) ends, for the taxable year which is equal to the amount described in paragraph (1) for the 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 each patron) for the applicable period ended 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 of 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:

(1) the term ‘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.—Subsection (f) of section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit for purposes of oil or gas well under an oil or gas lease) shall not apply to the taxpayer for the taxable year if the average daily refinery runs 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 172(b) 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:

(b) CREDITS OF PAYMENTS.—The amendments made by this section shall apply to payments made or incurred in taxable years beginning after December 31, 2001.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made or incurred in taxable years beginning after December 31, 2001.

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:

(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 oil or gas well under an oil or gas lease.”.

(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 PROPOXIC HYDROCHLORIDE.

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 and water resource issues as provided in section 607 of the Energy Policy Act of 2002.

(b) STUDENTS 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 at a rate which is comparable 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 and the cost of such credits as 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 annual cubic feet of incremental coal bed methane produced annually and in the aggregate since such enactment.

SEC. 210. 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.—

"(i) Q UALIFIED ENHANCED VALUE .—For purposes of this subsection and before January 1, 2005, "qualified enhanced value" means an increase of at least 50 percent in the market value of coal mining operations during such period.

(b) A LTERNATIVE SYSTEM.—The provisions of subsection (a) shall be applied with respect to facilities which are not in compliance with the applicable State and Federal pollution control, prevention, control, and permit requirements.

SEC. 211. EXTENSION OF QUALIFIED ADVANCED CLEAN COAL TECHNOLOGY FACILITIES EXCLUDED.

A facility described in subparagraph (E)(iii) of section 48A(b)(2) shall not include a qualified advanced clean coal technology facility (as defined in section 48A(b)).

SEC. 211A. EXTENSION OF VISCOSITY REQUIREMENTS.

A facility described in subparagraph (A) of section 48A(b) shall not include a facility that fails to meet the viscosity requirements under subsection (a)(1)(B)(i) of section 48A(a) for the period during which such facility is placed in service.

SEC. 212. ANNUAL REPORTS.

The Secretary of the Treasury shall submit an annual report to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Energy and Commerce Committee of the House of Representatives. Such report shall describe the Secretary's efforts to implement the provisions of this Act.

SEC. 213. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) REPEAL OF LIMITATION ON DEPOTS INTO FUNDS.—Subsection (a) of section 48A(b) is amended by striking "Qualifying advanced clean coal technology facilities excluded" and substituting "Qualifying advanced clean coal technology facilities included."
TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

(a) INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—In paragraph (C) of section 501(c)(12), as 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 members),

(iii) from any nuclear decommissioning transaction,

(iv) from any asset exchange or conversion transaction,

(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.

(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:

(G) The term ‘open access transaction 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 requirement of subparagraph (B)(ii) is satisfied with respect to the mutual or cooperative electric company.

(c) EXCEPTION FROM UNRELATED BUSINESS TAXATION.—Subsection (b) of section 1381(a)(2)(C), as amended by section 1381(a)(2)(C), is amended by adding at the end the following new paragraph:

(1) The term ‘load loss mitigation sales’ means any sale or lease of electric energy to a mutual or cooperative electric company (or its members) which is used in connection with the operation of a generation facility or a transmission facility but which is not used, for—

(i) generating, transmitting, distributing, or selling electric energy, or

(ii) producing, transmitting, distributing, or selling natural gas.

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

(5) For treatment of income from load loss transactions of organizations described in section 501(c)(12), see section 501(c)(12)(H).”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 2403. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.

(1) The first year that such electric company offers nondiscriminatory open access, or

(2) the second or third calendar year preceding the start-up year.

(3) For purposes of this subparagraph, the start-up year is the calendar year which begins with the start-up period in any year beginning with the start-up year.

(4) For purposes of this subparagraph, the start-up year is the calendar year which begins with the start-up period in any year beginning with the start-up year.

(5) the first year in which at least 10 percent of such electric company’s income from the open access transactions received or accrued, directly or indirectly from a member, is treated as member income under section 501(c)(12).

(6) For purposes of this subparagraph, income from any open access transaction received, or accrued, directly or indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.

(7) 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 MOTOR VEHICLE AND FUEL INCENTIVES PROVISIONS TO INDIAN RESERVATIONS.

(a) AMENDMENT.—Section 113 of the Job Creation and Worker Assistance Act of 2002, is amended by striking “2001” and inserting “2005.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 2502. STUDY OF EFFECTIVENESS OF CERTAIN TERRITORY AND STATE BONDS.

(a) STUDY.—The Secretary of the Interior, in consultation with the Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative territorial vehicle 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 identification of such recipients by income and other appropriate measurements.

(b) REPORT.—The Secretary shall submit to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate of the United States, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate of the United States, and the Committee on Banking and Financial Services of the Committee on Banking and Financial Services of the Committee on Banking and Financial Services of the Committee on Banking and Financial Services of the Committee on Banking and Financial Services of the Committee on Banking and Financial Services of the Committee on Banking and Financial Services of the Committee on Banking and Financial Services of the Committee on Banking and Financial Services of the Committee on Banking and Financial Services of the Committee on Banking and Financial Services of the Committee on Banking and Financial Services of the Committee on Tableg.
(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.

SA 3827. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) 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).

SA 3288. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) 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 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:


(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.


(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.

SA 3289. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) 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. 1386. 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 naturally occurring emissions on the quality of the air in and around the New England region;

(2) determine and assess the effects of technologically and biologically derived air pollutants on the quality of the air in and around the New England region;

(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.

SA 3290. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. BINGMAN 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 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:".

SA 3291. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) 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 141, line 11, strike "in paragraph (B)(i)(II)" and insert "in paragraphs (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, subparaphrags (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.

SA 3292. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) 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."

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.

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 [3801] 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:

S3106 CONGRESSIONAL RECORD — SENATE April 22, 2002