The House met at 2 p.m. and was called to order by the Speaker pro tempore (Mr. ADERHOLT).

**DESIGNATION OF THE SPEAKER PRO TEMPORE**

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, April 22, 2002.

I hereby appoint the Honorable Robert B. ADERHOLT to act as Speaker pro tempore on this day.

J. DENNIS HASTERT, Speaker of the House of Representatives.

**PRAYER**

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God and Eternal Father, though Your people walk in the valley of darkness, no evil should they fear, for they follow in faith the call of You the shepherd.

Revive our drooping spirit as You invite us to the banquet of equal justice. Attune our minds to the sound of Your voice. Guide this Nation along the right path, that we may know the strength of Your outstretched arm to protect us and enjoy the comfort of Your presence, now and forever. Amen.

**THE JOURNAL**

The SPEAKER pro tempore. The Chair has examined the Journal of the last day’s proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule 1, the Journal stands approved.

**PLEDGE OF ALLEGIANCE**

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

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

**MESSAGE FROM THE SENATE**

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3625. An act to enhance the border security of the United States, and for other purposes.

The message also announced that the Senate has passed a bill and concurrent resolutions of the following titles in which the concurrence of the House is requested:

S. 891. An act to enhance penalties for fraud in connection with identification documents that facilitates an act of domestic terrorism.

S. Con. Res. 66. Concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be awarded to public officers killed in the line of duty in the aftermath of the terrorist attacks of September 11, 2001.

S. Con. Res. 75. Concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be presented to public safety officers killed or seriously injured as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, and to those who participated in the search, rescue, and recovery efforts in the aftermath of those attacks.

**COMMUNICATION FROM THE CLERK OF THE HOUSE**

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

I communicate from the Speaker:

WASHINGTON, DC, April 22, 2002. The Speaker, House of Representatives, pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on April 19, 2002 at 10:15 a.m.:

That the Senate passed without amendment H.R. 861.

That the Senate passed without amendment H. Con. Res. 263.

With best wishes, I am Sincerely,

JEFF THANDAHL, Clerk of the House.

**COMMUNICATION FROM HON. RICHARD A. GEPHARDT, DEMOCRATIC LEADER**

The SPEAKER pro tempore laid before the House the following communication from RICHARD A. GEPHARDT, Democratic Leader:

WASHINGTON, DC, April 22, 2002. The Speaker, House of Representatives, pursuant to section 801 of title 2 of the United States Code, I appoint the following Members of Congressional Recognition for Excellence in Arts Education Awards Board:

Mr. Hinchey of New York.

Ms. McCollum of Minnesota.

Sincerely,

RICHARD A. GEPHARDT, Democratic Leader.

**SENATE BILL AND CONCURRENT RESOLUTION REFERRED**

A bill and a concurrent resolution of the Senate of the following titles were taken from the Speaker’s table and, under the rule, referred as follows:

This symbol represents the time of day during the House proceedings, e.g., 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker pro tempore, without objection, the House adjourned until 12:30 p.m. tomorrow for morning hour debates.

There was no objection. Accordingly (at 2 o’clock and 3 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, April 23, 2002, at 12:30 p.m., for morning hour debates.

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8. 1981. An act to enhance penalties for fraud in connection with identification documents that facilitates an act of domestic terrorism; to the Committee on the Judiciary.

S. 66. Concurrent resolution to express the sense of the Congress that the Public Safety Officer Medal of Valor should be awarded to public safety officers killed in the line of duty in the aftermath of the terrorist attacks of September 11, 2001; to the Committee on the Judiciary.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 12:30 p.m. tomorrow for morning hour debates.

There was no objection.

6275. A letter from the Administrator, Department of Agriculture, transmitting the Department’s final rule—Sweet Cherries Grown in Designated Counties in Washington; Order Amending Marketing Agreement and Order No. 923 (Docket Nos. 90AMS-FV—923—1; FV00—923—1) received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6276. A letter from the Administrator, Department of Agriculture, transmitting the Department’s final rule—Tart Cherries Grown in the States of Michigan, etc.; Suspensions of Provisions Under the Federal Marketing Order for Tart Cherries [Docket No. FV01—930—5 FFR] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6277. A letter from the Administrator, Department of Agriculture, transmitting the Department’s final rule—Walnuts Grown in California; Decrease Assessed Fee [Docket No. FV01—894—1 FFR] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6278. A letter from the Administrator, Department of Agriculture, transmitting the Department’s final rule—Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for 2001-02 Crop Natural (sun-dried) Seedless and Other Seedless Raisins [Docket No. FV02—898—4 FFR] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6279. A letter from the Administrator, Department of Agriculture, transmitting the Department’s final rule—Raisins Produced From Grapes Grown in California; Extension of Redemption Date for Unsold 2001 Diversion Certificates [Docket No. FV02—898—3 FFR] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6280. A letter from the Administrator, Department of Agriculture, transmitting the Department’s final rule—Raisins Produced From Grapes Grown in California; Extension of Redemption Date for Unsold 2001 Diversion Certificates [Docket No. FV02—898—3 FFR] received April 3, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6281. A letter from the Assistant Administrator, Environmental Protection Agency, transmitting the Agency’s final rule—Pesticide Labeling and Other Regulatory Revisions (Docket No. OPP—AD14) received March 26, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

6282. A letter from the Secretary, Department of Defense, transmitting a letter on the Army Acquisition Decision Category C; Blair, United States Navy, and his advancement to the grade of admiral on the retired list; to the Committee on Armed Services.

6283. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement Admiral Richard W. Mies, United States Navy, and his advancement to the grade of admiral on the retired list; to the Committee on Armed Services.


6285. A letter from the Director, Regulations Policy and Management Staff, Department of Health and Human Services, transmitting the Department’s final rule—Hematology and Pathology Devices; Reclasification of the Automated Differential Cell Counter [Docket No. FDA—2001—0315] received April 1, 2002, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.


6287. A letter from the Administrator, Department of Health and Human Services, transmitting the final rule— Federal Financial Assistance in Order to Provide a Contribution to the Implementation Monitoring Committee (IMC) provided for in the Arusha Peace and Reconciliation Agreement for Burundi to implement the Burundi peace agreement; pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6288. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Secretary’s determination and justification for authorizing assistance in order to provide a contribution to the Implementation Monitoring Committee (IMC) provided for in the Arusha Peace and Reconciliation Agreement for Burundi to implement the Burundi peace agreement; pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6289. A letter from the Under Secretary for International Cooperation, Department of Defense, transmitting a copy of Transmittal No. 12—02 which informs of the intention to sign a Memorandum of Understanding (MOU) between the United States, Canada, France, Germany, Italy, and the United Kingdom concerning the in-service support phase of the NATO Improved Long-Range Air-to-Air Missile (NILE) project; pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6290. A letter from the Acting Director, Department of Defense, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army’s Proposed Letter(s) of Offer and Acceptance (LOA) to Jordan for defense articles and services (Transmittal No. 02—03), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6291. A letter from the Acting Director, Department of Defense, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force’s Proposed Letter(s) of Offer and Acceptance (LOA) to Brazil for defense articles and services (Transmittal No. 02—18), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

6292. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Turkey [Transmittal No. DTC 029—02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6293. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Israel [Transmittal No. DTC 056—01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6294. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Secretary’s determination and justification for authorizing assistance in order to provide a contribution to the Implementation Monitoring Committee (IMC) provided for in the Arusha Peace and Reconciliation Agreement for Burundi to implement the Burundi peace agreement; pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6295. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to France, United Kingdom, and Germany [Transmittal No. DTC 030—02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6296. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Technical Assistance Agreement of a proposed agreement with Bulgaria [Transmittal No. DTC 034—02], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6297. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed agreement with the Netherlands [Transmittal No. DTC 055—01], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6298. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Secretary’s determination and justification for authorizing assistance in order to provide a contribution to the Implementation Monitoring Committee (IMC) provided for in the Arusha Peace and Reconciliation Agreement for Burundi to implement the Burundi peace agreement; pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6299. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Secretary’s determination and justification for authorizing assistance in order to provide a contribution to the Implementation Monitoring Committee (IMC) provided for in the Arusha Peace and Reconciliation Agreement for Burundi to implement the Burundi peace agreement; pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

6300. A letter from the Acting Secretary, Department of Health and Human Services, transmitting the semiannual report of the Inspector General for the period April 1, 2001, through September 30, 2001, pursuant to 5 U.S.C. 6102(c) (Insap, etc.); to the Committee on Government Reform.

6301. A letter from the White House Liaison Department, Department of Homeland Security, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

6302. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission’s FY 2001 Performance Report; to the Committee on Government Reform.

6303. A letter from the Chairman, Federal Maritime Commission, transmitting the
H.R. 984: Mr. ISAKSON.
H.R. 1265: Mr. COSTELLO and Mrs. DAVIS of California.
H.R. 1734: Mr. SHAYS.
H.R. 2219: Mr. BONIOR.
H.R. 3340: Mrs. WILSON of New Mexico and Mr. UDALL of New Mexico.
H.R. 3344: Mr. BONIOR and Mr. UDALL of New Mexico.

H.R. 3464: Mr. ROTHMAN.
H.R. 3796: Mr. SOUDER.
H.R. 3831: Mr. LAHOOD.
H.R. 4169: Mr. DEMING.

H. Con. Res. 265: Ms. SCHAKOWSKY, Ms. HART, Mr. SHAW, Mrs. BIGGERT, Mr. SHAYS, and Ms. CARSON of Indiana.
H. Con. Res. 380: Mr. CUMMINGS, Mr. RUSH, Mr. OWENS, Ms. BROWN of Florida, Ms. KIL-PATRICK, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. SCOTT, Mr. WYNN, Ms. WATSON, Mr. BISHOP, Mrs. MERK of Florida, Mr. LEWIS of Georgia, Mr. THOMPSON of Mississippi, Mrs. CUBIN, and Ms. MILLENDER-McDONALD.
The Senate met at 1 p.m. and was called to order by the Honorable Harry Reid, a Senator from the State of Nevada.

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

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

PLEDGE OF ALLEGIANCE
The Honorable Harry Reid led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE
The Presiding Officer (Mr. Akaka). The clerk will please read a communication to the Senate from the President pro tempore (Mr. Byrd).

The legislative clerk read the following letter:

U.S. Senate
President pro tempore
Washington, DC, April 22, 2002.

To the Senate:

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

Robert C. Byrd,
President pro tempore.

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

RESERVATION OF LEADER TIME
The Acting President pro tempore. Under the previous order, the leadership time is reserved.

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

RECOGNITION OF THE ACTING MAJORITY LEADER
The Acting President pro tempore. The Senator from Nevada is recognized.

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

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

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

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

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

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

I have learned the Earth heals very slowly from the impact of people. I didn’t realize that as a boy. I don’t think a lot of people realized how fragile the desert was. I mentioned the
other day that I have seen the tracks made 50 years ago or more where Patton and his troops did war exercises in the desert. I was in that part of the desert a couple weeks ago. It was amazing to still see those tank tracks in the desert, and I think they will probably be there for another 50 years, if not more.

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

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

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

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

We have to work together to protect our water so that we can have it for our children and for their children. All future generations deserve clean water to drink, safe air to breathe, and communities free of dangerous chemicals.

That is for certain.

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

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

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

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

So we have a lot to celebrate in Nevada about our environmental accomplishments. We have a lot to be proud of, but we have met other challenges. We have met them, especially in the southern Nevada area, that relates to endangered species in the southern Nevada area.

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

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

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

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

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

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

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

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

The Senate Agenda

Mr. THOMAS. Mr. President, I will speak in morning business. There are a couple of issues before us. First of all, I urge that we move back as soon as possible—I understand we will at 2 o’clock—to our energy bill. Certainly, there is nothing more important before
us now than the completion of that bill and being able to send it on to the President. Certainly, it is not going to have everything in it that everybody wanted. That is not a new idea. This is a bill that has been on the floor for 5 weeks, but it does have some good things in it. It does sort out some very policy materials that we have had not for a very long time. It has some of the things the President and Vice President had put forth. Unfortunately, some of those it does not.

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

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

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

**TAX DAY**

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

The definition of a tax is a charge of money imposed by authority upon persons or property for public purposes. You might disagree, but one ought with that. But it is not a voluntary act. It is an imposition of authority upon people, and the imposition—in many cases, because of the process—is unreasonable.

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

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

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

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

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

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

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

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

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

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

I yield the floor.

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

**INTERVIEW WITH DENNIS ROSS**

Mrs. FEINSTEIN. Mr. President, in reviewing my press clips this morning, I saw an interview between Brit Hume on “FOX News Sunday” and Dennis Ross at the end of December 2000, President Clinton’s Middle East envoy. Many of us have followed closely the negotiations at Camp David, and also at Taba, but never before have we really heard Dennis Ross comment on these negotiations.

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

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

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

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

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

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

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

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

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

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ROSS. Arafat came to the White House on September 12. We brought the negotiators here. We had asked him, actually, the recommendation itself was submitted on December 23 by the president, and we basically said the following: On borders, there would be a 5 percent annexation in the West Bank and 2 percent in Gaza. So there would be a net 97 percent of the territory that would go to the Palestinians.

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

ROSS. All right. Ross. Both sides asked us to present these ideas.

ROSS. We said, we need a whole new formula, as if what we have been doing is a victim, and unfortunately they are a victim, and we see it now in a terrible way.

HUME. Dennis Ross, thank you so much.

MRS. FEINSTEIN. Mr. President, on Camp David I do not think it is true. President Clinton’s Middle East envoy and a person who literally carried out thousands of hours of negotiation. He said:

On Jerusalem, the Arab neighborhoods of East Jerusalem would become the capital of the Palestinian state. On the issue of refugees, there would be a right of return for the refugees to their own state, not to Israel, but there would also be a fund of $30 billion internationally that would be put together for other compensation and repatriation, resettlement, rehabilitation costs.

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

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

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

ROSS. Ross. Arafat came to the White House on January 2. Met with the president, and I was there at the time. He said, Ross. He was supposed to give, on Jerusalem, the idea that there would be for the Israelis sovereignty over the Western Wall, which coincides with areas that are of religious significance to Israel. He rejected that. HUME. He rejected their being able to have a wall.

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

He knew we were poised to present the ideas, and he was telling them they looked good. And we asked him to intervene to ensure there wouldn't be violence after the Sharon visit, the day after. He said he would. He didn't intervene.

On a final plan in December:

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

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

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

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

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

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

These were ideas that were comprehensive, unprecedented, very far, represented a culmination of an effort in our discussion with each side.

Arafat came to the White House on January 2.

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

Met with the president, and I was there—"I" being Dennis Ross—in the Oval Office. He said yes, and then he added reservations that basically meant he rejected every single one of the things he was supposed to give.

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

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

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

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

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

Dennis Ross then went on to say:

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

Then on why Arafat said no, Dennis Ross said:

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

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

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

'It is possible he concluded that. It is possible he thought he could do and get more with the violence. There's no doubt in my mind that he thought the violence would create pressure on the Israelis and on us and maybe the rest of the world. And I think there's one other factor. You have to understand that Barak was able to reposition Israel internationally. Israel was seen as having demonstrated an unmistakable will it wanted peace, and the reason it wasn't available, achievable was because Arafat wouldn't accept it.'

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

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

Mrs. FEINSTEIN. I certainly will.

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

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

Is that how the Senator sees it?

Mrs. FEINSTEIN. I think that is exactly correct.

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

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

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

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

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

So I appreciate those comments.

THE ARAFAT ACCOUNTABILITY ACT

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

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

EARTH DAY AND GLOBAL WARMING

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

The Earth's average temperature has risen 1.3 degrees in the last 100 years. Computer models predict an increase of 2 to 6 degrees over the next century. The 10 hottest years on record have all occurred since 1988. What does that mean? Today the atmospheric concentration of carbon dioxide—that is our No. 1 greenhouse gas—is 30 percent higher than preindustrial levels. This may seem to be a small change, but just a few upticks in temperature can produce catastrophic conditions in weather. So the window of time to do something to curb global warming is closing fast.

One of my disappointments with the energy bill is the fact that there is no substantive action taken to reduce our Nation's profligate carbon dioxide pollution.
California is in a unique and precarious position. With a population of 34 million people today and an expected population of 50 million by 2020, the State is particularly vulnerable to global climate change. Global warming could make California’s water more scarce, increase the likelihood of flooding, destroy certain agricultural crops, and lead to more frequent and intense Sierra forest fires. Because global warming will likely increase sea levels and since most of the population lives just a stone’s throw from the coast, a sea level rise could be glacial for millions of Californians.

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

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

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

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

The underlying cause of flooding is also changing. Mountain glaciers throughout the world seem to be receding. Glacier National Park may be glacier free by 2070, and the Sierra Nevada mountains may be glacier free soon after. The Greenland ice sheet has already lost roughly 40 percent of its thickness over the past four decades. And shrinking ice caps may very well change the patterns of our weather. We already have more snowfall and less snow and more rain, quicker melting is greater. Fall is more intense; ergo, the destruction of crops such as rice, cotton, and alfalfa. For many parts of the western United States, the shifting weather patterns brought on by global warming could mean a greater risk of damage, life-threatening floods. And, of course, southwestern States can expect that a 10-percent drop in flows in the Colorado River could lead to a 30-percent drop in water storage behind the reservoirs along the Colorado, not to mention a 30-percent drop in hydroelectric generation on the Colorado itself. The stakes are high.

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

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

We had that debate in the Senate earlier, and I presented by the Senator from Massachusetts to increase mileage standards to 35 miles per gallon down to crashing defeat. There still is another item that I am giving serious consideration to presenting as an amendment, and that is closure of the SUV/light truck loophole. If SUVs were simply required to meet the same fuel economy standards as automobiles, we would prevent the emission of more than 200 million tons of carbon dioxide per year. This is 3 percent of the country’s entire CO₂ emissions. This in itself would be the largest single step we could take at this time to reduce global warming.

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

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

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

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

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

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

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

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

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

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

The bottom line is that this energy bill does not, in any way, shape, or form, actually reduce any of these emissions.
As the No. 1 contributor of greenhouse gases worldwide, I believe it is our responsibility to show leadership; and every day we wait, we lose an opportunity to reduce the threat of global warming. It is not too much to ask the world to demand political and public support to provide the necessary leadership to address global warming and, one day, to celebrate an Earth Day in which the United States has truly taken the lead.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

Mr. LIEBERMAN. I thank the Chair.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

WHERE IS THE DEMOCRATIC BUDGET RESOLUTION?

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

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

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

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

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

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

Take a closer look at these contradictions.

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

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

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

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

According to the Democratic Budget Committee Report, “The President’s budget does not recognize that it proposes to wait until next year to fund the war on terrorism, but it provides the resources that will allow our armed forces, homeland security personnel, and citizens to respond to the challenge posed by terrorists. But—just as last year—the President’s budget does not respond adequately to the other major challenges facing this nation.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Blaming the economy for their failure to propose to deal with this so-called squandered opportunity is especially ironic given the Budget Committee chairman’s view of how the economy works.
According to the chairman, the tax cuts reduced the surplus, thereby driving up long-term interest rates which have a negative impact on the economy.

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

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

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

What is even more ironic about the Democratic budget “circuit breaker” is that it only applies to Social Security.

Last year, the chairman of the Budget Committee insisted that it was equally important to protect the Medicare trust fund as well.

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

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

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

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

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

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

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

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

Based on CBO latest projections, including the economic stimulus bill, the Federal budget will not have a surplus—excluding Social Security and Medicare—until 2013.

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

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

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

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

The Democratic budget “circuit breaker” would require next year’s budget to get the balance—excluding Social Security and Medicare.

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

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

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

If the “circuit breaker” were expanded to include Medicare, then next year’s budget would have to reduce spending or increase by $538 billion.

The PRESIDING OFFICER. The Senator from North Dakota.

U.S. FARM PRODUCT SALES TO CUBA

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

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

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

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

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

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

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

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

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

We sell it to Communist China. Yes. That is a Communist government. We sell food to Vietnam. Yes. That is a Communist government. We sell food virtually all around the world. We fought for years to lift this embargo on food sales to Cuba. We are now selling food to Cuba, and we have some people taking a brainless position down at the Department of State that it is our position to encourage agricultural sales to Cuba; therefore, we will revoke the visas we previously granted to the head of Alimport to come into this country, to visit farm States, to purchase some dried beans, wheat, eggs, and other food products.

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

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

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

I have asked the State Department: Who made these decisions? How did you make the decisions? Who demanded that the visas be revoked? I want to know who has their foot on the brake. I want to know who has one of these hardheaded embargoes still going on
with respect to Cuba. I want to know who is asking family farmers to be farmers in this struggle they have with Cuba.

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

Who made these decisions? How did they make them? They make them in buying some of North Dakota's farm products. These decisions were taken by the administration to try to impede the sale of U.S. farm products.

This was an important visit, filled with an assurance that the administration holds the same decision to revoke this visa. It has been informed that the State Department is considering these visas were cancelled. When my staff inquired about it, State Department officials told them, "It is the policy of this Administration to deny visas to Cuban officials."

I want a complete investigation into why these visas were cancelled. When my staff inquired about it, State Department officials told them, "It is the policy of this Administration to deny visas to Cuban officials."

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

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

This is an absurd policy because it is the policy of this administration to try to impede the sale of grain to Cuba. This policy is the law. It ought to be obeyed.

I want a complete investigation into why these visas were cancelled. When my staff inquired about it, State Department officials told them, "It is the policy of this Administration to deny visas to Cuban officials."

I want a complete investigation into why these visas were cancelled. When my staff inquired about it, State Department officials told them, "It is the policy of this Administration to deny visas to Cuban officials."

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

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

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

The PRESIDING OFFICER, the Senator from Texas, Mr. Gramm. Mr. President, let me remind my colleagues of a couple of things. First, this is a revenue bill.

The PRESIDING OFFICER. The Chair wishes to inform the Senator from Texas, we are not on the energy
bill at this moment. We are still in morning business.

Does the Senator seek recognition in morning business?

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

The PRESIDING OFFICER. The Senator from Texas.

THE ENERGY BILL

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

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

We hope, on any revenue measure, to offer any amendment we wish. That is how the rules of the Senate work. On Thursday, I had called for regular order—which brought up Senator KERRY’s amendment with Senator McCain. It covered my amendment to it. I was unaware at the time that discussions were going on as to how we were going to proceed from there. As it turned out, Senator KERRY came over and withdrew his amendment. At that point, the distinguished Democrat floor leader filled up the amendment tree by offering a second-degree amendment to the next amendment under regular order. I think there were about nine amendments that had been set aside as we went on to consider other measures. In our leadership discussions, with the leadership on the Democrat side, I have now proposed in writing an agreement whereby we would agree to forgo the ability to offer an amendment on this bill to make death tax repeal permanent, if we could have a guarantee that at some point in the future we would get such a vote. The proposal I have made is that we pull up H.R. 8, which is on the Senate Calendar. It, in fact, is a bill to repeal the death tax. I hope it will be looked at.

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

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

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

I wanted my colleagues to know that we do have a growing number of people who are working to achieve this goal. It would be our objective. I think there are two amendments the managers of the bill will have to consider: that we agreed to step aside and allow them to do. But beyond that point, it would be our intent to object to bringing up new amendments or to settling aside the pending amendment on some other revenue measure.

Mr. REID. Will the Senator yield?

Mr. GRAMM. I am happy to yield.

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

Mr. GRAMM. I appreciate the Democrat floor leader’s willingness to try to work on this. I am very grateful. It would break a major impasse and virtually guarantee that the bill will be adopted. What we would like to do is have a vote on permanently repealing the death tax. We realize the vote may not be on our floor, but we think it might come on a point of order. But we would like to have a vote nonetheless.

I thank the Senator for his help.

Mr. DURBIN. The Senator from Illinois.

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

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

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

They answered: The cost of health insurance. We can’t pay for health insurance for our employees, let alone for the owners of the business. Labor union, the plumbers and pipefitters, came from Chicago last week. I asked: What is your agenda in Congress?

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

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

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

Do you know what this means if we make President Bush’s tax cut permanent? It means 65 percent of all of the
tax breaks will go to people making over $500,000 a year. That is their highest priority—people with incomes of $500,000 a year or more.

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

If you are making a half million a year, let's assume that is about $10,000 a week, and in some investment or another vacation home or a boat or a luxury car or is it more important that families across America have health insurance so they can protect themselves and their children?

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

The next thing they will tell you is they better open a savings account for their college right now. Otherwise, they better open a savings account for their college expenses. If you want to know a tax break, wouldn't it be good investment for America? I think it will do the trick. Then you go down to the pharmacy and they say: Well, I am sorry to tell you that it will cost you $300 to fill the prescription. If you are living on $800 or $900 a month—and that is not uncommon if you are on Social Security—what are you going to do? Many people have to make a hard choice: Am I going to fill the prescription and figure out how to pay the rent and utility bills, or am I going to walk away from it? Which is the higher priority in America, the seniors who have to walk away from the medicine they need too survive, or people making over $500,000 a year and to give them $39,000 a year tax breaks? That is what it comes down to; that is the choice we face.

You have heard the Senator from Texas make his choice very clear: The highest priority, when it comes to taxes, from his point of view, is to say that the estate tax is going to be eliminated for everybody forever. I see it differently. We can reform the estate tax and do it in a sensible way. We can protect family farmers and family-owned businesses and allow them to stay out of the hospital, here is a prescription that I think will do the trick. When you go to the doctor and he says: Durbin, if you want to stay out of the hospital, here is a prescription that I think will do the trick. Then you go down to the pharmacy and they say: Well, I am sorry to tell you that it will cost you $300 to fill the prescription. If you are living on $800 or $900—what are you going to do? Many people have to make a hard choice: Am I going to fill the prescription and figure out how to pay the rent and utility bills, or am I going to walk away from it? Which is the higher priority in America, the seniors who have to walk away from the medicine they need to survive, or people making over $500,000 a year and to give them $39,000 a year tax breaks? That is what it comes down to; that is the choice we face.

You have heard the Senator from Texas make his choice very clear: The estate tax is going to be eliminated for everybody forever. I see it differently. We can reform the estate tax and do it in a sensible way. We can protect family farmers and family-owned businesses and allow them to stay out of the hospital, here is a prescription that I think will do the trick. Then you go down to the pharmacy and they say: Well, I am sorry to tell you that it will cost you $300 to fill the prescription. If you are living on $800 or $900 a month—and that is not uncommon if you are on Social Security—what are you going to do? Many people have to make a hard choice: Am I going to fill the prescription and figure out how to pay the rent and utility bills, or am I going to walk away from it? Which is the higher priority in America, the seniors who have to walk away from the medicine they need to survive, or people making over $500,000 a year and to give them $39,000 a year tax breaks? That is what it comes down to; that is the choice we face.

Incidentally, so the record is clear, that permanent tax cut of President Bush's that gives $39,000 to the wealthiest people in America makes no sense. I ask the Senator from Illinois if he recalls that debate and what the real priorities were for the other side of the aisle?
Mr. DURBIN. I certainly do. The Senator is correct. After that debate, I sent a letter to the two major farm organizations in Illinois, the Illinois Farm Bureau and the Farmers Union. I said: You don’t have to name names, but if you give me an example of somebody who lost a family farm because of the estate tax? They could not come up with one in my State.

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

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

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

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

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

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

Mr. DURBIN. I will be happy to yield.

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

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

Mr. DURBIN. That is correct.

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

Mr. DURBIN. I believe that is accurate.

Mr. REID. I am sure he does not mean that, and I am sure he will let us know if I am paraphrasing him improperly. I have to think—and I would like the Senator from Illinois to acknowledge—that prescription drug benefits for seniors may be more important than repealing the estate tax or making it permanent. We have already changed it. Something dealing with the Patients’ Bill of Rights would also be something—we should consider—about $4 million and also exempted family-owned businesses.

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

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

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

One of them said: No, Senator, I have to tell you. I think this is a moral issue; it is a moral issue; we should eliminate the estate tax as a moral issue. I am not an arbiter of morality; I just ran for political office. If we are going to stack things against moral relevance, I would certainly put in that list increasing the minimum wage for millions of Americans; providing health insurance for people, 39 million who have none and more losing it every day; paying for college education expenses and prescription drugs for the elderly. Those are certainly moral issues to me, and if we are going to make a choice, the Senator from Texas made it clear what his choice would be: the estate tax.
For the rest of us, there are other issues of equal moral heft that we ought to be considering before we move to the estate tax issue. I hope we get a chance to during the course of this session. It is important during the course of this budget debate that we talk about things such as helping families, small businesses, and family farmers across America.

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

Mr. DURBIN. I yield.

Mr. DOBGAN. I indicated to the Senator from Nevada that if there is to be a vote on the estate tax issue in the coming days—and I guess it may be with respect to the tax provisions dealing with the energy bill. I will want the opportunity to offer a second-degree amendment or at least offer essentially the same amendment we considered last year, and that amendment will draw a distinction. The distinction is this: If my amendment is adopted, then effectively there should be a transfer or passage of any family business or family farm, regardless of size, to qualified heirs will have an estate tax obligation attached to it. None. It will be completely exempt next year.

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

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

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

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

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

I think the proper way to deal with this issue is to recognize there is merit to the question of whether we want to interrupt the transfer of a family business to other family members. The answer from me should not interrupt that transfer. If mom and dad want to pass the business along to the kids to run, I do not care how big the business, let’s not saddle them with an estate tax obligation.

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

I thank the Senator for yielding.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

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

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

DR. RUDOLFO ANAYA’S NATIONAL MEDAL OF ARTS AWARD

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

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

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

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

Other works by Dr. Anaya include “Zia Reed,” “Under a Colorado Sun,” “Jalanta,” “Torgura,” “Anaya Reader,” “Albuquerque,” and his most recent mystery novel, “Shaman Winter.” He has also written numerous short stories, essays, and children’s books, including “Farolitos for Abuelo” and “The Farolitos of Christmas.” Other distinguished awards include the PEN Center West Award for Fiction, the Before Columbus American Book Award, and the Excellence in the Humanities Award.

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

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

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

THE ENERGY BILL

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

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

I hope we are able to deal with the remaining amendments and move forward. I hope we are able to invoke cloture so we can bring this very large
legislation to an orderly conclusion. Obviously, we want to see all issues that relate and that are germane to this energy bill adequately considered, but at this point, 5 weeks into the debate and starting week 6, I think most Senators have had ample opportunity to present their amendments and raise the issues they think are of concern. I see there are other Senators seeking recognition. I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

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

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

THE FIX IS IN ON O’HARE AIRPORT

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

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

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

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

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

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

(From the Chicago Tribune, Apr. 21, 2002)

Bears Play, Public Pays

(By Andrew Martin, Liam Ford and Laurie Cohen)

As construction at Soldier Field advances, a Tribune analysis of the project shows that the public bill for the stadium renovation is higher than city officials have said it would be while benefits to taxpayers—in terms of property tax revenue and reduced public costs—fall short of what was promised.

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

City officials have said the public bill for the project won’t exceed $406 million; in fact, another $236 million in public costs is buried in bond documents. That money brings the total public tab to $642 million.

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

Officials with the Chicago Park District, which owns Soldier Field, have called the stadium a “wine and dine” destination for the media—officials who once had public officials said that the new stadium is expected to double the value of the Bears franchise, experts said.

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

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

“The problem with the current debate is that it is too often about the Chicago Bears and not about the future of Chicago and its prized lakefront,” according to the statement says.

The strategy to sell the Soldier Field renovations, mapped out in a 1999 memo by the Bears public-relations firm, was based, according to the memo, on emphasizing the new stadium’s amenities, such as new parking, new concourses and a new lakefront parking garage in an underground garage, while downplaying public costs for the Bears facility.

“The problem with the current debate is that it is too often about the Chicago Bears and not about the future of Chicago and its prized lakefront,” according to the memo, created as part of the project’s architecture.

The public-relations advisers recommended a strategy recommended a strategy that included changing the conversation from “public function” for the project to “public stadium needs” to a civic-led discussion about things as preserving Soldier Field as a landmark and “doing things right, the Chicago way,” said the memo, a copy of which was obtained by the Tribune.

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

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

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

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

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

Daley appeared to confirm the Friends of the Parks allegation that the project would cover 19 acres of parkland, not 17. “They’re building 10 acres of open space and another seven acres of landscape in all of that. That’s what you need to make it environmentally friendly.

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

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

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

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

Written responses to questions, Park District officials said that the Bears’ contribution to the project far exceeds what most other teams have chipped in for stadiums.

Park District officials said that the Bears’ contribution to the project far exceeds what most other teams have chipped in for stadiums.

“Thefigure includes the planted medians, which amount to just a fraction of an acre,” the statement says. Loren, the architect, said, “A berm can have plants on it, and isn’t that part of a park?”
The public portion, $432 million, is being financed by an extension of a 2 percent city hotel tax originally levied by the Illinois Sports Facilities Authority to pay for Comiskey Park.

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

The next-biggest public contribution for a football stadium is in Cincinnati, where taxpayers are footing about $9.5 million of the $449 million price tag for Paul Brown Stadium, the Bengals’ new $449 million home, according to a Tribune analysis of NFL stadium builds in the last decade.

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

The cost of building just the stadium at Soldier Field is estimated at $385 million, prompting the Park District to claim that the Bears will pay more than half the cost of the new facility. But critics say that calculation is skewed. It does not include the cost of amenities that will primarily serve the stadium, such as the parking deck south of Soldier Field and landscaping on stadium access roads.

Marc Ganis, president of the Chicago-based sports consulting firm Sportscorp Ltd., said the solution inched the stadium and the civic contribution reflect a decision to keep the Bears playing on the lakefront in a historic landmark rather than building a new stadium from scratch.

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

**CREATIVE FINANCING**

Officials have pegged the public cost for the project at $466 million, but the actual amount is $26 million higher, thanks to some financial moves designed to skirt a legislative limit on the value of bonds sold to pay for the deal, the Tribune found.

Soon after the legislation was passed, it became clear that the project’s costs, including the cost of issuing the bonds, would exceed the limit, documents and interviews show. The funding problem worsened in September 2001 when a sudden drop in Chicago hotel taxes, as well as other revenues, forced the city to pay off the bonds. Shortfalls would require the city to tap its share of state income taxes.

The lead underwriter for the Soldier Field bonds was George K. Baum and Co. of Kansas City, Mo., which lists two national firms with stadium-building experience in its financial advisories. Baum also has been selected to sell bonds for Millennium Park, another project that Bedore launched for Daley.

When Baum was selected for the Soldier Field work in March 2001, the firm never had worked on a project of such magnitude elsewhere.

Jerry Blakemore, the sports authority’s chief executive, declined to comment on the bond deal, as did the authority’s financial advisers, Fratto and Boumenot.

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

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

**BREAKING THE LOGJAM**

Despite decades of squabbling over a new stadium for the Bears, the football club’s fortunes began to change in 2000, saying the money could disappear within the stadium’s colonnades while posing problems for suppliers.

Jerry Blakemore, the sports authority’s chief executive, declined to comment on the
The prime contractor for the Soldier Field renovation project, without competitive bidding by the Bears, is a joint venture that includes two national firms with stadium-building experience and Kenny Construction, a Whiting firm whose principals are campaign contributors to both Daley and Ryan. The company’s vice president also was chairman of Ryan’s inaugural ball.

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

The friends and allies of the mayor get rich on large public works projects that are, to begin with, misrepresented to the people. We have seen it with Millenium Park in Chicago, and we are seeing it now with Soldier Field. Does anyone really believe it is going to be any different with the O’Hare expansion?

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

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

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

Mayor Daley is asking unions representing all city employees except police and firefighters to make a painful choice—take five unpaid vacation days or put off their raise for six months or face $25 layoffs to generate $15 million in savings to help solve Chicago’s worst budget crisis in a decade.

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

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

Daley to City Workers: Pick Unpaid Days or Layoffs

“Don’t Hold Your Breath,” Replies Police Union Chief; Other Labor Groups Upset

(By Fran Spielman)

Mayor Daley is asking unions representing all city employees except police and firefighters to make a painful choice—take five unpaid vacation days or put off their raise for six months or face $25 layoffs to generate $15 million in savings to help solve Chicago’s worst budget crisis in a decade, labor leaders said.

“It’s not anybody against anybody. It’s trying to find people surviving,” Daley told reporters Saturday at a far South Side school.

Sworn police officers and firefighters would suffer the most, with about 625 layoffs, because their contracts prohibit them unless non-safety personnel are sacrificed first.

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

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

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

James McNally, newly elected president of the Chicago Firefighters Union Local 2, refused to be interviewed, except to say that Chicago firefighters who changed union presidents this week are “looking for a contract.”

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

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

“That’s up to them,” Daley said. “You can only ask them, and that’s what we’re trying to do. We’re trying to see if one is laid off.”

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

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

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

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

There are 13,248 sworn police officers on the street, said Dennis Gannon, manager of police personnel. Daley’s 2002 budget authorized 13,522 sworn officers.

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

The mayor has said that tax increases on the eve of a high bid were a “last, last, last resort,” but he has refused to slam the door on either layoffs or new revenues.

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

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

At a meeting Friday hosted by the Chicago Federation of Labor, union leaders representing Chicago firefighters got the bad news from John Doerger, the former labor liaison now serving as the mayor’s director of intergovernmental affairs.

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

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

If Daley has a shortfall of 425 jobs in two corporate funds, and every furlough day is (the expected) of 81 jobs, they’re looking for $15 million. They don’t care how they get the money, said Dennis Gannon, treasurer of the Chicago Federation of Labor.

“They gave us those choices, but we’re not to the point of picking. The labor community would like to have the option of looking at the police and see what can happen there, then come back and talk to us again,” he said.

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

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

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

That never happened. And it left a bad taste in the mouths of the union leaders whose support Daley now needs to solve the city’s bills if there’s a repeat of what happened in February when the state was late with a $20 million income tax payment.

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

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

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

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

“We need to achieve a certain amount of savings, and there are several ways we can do it—It’s not that rigid. We need to work together and be creative,” she said.

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

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

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

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

But here is a different idea: why not take it from the inside guys for a change? Why not take it from all the people who use their connections and clout to cash in on no-bid contracts
and concessions at O'Hare, or Soldier Field, or Millennium Park?

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

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

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

The PRESIDING OFFICER. The Presiding Officer, in his capacity as the Senator from West Virginia, suggests siding. The Senator from West Virginia, suggests siding. Mr. President, I suggest siding. The Senator from West Virginia, suggests siding. The Senate will now review. Mr. President, I look forward to the debate and to continuing to work with my colleagues on that issue.

The PRESIDING OFFICER. The Presiding Officer, in his capacity as the Senator from West Virginia, suggests siding. The Senate will now review. Mr. President, I look forward to the debate and to continuing to work with my colleagues on that issue.

The amendment I offered is supported by the Alliance to Save Energy...
and United Technologies. Senators Cantwell, Bayh, Reid of Nevada, Dodd, Lieberman, and Harkin all co-sponsored my amendment. The amendment was adopted last week. I think most Members of the Senate want to move, using new technology, to new opportunities and new goals for our country's future.

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

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

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

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

Mr. President, I yield the floor.

AMENDMENT NO. 3239

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

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

This amendment is an important step forward in promoting the development of emissions trading markets and market-based programs to reduce greenhouse gas emissions. I also note that it is my belief, if closure is invoked on this underlying bill, that this amendment will be in order.

I suggest the adoption of the amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

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

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

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

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

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

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

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

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

It would be beneficial to the environment and the economy of the eastern Gulf of Mexico planning area. This is an area which is peculiarly dependent upon the quality of its water and the attractiveness of its coastal areas for its economic well-being. My State of Florida, tourism is the leading business, and of all the reasons that people come to our State, consistently our coastal areas have been listed as the No. 1 attraction.

They also are a part of our fundamental culture. They are to our State and to other areas in the eastern planning region what, for instance, the Platte River would be in Nebraska or the Rocky Mountains in Colorado. They help define what kind of place, what kind of people we are today. They are a critical part of our environment, as witness the fact that the Federal Government, through the Coastal Zone Management Act, has made the protection of our coastal zones a national priority.

The benefit to the Nation as a whole is seen by a precedent which has already occurred. During the administration of the first President Bush, there was concern about the adverse effects of a similar set of leases which covered approximately 600 square miles in the area south of the 26th latitude—the 26th latitude runs east and west, more or less, at the line of Naples to Fort Lauderdale—and that the development of those leases over that large 600-square-mile expanse could represent a serious threat to places such as Everglades National Park, the Dry Tortugas National Park, and National Marine Sanctuary that protects the coral reefs of the Florida Keys. Therefore, under the leadership of the first President Bush, an effort was initiated to reacquire those 600 square miles of leases.
I believe the same win-win-win arrangement will be possible through this approach. It would be very appropriate that the now second President Bush, who as a candidate for President indicated his sensitivity to the importance of the coastal environment, and the economic relationship there in my State and in the eastern Gulf of Mexico planning area and indicated that he would use his influence to provide protection—there is no better form of protection that can be provided than that which is sought by this amendment and that which was achieved by his father's efforts in the area south of the 26th latitude.

There have been some who have suggested that these are in some way selfish moves and motivated by a desire for self-protection; that every part of the country which is a user of energy, which means every part of the country, should also be a supplier of energy; and that no part of the country should be off limits to that which contributes. I believe that is a fundamental misunderstanding of what the United States of America is. The United States of America is a republic of 50 States that have given to the central government certain administrative powers under the laws that we and our colleagues in the House of Representatives pass.

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

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

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

On the other side, we don't have much energy. Historically, we have not been a site where a significant amount of oil, gas, coal, or other major energy sources have been found. We even have difficulty with things that people find surprisingly, we are not a particularly good State for wind power because the winds are not reliable enough to convert it into commercial applications. We are also a State which has not benefited by the industrial revolution, as most other States have. We were a State which possesses some of the essential qualities that the industrial revolution required. Energy access to certain raw materials, such as iron ore, cheap transportation systems in proximity to markets—none of those were true in Florida. Therefore, we largely were passed over in the industrial revolution.

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

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

This amendment I am offering, I believe one of the synergies which makes all parties—fair to the oil and gas companies by giving them a voluntary election, a means by which they can recapture past expenses in the form of credits that they can use for required future expenses, balanced insofar as protecting the economy and the environment of the eastern Gulf of Mexico, and will meet the same kind of national standards as the first President George Bush did when he led the way to eliminate 600 square miles of oil and gas leases off the Florida Keys and the southwest coast of my State. This is an opportunity that I hope we will grasp as part of this energy bill. I recognize there are, in a parliamentary sense, other amendments that will be considered prior to this. We will be taking a vote tomorrow on a cloture motion, which could further affect the procedure for consideration of amendments. But I am committed that the Congress will have an opportunity to consider this approach, which I think brings such value and security to our Nation and to our future environment and economy.

I appreciate this opportunity to outline this proposal. At the appropriate time, I look forward to calling this amendment before the Senate. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

The PRESIDING OFFICER. The bill S. 517.

MORNING BUSINESS

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

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

ADDITIONAL STATEMENTS

PROSPECTS FOR PEACE

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

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

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

Unfortunately, the lack of leadership and vision exhibited by the Palestinian Authority in recent months, in my estimation, prevented the Palestinian people from achieving liberation and attaining the hopes and dreams they
form is a powerful tool that has the potential to significantly enhance our national security.
language study at the elementary and secondary level—when students have the best chances of developing the strongest language proficiencies as adults. Eliminating funding for FLAP would be a disservice to the nation. We would have contributed to the lack of foreign language proficiency at a time when the government needs people with those skills the most.

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

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

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

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

IN RECOGNITION OF RUDOLFO ANAYA

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

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

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

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

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

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

TRIBUTE TO SHARON DARLING

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

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

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

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

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

LOCAL LAW ENFORCEMENT ACT OF 2001

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

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

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

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.
(The nominations received today are printed at the end of the Senate proceedings.)

MEASURE REFERRED

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

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

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY for the Committee on Health, Education, Labor, and Pensions:
Rene Acosta, of Virginia, to be a Member of the National Labor Relations Board for the remainder of the term expiring August 27, 2003.*

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

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

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

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

By Mrs. FEINSTEIN:
S. 2217. A bill to designate the facility of the United States Postal Service located at 3291 West Sunflower Avenue in Santa Ana, California, as the “Hector G. Godinez Post Office Building”; to the Committee on Governmental Affairs.

By Mrs. LINCOLN (for herself and Ms. COLLINS):
S. 2218. A bill to amend title XVIII of the Social Security Act to provide coverage for kidney disease education services under the medicare program, and for other purposes; to the Committee on Finance.

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

By Mr. JEFFORDS:
S. 2220. A bill to amend the Solid Waste Disposal Act to require implementation by brand owners of management plans that provide for certain hazardous container; to the Committee on Environment and Public Works.

By Mr. ROCKEFELLER (for himself and Mr. SMITH of Oregon):
S. 2221. A bill to temporarily increase the Federal medical assistance percentage for the medicare program; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LIEBERMAN (for himself, Mr. SMITH of Oregon, Mr. DASCHEL, Mr. CLELAND, and Ms. COLLINS):
S. Res. 247. A resolution expressing solidarity with Israel in its fight against terrorism; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

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

S. 776
At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 776, a bill to amend title XIX of the Social Security Act to increase the payment amount for inpatient hospital services furnished under the medicare program for certain people who are eligible for medicare because they have end-stage renal disease.

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

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

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

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

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

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

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

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

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

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

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

S. 2046
At the request of Mr. CRAIG, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2046, a bill to amend the Public Health Service Act to authorize loan guarantees for rural health facilities to buy new and repair existing infrastructure and technology.
was added as a cosponsor of S. Res. 109, a resolution designating the second Sunday in the month of December as "National Children’s Memorial Day” and the last Friday in the month of April as "Children’s Memorial Flag Day.”

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

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

At the request of Mr. DOEGAN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. Res. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN:

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

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

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

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

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

Hector Godinez was a true pillar within the Santa Ana community devoting his tireless energy to such civic groups as the Orange County District B and the League of United Latin American Citizens, one of the country’s oldest Hispanic civil rights organizations.

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

Mr. JEFFORDS:

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

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

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

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

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

The National Beverage Producer Re- sponsibility Act of 2002 is a new approach to the traditional bottle bill
legislation, which prescribes specific roles and responsibilities for retailers and distributors. Some believe that these prescriptive provisions constrain the industry from innovating more cost-effective solutions to the beverage container management challenge.

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

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

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

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

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

S. 2200

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Beverage Producer Responsibility Act of 2002”.

SEC. 2. FINDINGS.

Congress finds that—

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

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

(A) placed undue burdens on local waste authorities;

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

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

(3) of particular concern—

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) those laws—

(A) enjoy strong public support; and

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

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

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

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

(B) maximize efficiency of the brand owners;

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

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

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

SEC. 3. BEVERAGE CONTAINER REUSE AND RECYCLING.

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

“Subtitle K—Beverage Container Reuse and Recycling

SEC. 12001. DEFINITIONS.

In this subtitle:

(1) BEVERAGE CONTAINER.—The term ‘beverage container’ means a nonalcoholic or alcoholic carbonated or noncarbonated liquid that is intended for human consumption.

(2) EXCLUSIONS.—The term ‘beverage’ does not include milk or any other dairy or dairy-derived product.

(3) BEVERAGE CONTAINER.—The term ‘beverage container’ means a container that—

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

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

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

(i) may contain or contains a beverage; and

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

(4) MANAGEMENT PLAN.—The term ‘management plan’ means a management plan submitted under section 12004.

(5) RECOVERY RATE.—The term ‘recovery rate’ means the percentage obtained by dividing—

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

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

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

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

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

(B) is operated under contract entered into by the brand owner for which a deposit was collected under section 12005.

(8) SELLER.—

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

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

(9) UNBROKEN BEVERAGE CONTAINER.—The term ‘unbroken beverage container’ includes a beverage container that has not been opened or in a manner in which the beverage container was designed to be opened.

SEC. 12002. RESPONSIBILITIES OF BRAND OWNERS.

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

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

SEC. 12003. BEVERAGE CONTAINER LABELING.

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

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

SEC. 12004. MANAGEMENT PLANS.

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

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

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

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

"(1) include—

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

"(B) the name and address of a contact person at the beverage container agency;

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

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

"(2) provide—

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

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

"(3) include a description of—

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

"(B) the ways in which the beverage container agency intends to achieve, not later than 3 years after the date of enactment of the management plan, a recovery rate of at least 80 percent; and

"(C) the ways in which the beverage container agency intends to achieve, not later than 5 years after the date of enactment of the management plan, a recovery rate of at least 90 percent; and

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

"(d) APPROVAL OF MANAGEMENT PLANS.—

"(1) IN GENERAL.—The Administrator shall approve a management plan submitted under this section.

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

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

"(B) for amendment.

"(3) DISAPPROVAL.—If the Administrator disapproves a management plan, the Administrator may disapprove the management plan, not later than 60 days after the date of disapproval, provide to the beverage container agency that submitted the management plan a written explanation of the reasons for the disapproval, and thereafter, the Administrator shall submit to Congress a report that describes—

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

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

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

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

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

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

"(3) DISAPPROVAL.—If the Administrator disapproves a management plan, the Administrator may return the management plan to the beverage container agency, or the return site, the beverage container agency or the return site, the beverage container agency.

"(1) a management plan under this subtitle.

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

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

"(1) include—

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

"(B) the name and address of a contact person at the beverage container agency;

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

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

"(2) provide—

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

"(B) appropriate documentation of such agreements entered into by the beverage container agency and return site operators as will take effect as of the date of implementation of the management plan, a recovery rate of at least 80 percent; and

"(C) the ways in which the beverage container agency intends to achieve, not later than 5 years after the date of enactment of the management plan, a recovery rate of at least 90 percent; and

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

"(d) APPROVAL OF MANAGEMENT PLANS.—

"(1) IN GENERAL.—The Administrator shall approve a management plan submitted under this section.

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

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

"(B) for amendment.

"(3) DISAPPROVAL.—If the Administrator disapproves a management plan, the Administrator may disapprove the management plan, not later than 60 days after the date of disapproval, provide to the beverage container agency that submitted the management plan a written explanation of the reasons for the disapproval, and thereafter, the Administrator shall submit to Congress a report that describes—

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

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

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

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

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

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

"(3) DISAPPROVAL.—If the Administrator disapproves a management plan, the Administrator may return the management plan to the beverage container agency, or the return site, the beverage container agency.

SEC. 12006. REFUND VALUE.

"(a) IN GENERAL.—The refund value of a beverage container under subsection (a) on the date that is 10 years after the date of enactment of this subtitle shall be the greater of—

"(1) 10 cents; or

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

"(b) ADJUSTMENT.—The Administrator shall—

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

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

SEC. 12007. RECOVERY RATES.

"(a) IN GENERAL.—Except as provided in subsections (b) and (c), in a case in which a brand owner complies with each provision of this subtitle, but fails to achieve a recovery rate of at least 80 percent for beverage containers of the brand owner during a calendar year, the Administrator may require that the beverage container agency of the brand owner pay to each State an amount equal to the difference between—

"(1) the amount of deposits collected on beverage containers of the brand owner that were sold in the State; and

"(2) the amount of refunds paid on those beverage containers.

"(b) EXEMPTIONS FOR CERTAIN STATES.—A brand owner that achieves a recovery rate of at least 80 percent under a beverage container deposit program of a State within the 2-year period beginning on the date of enactment of this subtitle shall be exempt from the provisions of this subtitle with respect to that State.

"(c) REFUND RATE ADJUSTMENT.—The minimum refund rate required to be achieved by a brand owner under subsection (a) shall be reduced by 1 percentage point for each percentage point increase in every calendar year by the brand owner of refillable beverage containers.

SEC. 12008. OTHER MANAGEMENT REQUIREMENTS.

"(a) DISPUTES.—If a dispute arises under this subtitle between, and cannot be resolved by, a beverage container agency and a return site, the beverage container agency or the return site shall refer the matter to binding arbitration.

"(b) CONFIDENTIALITY.—Except as provided in paragraph (2), each person acting under the authority of this subtitle shall keep confidential all facts, information, and records obtained or provided under this subtitle.

"(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which public duty requires, in the regulation of the beverage container program, that the Administrator under this subtitle permits, the disclosure of any facts, information, or records described in that paragraph.

SEC. 12009. REPORT BY ADMINISTRATOR.

"(a) IN GENERAL.—The Administrator shall—

"(1) at least annually, submit to Congress a report that describes—

"(2) the amount of deposits collected on beverage containers of the brand owner that were sold in the State; and

"(3) the amount of refunds paid on those beverage containers.

"(b) EXEMPTIONS FOR CERTAIN STATES.—A brand owner that achieves a recovery rate of at least 80 percent under a beverage container deposit program of a State within the 2-year period beginning on the date of enactment of this subtitle shall be exempt from the provisions of this subtitle with respect to that State.

"(c) ADJUSTMENT.—The Administrator shall—

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

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

SEC. 12009. REPORT BY ADMINISTRATOR.

"(a) IN GENERAL.—The Administrator shall—

"(1) at least annually, submit to Congress a report that describes—
"(1) the recovery rate for beverage contain-
ers during the year covered by the re-
port; and
"(2) the extent to which beverage con-
ainers are being recycled.
This section is proceeding in accordance
with this subtitle.

**SEC. 12010. PENALTIES.**
"Notwithstanding any other provision of
this Act—
"(1) a person that violates any provision of
this subtitle (other than section 12004(f))
shall be subject to a civil penalty of not
more than $1,000 for each violation; and
"(2) a person that violates section 12004(f)
shall be subject to a civil penalty of not
more than $10,000 for each violation.

(a) RETAIL MANAGEMENT—The table of
contents for the Solid Waste Disposal Act (42
U.S.C. prec. 6001) is amended by adding at
the end the following:

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Subtitle K—Beverage Container Reuse and
Recycling
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Sec. 12001. Definitions.
Sec. 12002. Responsibilities of brand
owners.
Sec. 12003. Beverage container labeling.
Sec. 12004. Management plans.
Sec. 12005. Deposit and refund.
Sec. 12006. Refund value.
Sec. 12007. Recovery rates.
Sec. 12008. Other management require-
ments.
Sec. 12009. Report by Administrator.
Sec. 12010. Penalties.
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By Mr. ROCKEFELLER (for him-
self and Mr. SMITH of Oregon):
S. 2221. A bill to temporarily increase
the Federal medical assistance per-
centage for the Medicaid program; to
the Committee on Finance.

Mr. SMITH of Oregon. Mr. President, I
rise today to talk about a vital fed-
eral program that is an essential part
of our health care safety net—Med-
caid. Last year, the Medicaid program
provided health coverage for 44 million
of the most vulnerable Americans—22.6
million children, 9.2 million adults in
low-income families, and 12 million el-
derly and disabled. One in four Amer-
ican children is covered by this im-
portant program.
Yet despite the program's impor-
tance, states around the country are
struggling to fund their share of their
Medicaid programs. Going into legisla-
tive session this year, my home state
of Oregon faced a budget shortfall of
nearly $800 million, and most other
states are facing similar conditions.

The cruel irony of this situation is that
just as state revenues have dropped due
to poor economic conditions, many more
people are turning to Medicaid as their
only source of health care. I know that
in Oregon, the number of people on Medicaid has risen by 10%
since June of last year, and I suspect
that many of your states have experi-
enced similar increases. Additionally,
because of scheduled formula adjust-
ments, many states will see their exist-
ing Medicaid payments from the Fed-
eral government fall this year.

It is not a mystery what will happen
if we do not act. States will be forced to
cut their Medicaid programs and more
Americans will lose their health cov-
erce. The number of uninsured people
in this country will rise dramatically.

Last year, more than 40 million Ameri-
cans lived and worked without health
insurance, and it is estimated that the
economic downturn will add another 4
million to the ranks of the uninsured.

This legislation would allow states
to continue providing health care to our
so-called "tiniest nation"—our vulnerable members in
this economic downturn by providing a
temporary increase in the Federal
Medical Assistance Program, FMAP,
and states receive to pay their por-
tion of the Medicaid bill. This legisla-
tion would hold states harmless at
their 2003 FMAP levels so that no state
will experience a decrease in Federal
funds for Medicaid, while providing all
states with an additional temporary 1.5
percentage in their matching rates for
three years. It would also target assist-
ance to the most needy states by pro-
viding another 1.5 percentage point in-
crease in their FMAP for three years.

The goal of this bill is to prevent ero-
ision of health insurance coverage and
to maintain a strong health care safety
net for vulnerable people during the
economic downturn. By temporarily in-
creasing the Federal portion of the
Medicaid bill, the scope and depth of
possible state budget cuts or tax in-
creases will be reduced, and the potential
negative impact on the economy and our
most vulnerable citizens across the country. It is the right
thing to do, and the right time to do it.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 247—EXPRESSING
SOLIDARITY WITH ISRAEL IN ITS
FIGHT AGAINST TERRORISM

Mr. LIEBERMAN (for himself, Mr.
SMITH of Oregon, Mr. DASCHLE, Mr.
DODD, Mr. ENDECOURT, Mr. LEVIN,
and Mr. BURBANK) submitted the fol-
lowing resolution; which was re-
ferred to the Committee on Foreign
Relations:

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S. RES. 247
Whereas the United States and Israel are
now engaged in a common struggle against
terrorism and are on the frontlines of a con-
flict thrust upon them against their will;
Whereas President George W. Bush de-
clared on November 21, 2001, "We fight the
terrorists and are on the frontlines of a con-
```

What the Senate—
(1) stands in solidarity with Israel, a
front-
line state in the war against terrorism, as it
takes necessary and legitimate security
efforts to its people by dismantling the terrorist infra-
structure in the Palestinian areas;
(2) remains committed to Israel's right to
self-defense;
(3) will continue to assist Israel in
strengthening its homeland defenses;
(4) condemns Palestinian suicide bombings;
(5) demands that the Palestinian Authority
fulfill its commitment to dismantle the ter-
orist infrastructure in the Palestinian areas;
(6) urges all Arab states, particularly the
United States' allies, Egypt and Saudi Ara-
bia, to declare their unqualified opposition to all forms of terror in
suicide bombing, and to act in concert with the
United States to stop the violence; and
(7) urges all parties in the region to pursue
vigorously efforts to establish a just, lasting,
and comprehensive peace in the Middle East.

Mr. LIEBERMAN. Mr. President, I
have submitted a resolution today,
along with Senator SMITH of Oregon,
Senator DASCHLE, our majority leader,
and we are currently in the process of
communicating with the Republican
leader. I hope Senator LOTT will be-
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Resolved, That the Senate—
(1) stands in solidarity with Israel, a
front-
line state in the war against terrorism, as it
takes necessary and legitimate security
efforts to its people by dismantling the terrorist infra-
structure in the Palestinian areas;
(2) remains committed to Israel's right to
self-defense;
(3) will continue to assist Israel in
strengthening its homeland defenses;
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President Franklin Roosevelt spoke in 1940 when he said:

No man can tame a tiger into a kitten by stroking it. There can be no appeasement with ruthlessness. There can be no reasoning with a monster.

The United States supports a peaceful Palestine along a secure Israel, as, for that matter, does Israel herself. We support a two-state solution. In other words, we support what we hope and pray is still the cause of the vast majority of Palestinian people. But there is a danger that these suicide bombers operating out of Palestinian territory have hijacked the legitimate cause of Palestinian statehood. These homicide bombers do not represent what we hope is the aspiration of a majority of the Palestinian people for statehood, for a better life for themselves and their children.

These homicide bombers—terrorists—insult that cause and undermine their desire to live a better life. They represent a morally bankrupt and tactically suicidal policy. Their militancy will only deepen the misery of the Palestinian people.

Ultimately, in supporting Israel’s right to self-defense and protect itself, we are also supporting our own war against terrorism because if we lose our bearings and muddy the moral clarity with which we began and are carrying out our campaign against terror, we risk undermining the fight against other international terrorist groups that threaten our own people. We cannot allow that.

The United States, acting in concert with Israel and our allies in the Arab world, and hopefully our allies in the rest of the world, including Europe and Asia, can still bring security to the region. It can still happen if mainstream, moderate leaders in the Arab world will not accommodate themselves out of fear or insecurity to the threats of the fanatical elements within their region but will stand up with our strong support and assert that the only way to achieve a better future for the Palestinian people and, in fact, for all the people in the Middle East, is to come together for the good people, to come together behind the rule of law against fanaticism, against solving problems with violence, for more human rights, for more democracy, for the kind of open economies that allow people to raise up on the basis of living conditions, to confront terrorists of the conditions they exploit for violent and suicidal purposes. Together, we can bring such a result to the region.

This week, President Bush has two very important meetings. One with King Mohamed VI of Morocco, the other with Crown Prince Abdullah of Saudi Arabia. These are opportunities not only to develop the hopes expressed in the Saudi peace proposal for mutual recognition of Israel by the Arab world, but to build our alliance in the Arab world and countries like Saudi Arabia and Morocco how critically important their own moral clarity in this moment of crisis is; that we need them to stand with us for a peaceful path to Palestinian statehood and a better life for all the people of their region.

Ultimately, that only comes with more human rights for their citizens and a more open economic society with more opportunities. Together, we can create conditions for a just and lasting peace, a peaceful and sovereign Palestine alongside a peaceful and secure Israel. It is time for the humane, law-abiding forces within the Middle East and the world to come together and defeat the cancer of terrorism that now eats away at that region and the world.

The United States must stand with our ally, Israel, sharing values and hopes for peace as we do, as she attempts to defeat and protect her citizens from acts of terrorism. That is the message we send with the resolution we are submitting today. I hope an overwhelming majority of my colleagues will join Senator Smith and me, Senator Daschle and, I hope, Senator Lott, in cosponsoring this resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3177. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3178. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3179. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3180. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3181. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3182. Mr. KYL (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3183. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3184. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3185. Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3186. Mr. HAGEL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3187. Mr. BYRD (for himself and Mr. Jacobs) 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) supra; which was ordered to lie on the table.

SA 3188. Mr. GRAHAM (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3189. Mr. TORRICELLI (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3190. Mr. TORRICECELLI (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) supra; which was ordered to lie on the table.

SA 3191. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3192. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3193. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3194. Ms. LANDRIEU (for herself and Mr. DOMENICI) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3195. Mr. HARKIN (for himself, Mr. GRASSLEY, and Mrs. LINCIONE) 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) supra; which was ordered to lie on the table.

SA 3196. Mr. JOHNSON submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3197. Mr. CARPER (for himself, Ms. COLLINS, Mr. LEVIN, Ms. LANDRIEU, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3198. Mr. CARPER (for himself, Mr. SPECTER, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3199. Mr. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917
proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3230. Mrs. BOXER (for herself and Mrs. SNowe) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3231. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3232. Mr. CANTWELL (for himself, Mr. MCCAIN, Mr. BYRD, Mr. LIEBERMAN, Mr. THOMPSON, Mr. HOLLINGS, Mr. KERRY, Ms. HAGEL, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3233. Mr. DAYTON (for himself, Mr. WELSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, Mr. FEINGOLD, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3234. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3235. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3236. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3237. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3238. Mr. WYDEN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3239. Mr. BROWNBACK (for himself, Mr. CORZINE, Mr. LIEBERMAN, Mr. McCain, Mr. DAYTON, Mr. STABENOW, Mr. KERRY, and Mr. RIEDE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.
SA 3240. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3241. Mr. BINGAMAN (for himself, Mr. DURBIN, and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3242. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3243. Mr. DASCHLE (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3244. 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) supra; which was ordered to lie on the table.

SA 3245. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3246. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3247. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3248. Mr. BINGAMAN (for Mr. THOMAS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3249. Mr. BINGAMAN (for Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3250. Mr. BINGAMAN (for Mrs. CARNAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3251. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3252. Mr. LEVIN submitted an amendment intended to be proposed 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 3253. Mr. LEVIN 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 3254. Mr. LEVIN 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 3284. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3285. Mr. HARKIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3286. Mr. BAUCUS (for himself, Mr. GEASLAND, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CARNANAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3287. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3288. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3289. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3290. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 517, supra; which was ordered to lie on the table.

SA 3291. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3292. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS
SA 3177. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, strike line 14 and all that follows through page 92, line 16.

SA 3178. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, strike line 14 and all that follows through page 92, line 16.

SA 3179. Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 94, 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 2003 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. PERMANENT REPEAL OF ESTATE TAXES.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking “this Act” and all that follows subsection (a) and inserting “this Act (other than title V)” which shall not apply to taxable, plan, or limitation years beginning after December 31, 2010,” and by striking “... estates, gifts, and transfers” in subsection (b).

SA 3183. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

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 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 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 service 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 a distribution utility or an electric utility that has a service obligation to a distribution utility.

(2) The term ‘load-serving entity’ means a distribution utility or an electric utility that has a service obligation to a distribution utility.

(3) The term ‘service obligation’ means (i) a requirement applicable to an electric utility under Federal, State or local law or under long-term contract to provide electric service to or for 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 the regulated entity provision, as proposed by 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:

Beginning on page 370, strike line 3 and all that follows through page 384, line 19, and 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 entitled to the use of 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 service rights in order to deliver such output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using such rights, to meet that service obligation.

“(2) The Commission shall exercise its authority under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy their existing and reasonably forecast service obligations.

“(b) For purposes of this section:

(1) The term ‘distribution utility’ means an electric utility that has a service obligation to load-serving entities.

(2) The term ‘load-serving entity’ means a distribution utility or an electric utility that has a service obligation to a distribution utility.

“(3) The term ‘service obligation’ means (i) a requirement applicable to an electric utility under Federal, State or local law or under long-term contract to provide electric service to or for 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.”

SEC. 1101. PURPOSE.

The purpose of this title is to establish a greenhouse gas emissions trading program and information system that will—

(a) achieve a regional market-based program for greenhouse gases, and that will encourage participation in that market;

(b) ensure that any emissions reductions achieved under this title are accurate, verifiable, and perpetual;

(c) maintain a database to be known as the National Greenhouse Gas Data Base established under section 1104;

(d) create a program for the tracking, accounting, and verification of greenhouse gas emissions reductions, which was ordered to lie on the table; as follows:

On page 28 following line 16 insert the following:

SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.

In this title:

(1) Database.—The term ‘database’ means the National Greenhouse Gas Data Base established under section 1104.

(2) Designated agency or agencies.—The term ‘Designated Agency or Agencies’ means the Departments or Agency or Agencies given the responsibility for a function or program under the Memorandum of Agreement entered into pursuant to section 1102.

(3) Direct emissions.—The term ‘direct emissions’ means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.

(4) Entity.—The term ‘entity’ means—

(A) a person located in the United States;

(B) a public or private entity, to the extent that the entity operates in the United States;

(5) Facility.—The term ‘facility’ means all buildings, structures, or installations located on any 1 or more of contiguous or adjacent property or properties, or a fleet of 20 or more transportation vehicles, under common control of the same entity.

(6) Greenhouse gas.—The term ‘greenhouse gas’ means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons; and

(F) sulfur hexafluoride.

(7) Indirect emissions.—The term ‘indirect emissions’ means greenhouse gas emissions that are the consequence of the activities of an entity, that are emitted from a facility owned or controlled by another entity and that are neither reported as directed emissions nor as covered entities.

(8) Sequestration.—The term ‘sequestration’ means the capture, long-term separa-

tion, isolation, or removal of greenhouse gases from the atmosphere, including through a biological or geologic method such as reforestation or an underground reservoir.

SEC. 1102. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.

(a) Not later than 1 year after the date of enactment of this Act, the President, acting through the Administrator of the Environmental Protection Agency, the Secretary of Commerce, the Secretary of Agriculture, and the Administrator of the National Aeronautics and Space Administration, shall—

(1) recognize and maintain existing statutes, regulations, 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 products 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 maintaining, and verifying the emissions reduction registry, under both this title and its authority under section 19307(b) of the Energy Policy Act of 1992 (42 U.S.C. 6241(b)).

(2) The Department of Commerce shall be primarily responsible for the development of measurement standards for emissions monitoring and verification methods and methods to ensure that there is a consistent and technically accurate record of emissions, reductions and atmospheric concentrations for greenhouse gases for the database under this title.

(3) The Environmental Protection Agency shall be primarily responsible for emissions monitoring, measurement, verification and data collection, pursuant to this title and existing authority under titles IV and VIII of the Clean Air Act, and including mobile sources of mobile emissions information, to implement the Corporate Average Fuel Economy program under chapter 329 of title 49, United States Code, and the Agency’s role in monitoring, measurement, and verification of compliance with the United Nations Framework Convention on Climate Change.

(c) The Chairman shall publish a draft version of the Memorandum of Agreement in the Federal Register and solicit comments on it as soon as practicable and publish the final Memorandum of Agreement in the Federal Register not later than 15 months after the date of enactment of this Act.

(d) The final Memorandum of Agreement shall not be subject to review.
(c) **DEADLINE.**—Not later than 2 years after the date of enactment of this Act, the Designated Agency or Agencies shall promulgate a rule to implement a comprehensive system for greenhouse gas emissions reporting and reductions registration. The Designated Agency or Agencies shall ensure that the system is designed to maximize completeness, to minimize measurement and reporting costs for covered entities.

(d) **REQUIRED ELEMENTS OF DATABASE REPORTING SYSTEM.**—

(1) **ORAL REPORTING.**—An entity may voluntarily report to the Designated Agency or Agencies, for inclusion in the registry portion of the national database:

(A) project reductions from facilities owned or controlled by the reporting entity in the United States;

(B) transfers of project reductions to and from other entities;

(C) project reductions from facilities owned or controlled by the reporting entity outside the United States;

(D) other indirect emissions; and

(E) product use phase emissions.

(B) greenhouse gas emissions reductions activities carried out since 1990 and verified according to rules implementing paragraph (3) 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. 13283(b)) or under other Federal or State voluntary greenhouse gas reduction programs.

(2) **TYPES OF ACTIVITIES.**—Under paragraph (1), an entity may report projects that reduce greenhouse gas emissions or sequester a greenhouse gas, including:

(A) fuel switching;

(B) energy efficiency improvements;

(C) use of renewable energy;

(D) use of combined heat and power systems;

(E) management of cropland, grassland, and grazing land;

(F) forestry activities that increase forest carbon stocks or reduce forest carbon emissions;

(G) capture and storage;

(H) methane recovery; and

(I) greenhouse gas offset investments.

(3) **PROVISION OF VERIFICATION INFORMATION BY REPORTING ENTITIES.**—Each reporting entity shall provide the following information sufficient for the Designated Agency or Agencies to verify, in accordance with measurement and verification criteria developed under section 1109, 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 contractor to the reporting entity, and other relevant instan-cies, 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) obtain independent third-party verification; and

(B) present the results of the third-party verification to the Designated Agency or Agencies for publication by the Designated Agency or Agencies in carrying out this subsection.

(5) **DATA QUALITY.**—The rule promulgated under subsection (c) shall establish procedures and protocols needed to—

(A) prevent the reporting of some or all of the same greenhouse gas emissions or emission reductions by more than 1 reporting entity;

(B) provide for corrections to errors in data submitted to the database;

(C) provide for updates to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;

(D) provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions; and

(E) account for changes in registration of ownership of emissions reductions resulting from a voluntary private transaction between reporting entities.

(6) **AVAILABILITY OF DATA.**—The Designated Agency or Agencies shall ensure that information in the database is published, accessible, and available in an electronic format on the Internet, except in cases where the Designated Agency or Agencies determine that publishing or making available the information would disclose information vital to national security.

(7) **DATA INFRASTRUCTURE.**—The Designated Agency or Agencies shall ensure that the database is accessible to and integrated with existing Federal, regional, and state greenhouse gas data collection and reporting systems to the maximum extent possible 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 greenhouse gas emissions, and whether to require reporting of emission efficiency rates (including emissions per kilo-watt-hour for generators) in addition to mass emissions of greenhouse gases;

(B) INTERNATIONAL CONSISTENCY.—The greenhouse gas reduction and sequestration methods and standards used in the United States and by other countries, as applicable or relevant; and

(C) DATA SUFFICIENCY.—The extent to which available fossil fuels, greenhouse gas emissions, and greenhouse gas production and importation data are adequate to implement a comprehensive National Greenhouse Gas Database.

(e) **ANNUAL REPORT.**—The Designated Agency or Agencies shall publish an annual report that—

(1) describes the total greenhouse gas emissions and emission reductions reported to the database;

(2) provides entity-by-entity and sector-by-sector analyses of the emissions and emission reductions reported; and

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

SA 3187. Mr. BYRD (for himself and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917, proposed by Mr. DASCHLE (for himself and Mr. 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 listed on the table; as follows:

On page 283, between lines 8 and 9, insert the following:

**S E C. 9 . INCREASED USE OF RECOVERED MATERIAL IN FEDERALLY FUNDED PROJECTS.**—

(a) **DEFINITIONS.**—In this section:

(1) **ADMINISTRATOR.**—The term ‘‘Administrator’’ means the Administrator of the Environmental Protection Agency.

(2) **AGENCY HEAD.**—The term ‘‘agency head’’ means—

(A) the Secretary of Transportation; and

(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

(3) **CEMENT OR CONCRETE PROJECT.**—The term ‘‘cement or concrete project’’ means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

(A) involves the procurement of cement or concrete; and

(B) is carried out in whole or in part using Federal funds.

(4) **RECOVERED MATERIAL.**—The term ‘‘recovered material’’ means—

(A) ground granulated blast furnace slag;

(B) coal combustion fly ash; and

(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered material under this section for use in cement or concrete projects paid for, in whole or in part, by the Federal Government.

(b) **IMPLEMENTATION OF REQUIREMENTS.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this Act (including guidelines under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6963)) that provide for the use of cement and concrete incorporating recovered material in cement or concrete projects.

(2) **PRIORITY.**—In carrying out paragraph (1) an agency head shall give priority to actions that result in greater use of recovered material in cement or concrete projects for which recovered materials historically have not been used or have been used only minimally.

(c) **FULL IMPLEMENTATION STUDY.**—

(1) **IN GENERAL.**—The Administrator and the Secretary of Transportation, in cooperation with the Secretary of Energy, shall conduct a study to determine to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and greenhouse gas emissions reductions and the benefits attainable with substitution of recovered material in cement used in cement or concrete projects.

(2) **MATTERS TO BE ADDRESSED.**—The study shall—

(A) quantify the extent to which recovered materials are being used in landfill cement, particularly as a result of current procurement requirements, and the energy savings and greenhouse gas emissions reductions and the benefits also attained with that substitution; and

(B) identify all barriers in procurement requirements to fuller realization of energy savings and greenhouse gas emissions reduction benefits, including barriers resulting from exceptions from current law; and
(C)(i) identify potential mechanisms to achieve greater substitution of recovered material in types of cement or concrete projects for which recovered materials historically have not been used or have been used only minimally;  
(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution of recovered material in those cement or concrete projects; and  
(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered material in those cement or concrete projects.  
(3) REPORT.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations and Committee on Energy and Commerce of the House of Representatives a report on the study.  
(4) ADDITIONAL PROCUREMENT REQUIREMENTS.—The Administrator and each agency head shall take additional actions authorized under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered material in the construction and maintenance of cement or concrete projects to—  
(1) realize more fully the energy savings and greenhouse gas emission reduction benefits associated with increased substitution; and  
(2) eliminate barriers identified under subsection (c).  
(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) (including the guidelines and specifications for implementing those requirements).

SA 3188. Mr. GRAHAM (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DSCHLLE (for himself and Mr. BINGHAM) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technological innovation and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:  

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 lease’’ means any of the following leases in the Outer Continental Shelf of the Mexico Planning Area: G06401, G06402, G08333, G08334, G06408, G06409, G08346, G10426, G06432, G06433, G06436, G06439, G06442, G06446, G06447, G06448, G10449, G08345, G10450, G10451, G10452, G10453, G10454, G10455, G10456, G10457, G10458, G10459, G10460, G06461, G06464, G06466, G10467, G06468, G06469, G06470, G06471, G06472, G06473, G06474, G06475, G06476, G06477, G06478, G06479, G06480, G08359, G06481, G06482, G06483, G06484, G06485, G06486, G06487, G06488, G06489, G06490, G06491, G06492, G06493, G06494, G08360, G08361, G08362, G08363, G08364, G08365, G08366, G08367, G08368, G08369, G08370, G08371, G08372, G08373, G08374, G08375, G08376, G08377, G08378, G08379, G08380, G08381, G08382, G08383, G08384, G08385, G08386, G08387, G08388.  
(2) QUALIFIED LESSOR.—The term ‘‘qualified lessee’’ means a person that, on the date of enactment of this section, holds an interest in a qualified lease that is recorded with the Minerals Management Service.  
(3) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of the Interior.  
(b) LEASE CANCELLATION.  
(1) IN GENERAL.—The Secretary shall carry out a program under which the Secretary shall—  
(A) issue credits to qualified lessors 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 lessee that seeks to receive credits in consideration for the cancellation of a qualified lease may do so by submitting the following information and documentation relating to the amounts referred to in clauses (i) and (ii) of paragraph (4)(A), certified by a certified public accountant:  
(B) NOTIFICATION OF FINAL OPPORTUNITY.—Between January 1, 2008 and January 31, 2008, the Secretary shall notify each qualified lessee that has not submitted the information and documentation required under subparagraph (A) in writing—  
(i) of the opportunity to receive credits in consideration for the cancellation of a qualified lease;  
(ii) of the financial information and documentation required under subparagraph (A); and  
(iii) that the deadline for the submission of the financial information and documentation is March 30, 2008.  
(3) REVIEW.—  
(A) INITIAL REVIEW.—Not later than 60 days after the date on which the Secretary receives the financial information and documentation required under paragraph (7) to any other person qualified to hold leases under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).  
(B) REQUIREMENTS.—A sale or transfer of credits, exchange of credits, or economic effects that may result from the reacquisition of the qualified lease shall—  
(i) be considered by the Secretary in determining the value of credits to be offered under paragraph (4);  
(ii) request any additional information that may be necessary to determine the value of credits to be offered under paragraph (4); and  
(iii) in which leasing is otherwise prohibited by the United States relating to the qualified lease that is pending as of the date of cancellation of the eligible lease; and  
(c) LEASE CANCELLATION.—  
(1) IN GENERAL.—A qualified lessee may elect to participate in the program in exchange for the cancellation of a qualified lease.  
(2) SUBMISSION OF FINANCIAL INFORMATION.—  
(A) IN GENERAL.—On or after October 1, 2012, the Secretary shall accept credits issued under paragraph (7) in the same manner as rental fees and payments on oil and gas production conducted in any area outside the Eastern Gulf of Mexico under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.).  
(B) EXCEPTION.—The Secretary shall not accept credits under subparagraph (A) for oil or gas production in an area—  
(i) that is within 3 miles of the seaward boundary of a coastal State;  
(ii) that is subject to an administrative or legislative leasing moratorium; or  
(iii) in which leasing is otherwise prohibited on the date of enactment of this Act.  
(C) ADJUSTMENT FOR INFLATION.—The Secretary shall adjust the credits offered under paragraph (7) to reflect changes in the implicit Gross Domestic Product deflator from the date on which the credits were issued under paragraph (7) to October 1, 2012.  
(D) OFFER.—Not later than 90 days after the date on which the Secretary completes the initial review under subparagraph (B), the Secretary shall—  
(i) complete a final review of the information and documentation provided by the qualified lessee under paragraph (2)(A) and any additional information and documentation required under subparagraph (A)(i); and  
(ii) in accordance with paragraph (4), determine the amount of credits to be offered to the qualified lessee.  
(4) AMOUNT OF CREDITS.—  
(A) IN GENERAL.—For each qualified lessee that complies with the requirements of paragraphs (2) and (3), the Secretary shall offer credits in an amount equal to—  
(i) the amount of consideration paid by the qualified lessee to acquire the interest in the qualified lease;  
(ii) the amount of direct expenditures made by the qualified lessee in connection with the exploration and development of the qualified lease from the date of acquisition of the qualified lease to the date of enactment of this Act.
SA 3189. Mr. TORRiccIelli (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 funding the Department of Energy to enhance its mission areas through technological transition 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 I—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) En Acts.—

(1) Superfund tax.—Section 4611(e) is amended to read as follows:

(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND 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 (d) shall apply after December 31, 1989, and before January 1, 1995, and after the date of the enactment of the Energy Policy Act of 2002 and before October 1, 2007.

(c) Leaking Underground Storage Tank Tax.—Section 4801(d)(3) is amended by striking “April 1, 2005” and inserting “October 1, 2007”.

(d) Corporate Environmental Income Tax.—Section 59A is amended—

(1) by striking “0.12 percent” in subsection (a) and inserting “0.06 percent”; and

(2) by striking subsection (e) and inserting the following:


(c) Technical Amendments.—

(1) Section 482(b)(1b) is amended—

(A) by striking “or exported from” in paragraph (1A),

(B) by striking “or exportation” in paragraph (1B), and

(C) by striking “and Exportation” in the heading.

(2) Section 482(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), 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 Inversion Limitations

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

(a) In General.—Subparagraph (A) of section 832(b)(4)(A) is amended to read as follows:

(A) From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance (except as provided in paragraph (9))

(b) Treatment of Reinsurance With Related Reinsurers.—Subparagraph (B) of section 832 is amended to read as follows:

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

(1) the income attributable to the reinsur—

(b) by striking “or exports” in the heading.

(c) Technical Amendments.—

(1) Section 482(b)(3) is amended—

(A) by striking “or exported from” in paragraph (1A),

(B) by striking “or exportation” in paragraph (1B), and

(C) by striking “and Exportation” in the heading.

(2) Section 482(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 be applied 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 C—Corporate Inversion Limitations

SEC. 21. PREVENTION OF CORPORATION EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) In General.—Paragraph (4) of section 701A(a)(3)(A) (determining domestic) is amended to read as follows:

(4) DOMESTIC.—

(b) Certain Corporations Treated as Domestic.—

(1) In General.—The acquiring corporation in a corporation expatriation transaction shall be treated as a domestic corporation.

(c) Corporate Inversion Limitations.—For purposes of this paragraph, 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.

(II) 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.

(III) Term ‘Corporate Expatriation Transaction’ includes any transaction if—

(1) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership.

(II) immediately after the transaction, more than 80 percent of the stock of the acquiring corporation which is sold in a public trading of such stock is in the United States.

(III) PARTNERSHIP TRANSACTIONS.—The term ‘corporate expatriation transaction’ includes any transaction if—

(1) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) acquires, as a result of such transaction, directly or indirectly properties constituting a trade or business of a domestic partnership.

(II) immediately after the transaction, more than 80 percent of the stock of the acquiring corporation which is sold in a public trading of such stock is in the United States.
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.—Paragraph (a) of section 832(b)(4) (relating to insurance company taxable income) is amended to read as follows—

"(A) From the amount of gross premiums written on insurance contracts during the taxable year, deduct return premiums and premiums paid for reinsurance (except as provided in paragraph (9))."

(b) TREATMENT OF REINSURANCE WITH RELATED REINSURERS.—Subsection (b) of section 832 is amended by adding at the end the following new paragraph:

"(9) DENIAL OF DEDUCTION UNDER PARAGRAPH (4) FOR REINSURANCE OF U.S. RISKS WITH CERTAIN RELATED PERSONS.—

"(A) IN GENERAL.—The deduction shall be allowed under paragraph (4) for premiums paid for the direct or indirect reinsurance of United States risks with a related reinsurer.

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

"(i) the income attributable to the reinsurance to which such premium relates is includible in the gross income of—

"(I) such reinsurer, or

"(II) 1 or more domestic corporations or citizens or residents of the United States, or

"(ii) the related reinsurer establishes to the satisfaction of the Secretary that the taxable income (determined in accordance with this section 832 attributable to such reinsurance) is subject to an effective rate of income tax imposed by a foreign country at a rate greater than 20 percent of the maximum rate of tax specified in section 11.

"(C) ELECTION BY REINSURER TO BE TAXED ON INCOME.—Income of a related reinsurer attributable to the reinsurance of United States risks which is not otherwise includible in gross income shall be treated as gross income which is effectively connected with the conduct of a trade or business in the United States directly or indirectly through a partnership, the principal place of business of which is in the United States.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) the 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 conduct of a trade or business of a United States person; and

"(ii) the term related reinsurer means any reinsurer owning, directly or indirectly through a partnership, the principal place of business of which is in the United States, more than 50 percent of the stock of which is owned by a United States person; and

"(E) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832 of the Internal Revenue Code of 1986, as amended, is amended—

"(i) by striking "or exported from" in paragraph (2)(A), and

"(ii) by striking "remuneration recovered from a related reinsurer to the extent a deduction for the premium paid for the reinsurance was disallowed under paragraph (9)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to premiums paid after the date that the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate votes to report this bill.

Subtitle C—Corporate Inversion Limitations

SEC. 21. PREVENTION OF CORPORATE EXPATRIATION TO AVOID UNITED STATES INCOME TAX.

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

"(4) DOMESTIC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘domestic’ when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by written determination.

"(B) CERTAIN CORPORATIONS TREATED AS DOMESTIC.—

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

"(ii) CORPORATE EXPATRIATION TRANSACTION.—For purposes of this subparagraph, the term ‘corporate expatriation transaction’ means any transaction if—

"(I) a nominally foreign corporation (referred to in this subparagraph as the ‘acquiring corporation’) acquires, as a result of such transaction, directly or indirectly substantially all of the properties held directly or indirectly by a domestic corporation and

"(II) immediately after the transaction, more than 80 percent of the stock (by vote or value) of the acquiring corporation is held by former shareholders of the domestic corporation.

"(B) CERTAIN RELATED PERSONS.—

"(I) NOMINALLY FOREIGN CORPORATION.—

"(II) EXPANDED AFFILIATED GROUP.—The term ‘expanded affiliated group’ means an
TITLE — CURB TAX ABUSES
Subtitle A—Tax Shelters
SEC. 01. SHORT TITLE.
This subtitle may be cited as the “Abusive Tax Shelter Shutdown Act of 2002”.

SEC. 02. FINDINGS AND PURPOSE.
(a) FINDINGS.—The Congress hereby finds that—
(1) Many corporate tax shelter transactions are complicated ways of accomplishing something 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 than before the tax.
(2) Permitting aggressive and abusive tax shelters not only results in large revenue losses but also undermines voluntary compliance with the Internal Revenue Code of 1986.
(b) PURPOSE.—The purpose of this subtitle is to eliminate abusive tax shelters by denying tax attributes claimed to arise from tax transactions that do not meet a heightened economic substance requirement and by repealing the provision that permits legal opinions to be used to avoid penalties on tax underpayments resulting from transactions without significant economic substance or business purpose.

PART I—CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE
SEC. 11. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.
(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:
(1) GENERAL RULES.—
(A) the taxation of a transaction is determined in accordance with its economic substance which shall be made as provided in this paragraph.
(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—
(i) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(ii) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(iii) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(iv) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(v) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(vi) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(vii) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(viii) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(ix) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(x) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(xi) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(xii) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(xiii) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(xiv) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(xv) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(xvi) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(xvii) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(xviii) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(xix) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,
(xx) it results in an allocation of income or gain to a tax-indifferent party or because the form of the transaction have no substantial impact on the taxpayer’s economic or benefits, and the legal opinions justifying those transactions are not allowable if the transaction were respected,

SEC. 21. INCREASE IN PENALTY ON UNDERPAYMENTS RESULTING FROM FAILURES 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:
(1) 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.
(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—
(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be treated as having economic substance by reason of having a potential for profit unless—
(I) the present value of the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return,
(I) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return,
(I) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return,
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(I) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return,
(I) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return,
(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, with respect to substantial 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, or

(ii) the amount of the understatement under subparagraph (A) of section 6700(a) as amended by striking ‘‘a penalty equal to’’ and inserting ‘‘an amount determined under subsection (b)’’.

(2) Penalties on penalty.—Subsection (d) of section 6700(a) is amended by inserting after 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.—Section 6662(d)(2)(C) is amended by adding after the following new sentence: ‘‘In the case of a tax shelter which involves a return, affidavit, claim, or other document relating to a tax shelter or to an entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6622(a)(2), and (B) any penalty imposed by subsection (a)(2), the amount of the penalty shall be equal to 100 percent of the gross proceeds derived (or to be derived) by the person in connection with the tax shelter or entity, plan, arrangement, or transaction.’’

(b) Increase in penalty on promoting abusive tax shelters.—The first sentence of section 6700(a) is amended by striking ‘‘a penalty equal to’’ and inserting ‘‘an amount determined under subsection (b)’’.

(c) Coordination with subsection (a).—Subsection (d) of section 6700 is amended—

(1) by striking ‘‘Penalty’’ and inserting ‘‘penalties’’, and

(2) by striking ‘‘the first place it appears in the text and inserting ‘‘penalties’’.

(d) Conforming amendments.—(1) Section 6701(e) is amended by striking ‘‘Subsection (a)’’ and inserting ‘‘Subsection (a)(1)’’.

(2) Section 6701(g) is amended by striking ‘‘Subsection (a)(1)’’ and inserting ‘‘Subsection (a)(1),’’.

SEC. 23. Modifications of penalties for aiding and abetting understatements of liability involving tax shelters. (a) Imposition of penalty.—Section 6701(a) (relating to imposition of penalty) is amended to read as follows:

“(a) Imposition of penalties.—

(1) In general.—(A) who knows (or has reason to believe) that such activity will result in connection with any material matter arising under the internal revenue laws, and

(B) 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 such activity in the amount determined under subparagraph (A).

(2) Certain tax shelters.—If—

(A) a person—

(i) aids or assists in, procures, or advises with respect to the creation, organization, sale, implementation, management, or reporting of a tax shelter (as defined in section 6662(d)(2)(C)(iii)) or of any entity, plan, arrangement, or transaction that fails to meet the requirements of any rule of law referred to in section 6622(a)(2), the penalty shall be equal to 50 percent of the gross proceeds derived (or to be derived) from each such arrangement, or transaction in which there was a failure and the limitation of the preceding sentence shall not apply.

(b) Failure to maintain lists. Section 6700(a) (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended by adding the following sentence: ‘‘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 6622(a)(2), the penalty shall be equal to 50 percent of the gross proceeds derived (or to be derived) from each such arrangement, or transaction in which there was a failure and the limitation of the preceding sentence shall not apply.’’

SEC. 25. Penalty for failure to disclose reportable transaction. (a) In general.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6607 the following new section:

“SEC. 6607A. 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 income tax which results from a difference between the taxpayer’s treatment (as shown on its return) of items attributable to a reportable transaction to which the failure relates and the proper tax treatment of such items, or
shall apply to taxable years ending after the
by subsections (b) and (c) of section
this Act.

may be indicative of a tax avoidance trans-
section 6011 to be included with a taxpayer's
spect to which information is required under
poses of this section, the term 'reportable
transaction which is the same as, or substan-
derived by the Secretary as a tax avoid-
liquidation.—(Paragraph 1 of section 338(b) (re-
to any tax avoidance strategy (as defined in

property is subject to such tax in the hands of
in the hands of the transferor immediately

property is described in this
which are offered to potential participants
section 6700(c) of the Internal Revenue Code
to any tax shelter information on re-

PART III—LIMITATIONS ON IMPORTATION OR TRANSFER OF BUILT-IN LOSSES

SEC. 31. LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.

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

(e) LIMITATION ON IMPORTATION OF BUILT-IN LOSSES.—

(1) IN GENERAL.—If in any transaction described in subparagraph (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 prop-
erty is not subject to tax under this subtitle in the hands of the transferor immediately before the time of such transfer;

(B) gain or loss with respect to such prop-
erty is subject to such tax in the hands of the transferee immediately after such trans-
fer.

In any case in which the transferor is a part-
nership, the preceding sentence shall be ap-
plied by treating each partner in such part-
nership as holding his or her pro-
portionate share of the property of such part-
nership.

(3) IMPORTATION OF NET BUILT-IN LOSS.—For purposes of paragraph (1), there is an im-
portation of a net built-in loss in a trans-
action if the transferee's aggregate adjusted
basis (reduced by section 338 (2), which is transferred in such transaction would (but for this subsection) exceed the fair market value of such property immedi-
ately after such transfer.

(b) COMPARABLE TREATMENT WHERE LIQUIDATION.—(Paragraph 1 of section 338(b) (re-
to liquidation of subsidiary) is amended to-

(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation of such section 332 ap-
plies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be if the transferor, except that the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution.

(2) ADJUSTMENT.—Subsection (b) of section 338 is amended by striking ''for a direct or

(3) IMPORTATION OF NET BUILT-IN LOSS.—

(A) The section heading for section 734 is amended to read as follows:

"SEC. 734. ADJUSTMENT TO BASIS OF PARTNERSHIP PROPERTY WHERE SECTION 754 ELECTRON OR SUBSTANTIAL BUILT-IN LOSS." (B) The table of sections for part II of chapter K of chapter 1 is amended by striking the item relating to section 734 and inserting the following new item:

"Sec. 734. Adjustment to basis of partnership property where section 754 election or substantial built-in loss."
United States.
with the lives or health of residents of, the
property in the United States, or liability
come are paid.
income which is effectively connected with
tributable to the reinsurance of United
States if such reinsurer—
(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 Re-
lates. Subsection (b) of section 832 is amended by adding at the end the following new paragraph:
"(9) ELECTION TO DISREGARD SUBPAR-
GRAPH (4) FOR REINSURANCE OF U.S. RISKS WITH CERTAIN RELATED PERSONS.—
(A) IN GENERAL.—No deduction shall be
allowed under subparagraph (4) for premiums
paid for the direct or indirect reinsurance of
United States risks with a related reinsurer.
(B) EXCEPTIONS.—This paragraph shall
deduct to any premium to the extent that—
"(i) the income attributable to the reinsurance
to which such premium relates is includ-
able in the gross income of—
"(I) such reinsurer, or
"(II) 1 or more domestic corporations or
insurers or residents of the United States, or
"(III) the term related insurer establishes to the
satisfaction of the Secretary that the taxable
income (determined in accordance with
this section 832) attributable to such reinsur-
ance 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 reinsur-
ator attributable to the reinsurance of United
States risks which is not otherwise includ-
able 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 Sec-
retary shall prescribe to ensure that the
taxes imposed by this chapter on such in-
come are paid.
"(D) Definitions.—For purposes of this
paragraph—
"(i) UNITED STATES RISK.—The term
'United States risk' means any risk related
to property in the United States, or liability
arising out of activity in, or in connection
with the lives or health of residents of the
United States.
"(ii) RELATED INSURER.—The term 'related
insurer' means any reinsurer owned or con-
trolled directly or indirectly by the same in-
terested persons.
"(iii) NOMINALLY FOREIGN CORPORATION.—
The term 'nominally foreign corporation'
means any corporation which would (but for
applying section 822) be treated as a divided
affiliate corporation.
"(iv) EXPANDED AFFILIATED GROUP.—The
term 'expanded affiliated group' means an
affiliated group (as defined in section 1504(a)
without regard to section 1504(b)).
"(E) EFFECTIVE DATES.—
(1) IN GENERAL.—The amendment made by
this section shall apply to corporate exhaus-
tion transactions completed after Sep-
(2) SPECIAL RULE.—The amendment made by
this section shall also apply to corporate exhaus-
tion transactions completed on or before September 11, 2001, but only with respect to taxable years of the acquiring cor-

SA 3193. Ms. LANDRIEU 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:

On page 130, between lines 7 and 8, insert the following:

SEC. 608. STATE REFERENDA TO LIFT MOR-
ATORIA ON OFFSHORE OIL AND GAS
DRILLING.
(a) GENERAL.—Notwithstanding any
moratorium or executive order temporarily
suspending or permanently prohibiting off-
shore oil or gas drilling on submerged land
of the coast of a State—
(1) the State may hold a referendum on
whether to allow production of oil or gas on
the submerged land, including whether to
impose any restrictions on the proximity of
such drilling to the shore; and
(2) If such production is approved by the
referendum, the President shall authorize a
lease sale for the submerged land.
(b) ROYALTIES.—
(1) NEW LEASES UNDER SUBSECTION (a).—Of any
royalties collected after the date of en-
croachment of this Act from drilling conducted
under subsection (a), 30 percent shall be dis-
tributed 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
in leases in water 800 or more meters deep
that are issued after the date of en-
croachment of this Act, 30 percent shall be dis-
tributed to the States offshore of which the
leases lie.
(3) EXISTING LEASES.—Notwithstanding sec-
tion 316(a) of the Outer Continental Shelf
Lands Act (43 U.S.C. 1336(g)(2)), on and after
the date that is 10 years after the date of en-
croachment of this Act, 30 percent of amounts
collected from leases issued before, on, or
after the date of enactment of this Act shall be
distributed to the States offshore of which the
leases lie.

SA 3194. Ms. LANDRIEU (for herself and Mr. DOMENICI) submitted an
amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. 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 end of subtitle B of title V, add the following:

SEC. 53. PREVENTION OF CORPORATION EXPA-

RACTION TO AVOID UNITED STATES
INCOME TAX.
(a) IN GENERAL.—Paragraph (4) of section
7701(a) (defining domestic) is amended to
read as follows:
"(4) DOMESTIC.—
(A) IN GENERAL.—Except as provided in
paragraph (B), the term ‘domestic’ when
applied to a corporation, 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 part-
nership, the Secretary provides otherwise
by regulations.
(B) CERTAIN CORPORATIONS TREATED AS
DOMESTIC.—
(i) IN GENERAL.—The acquiring corpora-
tion in a corporate exhaustion transaction
shall be treated as a domestic corporation.
(ii) CORPORATE EXHAUSTION
TRANSACTION.—For purposes of this
paragraph, the term ‘corporate exhaustion
transaction’ means any transaction if—
"(D) DEFINITIONS.—For purposes of this
paragraph—
"(i) UNITED STATES RISK.—The term
'United States risk' means any risk related
to property in the United States, or liability
arising out of activity in, or in connection
with the lives or health of residents of the
United States.
"(ii) RELATED INSURER.—The term 'related
insurer' means any reinsurer owned or con-
trolled directly or indirectly by the same in-
terested persons.
"(iii) NOMINALLY FOREIGN CORPORATION.—
The term 'nominally foreign corporation'
means any corporation which would (but for
applying section 822) be treated as a divided
affiliate corporation.
"(iv) EXPANDED AFFILIATED GROUP.—The
term 'expanded affiliated group' means an
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 new reactor technologies, as identified by the Department of Energy and the nuclear power industry.

(b) Activities.—In carrying out the program under subsection (a), the Commission shall—

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

(2) consider—

(A) new reactor technologies that may affect—

(i) risk-informed licensing of new nuclear power plants;

(ii) the behavior of advanced fuels; and

(iii) environmental considerations relating to—

(I) spent fuel management; and

(II) standards for limiting negative health effects;

(B) other new technologies (including advanced sensors, digital instrumentation, and digital controls) and human factors that affect the application of new reactor technology to nuclear power plants in existence as of the date of enactment of this section; and

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

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(b) Conforming Amendment.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. prel. 2011) is amended by inserting after the item relating to section 276 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:

"(i) obligation to purchase.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if competing retail electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility that follows through page 48, line 20, and in insert the following:

(4) Final Regulations.—The Secretary of Transportation shall issue the final regulations required by this subsection after carrying out the consultation described in paragraph (3), but not later than 60 days after the date of the enactment of this Act.

(b) Reports to Congress.—(1) Requirement.—Beginning in 2007, the Secretary of Transportation shall, after consulting with the Administrator of the Environmental Protection Agency, submit to Congress in January of every odd-numbered year through 2015 a report on the implementation of the requirements of this section.

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

SA 3198. Mr. CARPER (for himself, Mr. SPECIES, and Mrs. LANDRIEU) 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:

"(i) obligation to purchase.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if competing retail electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility that follows through page 205, line 8.

"(ii) obligation to sell.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has access to independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy.

"(3) No Effect on Existing Rights and Remedies.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect on the date of enactment of this subsection, to purchase electric energy or to sell electric energy or capacity to a customer or to sell electric energy or capacity to a facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

SA 3197. Mr. CARPER (for himself, Ms. COLLINS, Mr. LEVIN, Ms. LANDRIEU, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. 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 required by section 801 shall include regulations that apply to passenger and non-passenger automobiles after model year 2006 and are designed to result in a reduction in the amount of oil (including oil refined into gasoline) used by automobiles of at least 1,000,000 barrels per day by 2015.

(2) Calculation of Reduction.—To determine the amount of the reduction in oil used by passenger and non-passenger automobiles, the Secretary of Transportation shall make calculations based on the number of barrels of oil projected by the Energy Information Administration of the Department of Energy in table A7 of the report entitled "Annual Energy Outlook 2002" (report no. DOE/EIA-0383(2002)) to be consumed by light-duty vehicles in 2015 with the regulations required by paragraph (1).

(b) Consideration of Alternative Fuel Technologies.—The Secretary of Transportation shall consult with the Administrator of Energy to identify alternative fuel technologies that could be utilized in the transportation sector to reduce dependence on crude-oil derived fuels. The Secretary of Transportation shall take those technologies into consideration in prescribing the regulations under this section.

(c) Final Regulations.—The Secretary of Transportation shall issue the final regulations required by this subsection after carrying out the consultation described in paragraph (3), but not later than 60 days after the date of the enactment of this Act.

(b) Reports to Congress.—(1) Requirement.—Beginning in 2007, the Secretary of Transportation shall, after consulting with the Administrator of the Environmental Protection Agency, submit to Congress in January of every odd-numbered year through 2015 a report on the implementation of the requirements of this section.

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

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:

"Beginning on page 204, strike line 14 and all that follows through page 205, line 8.

SA 3200. 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 8 through 11 and insert the following:
“(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2)—

“A) except as provided in subparagraph (B), 1 gallon of cellulosic biomass ethanol shall be considered the equivalent of 1.5 gallons of renewable fuel; and

“B) 1 gallon of cellulosic biomass ethanol shall be considered the equivalent of 2 gallons of renewable fuel if the cellulosic biomass ethanol is derived from agricultural residues.’’.

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:

At the appropriate place, insert the following:

SEC. 3. FERC STUDY ON EFFECTS OF JUST AND REASONABLE ELECTRICITY RATES.

Not later than August 15, 2002, the Federal Energy Regulatory Commission shall submit a report to the Senate Energy and Natural Resources Committee and the House Energy and Commerce Committee detailing how the order of June 18, 2001, ‘‘Addressing Price Mitigation in California and the Western United States’’, helped establish just and reasonable electricity prices in the 11 states, including California, that comprise the Western Systems Coordinating Council.

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. 415. 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 report 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 294, after line 18, insert the following:

“(g) Small duct, high velocity air conditioners and heat pumps, a niche product with a potential market size substantially smaller than is the market for conventional products, are exempt from paragraphs (1) through (4). No later than January 1, 2004, the Secretary shall, in accordance with subsections (o) and (p), prescribe a standard for small duct, high velocity equipment.’’

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

SEC. 5. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.

(1) all regulatory barriers to—

(A) the development and commercialization of emerging energy technologies and processes, and

(B) the further development and expansion of existing energy conservation technologies and processes, and

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

SA 3203. Mr. JEFFORDS (for himself and Mr. SMITH of New Hampshire) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 119, between lines 10 and 11, insert the following:

Subtitle B—Nuclear Security

SEC. 511. REPORT ON NUCLEAR SECURITY.

"(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an eligible resup- plier, 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 SUPPLIER.—For purposes of this section, the term ‘eligible supplier’ means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.

“(4) QUALIFIED WATER SUBMETERING DE- VICE.—The term ‘qualified water submetering device’ means any tangible property to which section 160(f) applies if such property is a submetering device (including ancillary equipment)—

“(1) which is purchased and installed by the taxpayer to enable consumers to manage their purchase or use of water in response to water price and usage signals, and

“(2) which permits reading of water price and usage signals on at least a daily basis.

“(e) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly at the United States site with respect to the portion of any property taken into account under section 179.

“(f) BASIS REDUCTION.—

“(1) IN GENERAL.—For purposes of this section, the basis of any property which is reduced by the amount of the deduction with respect to such property which is allowed by subsection (a), the following applicable:

“(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depre- ciation shall be treated as a deduction al- lowed for depreciation under section 167.’’."

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by inserting ‘‘or’’ at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting ‘‘, and’’, and by striking ‘‘or’’ at the end of subparagraph (L). (2) Section 312(k)(3)(B), as amended by this Act, is amended by inserting ‘‘or’’ at the end of paragraph (3)(B), by striking the period at the end of subparagraph (K) and inserting ‘‘, and’’, by inserting after subparagraph (K) the following new subparagraph:

“(j) expenditures for the purchase or use of water in response to water price and usage signals, and

“(k) ancillary equipment)—

“qualified water submetering device’ means any tangible prop-
SEC. 1314. 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.—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 reseller (as defined in section 179E(c)).

(c) Effective Date.—The amendments made by this section shall apply to property placed in service in taxable years ending after such date.

SA 3206. Mr. TORRICEUlli 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 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 table; as follows:

At the appropriate place, add the following:

SEC. 1315. PURPOSE.

(a) Definition.—For purposes of this section:

(1) the term “Badger-Two Medicine Area” means federal lands, owned by the United States Forest Service, located in: T 31 N, R 12–13 W; T 30 N, R 11–13 W; T 29 N, R 10–16 W; and T 28 N, R 10–16 W.

(2) the term “Blackleaf Area” means federal lands, owned by the United States Forest Service lands and Bureau of Land Management, located in: T 27 N, R 9 W; T 26 N, R 9–10 W; T 25 N, R 8–10 W; T 24 N, R 8–9 W.

(b) 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 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 placed on the table; as follows:

At the appropriate place, add the following:

SEC. 1316. DEFINITIONS.

In this part:

(1) accounting system.—The term “accounting system” means a system for quantifying in-parcable value in Montana or in the Central and Western Gulf of Mexico Planning Areas on the Outer Continental Shelf;

(2) accountants.—The term “accountants” means federal lands, owned by the United States Forest Service lands and Bureau of Land Management, located in: T 27 N, R 9 W; T 26 N, R 9–10 W; T 25 N, R 8–10 W; T 24 N, R 8–9 W.

This part:

(3) Blackleaf Area.—The term “Blackleaf Area” means federal lands, owned by the United States Forest Service lands and Bureau of Land Management, located in: T 27 N, R 9 W; T 26 N, R 9–10 W; T 25 N, R 8–10 W; T 24 N, R 8–9 W.

(4) recommendations regarding the advisability of pursuing such exchanges; and

(7) recommendations regarding changes in law and regulation needed to enable the Secretary to undertake those 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.

SA 3208. Mr. BAUCUS 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 placed on the table; as follows:

At the appropriate place, add the following:

SEC. 1317. PREFERENCE FOR DEPRECIATION OF NONPRODUCING LEASES.

(a) General.—For purposes of this section:

(1) the term “nonproducing lease” means a lease for oil and gas lease tracts of comparable value in Montana or in the Central and Western Gulf of Mexico Planning Areas on the Outer Continental Shelf;

(b) Authorization of Appropriations.—For purposes of this section:

(1) the term “nonproducing lease” means a lease for oil and gas lease tracts of comparable value in Montana or in the Central and Western Gulf of Mexico Planning Areas on the Outer Continental Shelf;

(c) Effective Date.—The amendments made by this section shall apply to property placed in service in taxable years ending after such date.

SA 3207. Mr. BAUCUS (for himself and Mr. BINGMAN) 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 placed on the table; as follows:

At the appropriate place, add the following:

SEC. 1318. EVALUATION.—The Secretary is directed to undertake an evaluation of opportunities to enhance domestic production through the exchange of the nonproducing leases in the Badger-Two Medicine Area and the Blackleaf Area. In undertaking the evaluation, the Secretary shall consult with the Governor of Montana, the lessees holding the nonproducing leases, and interested members of the public. The evaluation shall include:

(1) a discussion of opportunities to enhance domestic production of oil and gas through an exchange of the nonproducing leases for oil and gas leases tracts of comparable value in Montana or in the Central and Western Gulf of Mexico Planning Areas on the Outer Continental Shelf;

(2) a discussion of opportunities to enhance domestic production of oil and gas through the issuance of bidding, royalty, or rental credits for use on federal onshore oil and gas leases in Montana or in the Central and Western Gulf of Mexico Planning Areas on the Outer Continental Shelf in exchange for the cancellation of the nonproducing leases;

(3) a discussion of any other appropriate opportunities to exchange the nonproducing leases or provide compensation for their cancellation with the consent of the lessee;

(4) views of interested parties, including the written views of the State of Montana;

(5) a discussion of the level of interest of the holders of the nonproducing leases in the exchange of such interest;
carbon release, carbon sequestration, or carbon storage in biomass and soil (excluding carbon release, carbon sequestration, or carbon storage resulting from the planting or harvesting of annual crops) that result from natural or human-caused changes in natural resources or land uses, practices, or activities.

(B) INCLUSION.—The term “accounting system” includes parameters that are sufficient to provide a basis for spatial or georeferenced tracking of changes in levels of carbon that can be measured and assessed over time.

(2) BASELINE.—The term “baseline” means a quantification of the carbon stored in biomass and soil that is associated with all natural resources, or land uses, practices, or activities, within a specific land area at a specific point in time.

(3) BIOMASS.—The term “biomass” means roots, stems, or foliage of vegetation.

(C) 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.

(D) Carbon Sequestration.—The term “carbon sequestration” means the practice 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.

(E) 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 computer models (including a model and a reference model) that can be used by landowners and others to easily extrapolate a quantification of carbon storage independent of or in combination with sampling.

(F) Federal Agency.—The term “Federal agency” includes—

(A) the Environmental Protection Agency;

(B) the National Air and Space Administration;

(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.

(G) Pilot Area.—The term “pilot area” means an area consisting of 1 or more States or territories in which a pilot program under section 1318 is carried out.

(H) 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.

(I) Secretary.—The term “Secretary” means the Secretary of Agriculture.

SEC. 1317. ESTABLISHMENT OF FOUNDATIONS FOR A NATIONAL BASELINE AND ACCOUNTING SYSTEM.

(a) Annual Reports on Establishment.—Not later than 1 year after the date of enactment of this Act, the Secretary, in collaboration with other Federal agencies and in consultation with eligible entities carrying out pilot programs under section 1318, shall submit to the Senate, and in each of the 4 years thereafter shall submit an updated report, on the technical, informational, and administrative requirements, institutional relationships, infrastructure, and funding (including funding of startup costs and maintenance costs) needed to establish a national baseline and accounting system.

(b) Methodologies for Quantification and Measurement.—The Secretary shall—

(1) develop reference cases for various types of activities and geographic locations;

(2) identify practices that—

(i) consistently store, release, or sequester carbon over a specified period of time; and

(ii) provide additional environmental benefits, including practices that result in the benefits described in section 1318(c)(2)(D); and

(iii) 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

(3) provide information on methods by which landowners and others may evaluate costs and return on investment over time.

(3) Peer Review.—The carbon storage performance indicators developed under paragraph (1) shall be subject to peer review by members of the public and private scientific and policy communities and potential user groups, including the Secretary.

(4) 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

(B) summarizes and synthesizes relevant findings of the annual reports submitted under subsection (a).

SEC. 1318. PILOT PROGRAMS TO ENSURE EQUITY FOR NATIONAL BASELINE AND ACCOUNTING SYSTEM.

(a) Grants.—

(1) IN GENERAL.—The Secretary, in consultation with other Federal agencies, may make competitive grants to not more than 5 eligible entities to carry out pilot programs to demonstrate and assess the feasibility of a system for accounting greenhouse gases other than carbon.

(2) REQUIRED ELEMENTS.—In carrying out paragraph (1), the Secretary shall—

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

(B) determine the extent to which carbon storage performance indicators should vary according to—

(i) region of the United States; and

(ii) biological, ecological, or physiological criterion; or

(C) consider—

(i) various levels of precision for quantification and measurement based on a range of uses; and

(ii) implications for potential uses of the carbon storage performance indicators, including such uses as—

(i) communications to encourage beneficial practices;

(II) initial screening for potential benefits from certain practices; and

(Iii) quantification of a national baseline and accounting system and reference case, including uses—

(aa) to augment sampling to reduce costs;

(bb) to ensure inclusion of subsequent releases of quantified carbon storage and carbon sequestration to address permanence and long-term trends in carbon storage; and

(cc) to track or estimate changes in carbon release, carbon sequestration, and carbon storage within and outside a specific area; and

(IV) project-level quantification of carbon release, carbon sequestration, and carbon storage;

(D) consider the implications of establishing performance indicators for greenhouse gases other than carbon; and

(E) identify practices that—

(i) consistently store, release, or sequester carbon over a specified period of time; and

(ii) provide additional environmental benefits, including practices that result in the benefits described in section 1318(c)(2)(D); and

(iii) identify factors that may serve to affect the performance of the practices described in clause (i) with respect to carbon sequestration and environmental impacts; and

(F) provide information on methods by which landowners and others may evaluate costs and return on investment over time.

(b) Grants.—The Secretary may make competitive grants to not more than 5 eligible entities to carry out pilot programs to—

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

(B) summarizes and synthesizes relevant findings of the annual reports submitted under subsection (a).
such information as the Secretary may re-
shall submit to the Secretary an application
through—
mental, social, and economic results
proposed by the eligible entity to encourage
programs, or voluntary incentives adopted or
culture, and ecosystem settings;
under the National Resources Inventory for
pilot area that is cropland, as determined
any of subparagraphs (A) through (D).
mental organizations involved in public and
among Federal, State, and local govern-
tion, cooperation, and communication
house gas emissions and offer other environ-
could—
private sources of information.
cooperation, and the Natural Resources Con-
involved of the Agricultural Research
est Service, and the Natural Resources Con-
ment may result from the pilot program;
subparagraph (A), including—
(i) design of automation support; and
(ii) reporting and quality control of data
submissions and data entry in a manner that
protection confidentiality;
(C) means by which recommendations for
cost-effective measures for a national,
multistate, or State baseline and accounting
system may result from the pilot program;
(D) means by which a baseline and ac-
counting system, including a reference case,
may be developed.
(E) institutional arrangements that the el-
igible 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 for-
est management practices to reduce green-
house gas emissions and offer other environ-
mental, social, and economic benefits;
(ii) recognize long-term commitment of
land to uses that stores rather than release carbon
and that offer other environmental benefits; and
(iii) lead to development of new mecha-
nisms for improved institutional coordina-
tion, both horizontally among Federal, State, and local
governmental organizations involved in public and
private land management, policy, and prac-
cia) P RIO RITIES IN FUNDING.—
(I) I N GENERAL.—In selecting pilot pro-
grams for funding under this section, the Sec-
retary shall give priority to pilot programs
that have the greatest potential for advanc-
ing the purpose of this part.
(ii) FUNDING.—In carrying out para-
graph (I), 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, agri-
culture, and ecosystem settings;
(C) innovations in regulations, policies, programs, or voluntary incentives adopted or proposed by the eligible entity to encourage legal, financial, and other mechanisms that would create incentives for environmentally
beneficial actions and those that reflect carbon storage on public and private land; and
(D) the potential for beneficial environ-
mental, social, and economic results throughout
under this section shall be deposited in the
Treasury as miscellaneous receipts.
SA 3211. Mrs. FEINSTEIN (for herself and Ms. SNOWE) submitted an amend-
ment 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 end of subtitle A of title VIII, insert the following:
SEC. 820a. ADDITIONAL REQUIREMENTS FOR VE-
HICLE 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 adminis-
tration of this chapter.
(2) REQUIREMENT FOR INCREASED STANDARD.—Section 32902(a) of title 49, United States Code, is amended—
(A) by inserting ‘‘16’’ after ‘‘auto-
mobiles.’’;
(B) by inserting before the period at the end of the third sentence the following:
‘‘, and
(C) by adding at the end the following new paragraph:
(2) The average fuel economy standard for light trucks manufactured by a manufac-
turer may not be less than 27.5 miles per gal-
lon, except that the average fuel economy standard for—
(A) light trucks manufactured by a manufac-
turer 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 manufac-
turer in a model year after model year
2007 and before model year 2012 may not be
less than 26 miles per gallon.
(3) APPLICABILITY.—(Paragraph 2) of section
32902(a) of such title does not apply with respect to light trucks manufactured before model year 2003.
(4) FUEL ECONOMY STANDARDS FOR AUTO-
MOBILES UP TO 10,000 POUNDS GROSS VEHICLE WEIGHT.—
(A) VEHICLES DEFINED AS AUTOMOBILES.—
Section 32901(a)(3) of title 49, United States Code, is amended by striking ‘‘is rated at—’’
and all that follows through the end and in-
serting, as a new paragraph:
‘‘(1) VEHICLES DEFINED AS AUTOMOBILES.—
OF VEHICLES.—
(2) EFFECTIVE DATE.—The amendment
made by paragraph (1) shall take effect on
(d) FUEL ECONOMY OF THE FEDERAL FLEET OF VEHICLES.—
(1) BASELINE AVERAGE FUEL ECONOMY.—The base fuel economy for each class of vehicles that are in the
agency’s fleet of vehicles in fiscal year
2002, the average fuel economy for all of the vehicles in that class that are in the agen-
cy’s fleet of vehicles for that fiscal year.
for the purposes of this section, the average fuel economy so determined for the agency’s ve-
hicles in each 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, strike line 3 and all that follows through page 199, line 17, and insert the following:

shall be 1.62 in 2007.

The term ''new vehicle'', with respect to the fleet of vehicles of an executive agency, means a vehicle procured by or for the agency after September 30, 2002.

SA 3212. 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:

At the appropriate place, insert the following:

SA 3213. 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 15, insert "(excluding California, New York, and any other State that demonstrates to the satisfaction of the Administrator that the State is in compliance with all requirements of this Act)" after "United States".

SA 3214. 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:

Page 188, line 15, insert "(excluding California, New York, and any other State that demonstrates to the satisfaction of the Administrator that the State is in compliance with all requirements of this Act)" after "United States".

for the equivalent of 1.5 gallon of renewable fuel.

"(5) CREDIT PROGRAM.—(A) IN GENERAL.—The regulations promul-
gated to carry out this paragraph shall pro-
vide 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 refin-ery notifies the Administrator that it waives the exemption provided by this Act, the reg-
ulations 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 gen-
erates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the pur-
pose 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 cal-
endar years if the Administrator promul-
gates regulations under paragraph (4).

"(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promul-
gated to carry out this subsection shall include prov-
er allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a portion of the credits pro-
vided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compli-
ance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

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

"(A) STUDY.—For each of calendar years 2007 through 2011, the Administrator of the Energy Information Administration shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

"(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Adminis-
trator shall promulgate regulations to en-
sure that 35 percent or more of the quantity of renewable fuels necessary to meet the re-
quirements of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

"(C) DETERMINATIONS.—The determina-
tions referred to in subparagraph (B) are that

(i) less than 35 percent of the quantity of renewable fuels necessary to meet the re-
quirements of paragraph (2) has been used dur-
ing 1 of the periods specified in subparagraph (D) of the calendar year;

(ii) a pattern of excessive seasonal vari-
ation described in clause (i) will continue in subsequent calendar years.

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

(i) April through September; and

(ii) January through March and October through December.

"(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2007 in a state which has re-
cieved a waiver under section 209(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 by petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy—

(i) shall approve or deny a State petition for a waiver of the requirement of paragraph (2) within 180 days after the date on which the petition is received; but

(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

(C) TERMINATION OF WAIVERS.—A waiver granted 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 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, after 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 2007. This provision applies to all parties, and make provision to enhance its mission areas through funding the Department of Energy to conduct a study of renewable fuels blending through 2012 shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Calendar year: (In billions of gallons)</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>3.5</td>
<td>3.9</td>
<td>4.3</td>
<td>4.7</td>
<td>5.0</td>
</tr>
<tr>
<td>2009</td>
<td>3.5</td>
<td>3.9</td>
<td>4.3</td>
<td>4.7</td>
<td>5.0</td>
</tr>
<tr>
<td>2010</td>
<td>3.5</td>
<td>3.9</td>
<td>4.3</td>
<td>4.7</td>
<td>5.0</td>
</tr>
<tr>
<td>2011</td>
<td>3.5</td>
<td>3.9</td>
<td>4.3</td>
<td>4.7</td>
<td>5.0</td>
</tr>
<tr>
<td>2012</td>
<td>3.5</td>
<td>3.9</td>
<td>4.3</td>
<td>4.7</td>
<td>5.0</td>
</tr>
</tbody>
</table>

(E) VARIATIONS.—If, for any calendar year, the applicable amount of credits for biodiesel fuel is greater than the quantity required under paragraph (2), the Administrator, at his discretion, 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.

(F) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture, shall consider the findings of the study in addition to other economic factors.

(G) EFFECTIVE DATE.—This section shall take effect on the date of enactment.
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 the 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 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) Periods.—The two periods referred to in this paragraph are—

(1) April through September; and

(2) January through March and October through December.

(4) Exclusions.—Renewable fuels blended or consumed in 2008 in a state which has received credits for the production of an equivalent amount of renewable fuels shall be included in the study in subparagraph (A).

(5) 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 that 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 economic development 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 60 days after the date on which the petition is received; but

(ii) may extend that period for up to 60 additional days to provide for public notice and opportunity for comment and for consideration of the comments submitted.

(C) Termination of Waivers.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

(D) Study and Waiver for Initial Year of Program.—Not later than 180 days after enactment, the Secretary of Energy shall complete a study to determine whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2009, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall provide the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts.

(E) Economic Hardship.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete a study assessing whether 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.

(6) 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.

(7) Opt-In for Small Refiners.—A small refinery that notifies the Administrator that it waives the exemption provided by this Act, shall establish a single applicable percentage that applies to all small refineries, and makes the determinations described in subparagraph (B) 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 small refineries.

(8) Cellulosic Biomass Ethanol.—For the purpose of complying with paragraph (2), cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallons of renewable fuel.

(9) 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 waives the exemption provided by this Act, 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 any purpose, except 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 if the credits are allocated by the Administrator promulgates regulations under paragraph (6).

Applicable volume of renewable fuel—

Calendar year: (In billions of gallons)

2009 ........................................ 3.9
2010 ........................................ 4.3
2011 ........................................ 4.7
2012 ........................................ 5.0.

(11) 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.

(12) Applicable Percentages.—Not later than October 31 of each of calendar years 2008 through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volume of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each of calendar years 2009 through 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, distributors, importers, and importers, 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,

MAN to the bill (S. 517) to authorize and provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery waives the exemption provided by this Act, 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 any purpose, except 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 if the credits are allocated by the Administrator promulgates regulations under paragraph (6).
(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit was created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

(A) STUDY.—For each of calendar years 2009 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending in the United States for each period specified in subparagraph (B).

(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study conducted under subparagraph (A), determines 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); and

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

the Administrator shall promulgate regulations to ensure that the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) during the subsequent calendar year.

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

(i) a small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship.

(ii) the Administrator shall, consistent with the recommendations of the Secretary of Energy, grant the petition if it is determined that—

(aa) the refinery was granted a hardship exemption for such small refinery for the previous year; and

(bb) the number of gallons of gasoline that the refinery would produce in lieu of the exemption for the previous year would be the equivalent of 1.5 gallon of renewable fuel.

(D) OPT-IN FOR SMALL REFINERS.—A small refinery may apply to the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years. The Administrator shall complete for the Administrator a study on a national, regional or state basis. Such study shall evaluate renewable fuels required under paragraph (2) for the reason of disproportionate economic hardship.

(3) APPLICABLE PERCENTAGES.—Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

(B) ECONOMIC HARMFUL.—

(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship.

(ii) the Administrator shall, consistent with the recommendations of the Secretary of Energy, grant the petitions if it is determined that—

(aa) the refinery was granted a hardship exemption for such small refinery for the previous year; and

(bb) the number of gallons of gasoline that the refinery would produce in lieu of the exemption for the previous year would be the equivalent of 1.5 gallon of renewable fuel.

(D) OPT-IN FOR SMALL REFINERS.—A small refinery may apply to the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years. The Administrator shall complete for the Administrator a study on a national, regional or state basis. Such study shall evaluate renewable fuels required under paragraph (2) for the reason of disproportionate economic hardship.

(3) APPLICABLE PERCENTAGES.—Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years. The Administrator shall complete for the Administrator a study on a national, regional or state basis. Such study shall evaluate renewable fuels required under paragraph (2) for the reason of disproportionate economic hardship.

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

(5) CREDIT PROGRAM.—

(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit was 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.

(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2010 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2010 through 2012 shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Applicable Volume (in billions of gallons)</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>

(ii) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2009 through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall, consistent with the recommendations of the Secretary of Energy and the Secretary of Agriculture, as appropriate, for renewable fuels, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the applicable percentages, the Administrator estimates will be sold or introduced into commerce in the calendar year; and

(iii) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in calendar year 2012. The grants of waivers under this subsection shall include such recommendations to the Administrator as are necessary to—

(A) provide a single applicable percentage that applies to all parties, and

(B) provide for the generation of credits by refiners, blenders, distributors and importers, as appropriate, for each calendar year.

(5) CREDIT PROGRAM.—

(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit was 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.

(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2010 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2010 through 2012 shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Applicable Volume (in billions of gallons)</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>

(ii) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2009 through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall, consistent with the recommendations of the Secretary of Energy and the Secretary of Agriculture, as appropriate, for renewable fuels, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the applicable percentages, the Administrator estimates will be sold or introduced into commerce in the calendar year; and

(iii) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in calendar year 2012. The grants of waivers under this subsection shall include such recommendations to the Administrator as are necessary to—

(A) provide a single applicable percentage that applies to all parties, and

(B) provide for the generation of credits by refiners, blenders, distributors and importers, as appropriate, for the coming calendar year.
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 calculation 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.

"(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The Administrator shall promulgate regulations under paragraph (6) 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 any calendar year following the year in which the renewables deficit was 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.

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

"(A) STUDY.—For each of calendar years 2010 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of the use of renewable fuels for transportation purposes by region, state, and fuel type.

"(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration is unable to quantify the use of renewable fuels required under paragraph (2) as a result of seasonal variations, 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 a period of 180 days ending on January 1 of the subsequent calendar year.

"(C) CREDIT PROGRAM.—If a small refinery is unable to meet the requirements of paragraph (2) as a result of seasonal variations, the Administrator shall extend the small refinery’s compliance period by 90 days and shall provide the small refinery with an additional 90 days to comply with the requirements of paragraph (2).

"(D) PERIODS.—The two periods referred to in subparagraph (B) are—

"(i) April through September; and

"(ii) October through March.

"(E) SMALL REFINERIES.—A small refinery may request a waiver of the requirements of paragraph (2) if it notifies the Administrator of a significant adverse economic impact to such refinery.

"(F) CREDITS.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the Administrator shall promulgate regulations under paragraph (6) providing for the generation of credits.

"(G) USE OF CREDITS.—A person that generates additional credits under this paragraph may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

"(H) PETITIONS FOR WAIVERS.—The Administrator shall establish a process for the receipt of petitions for waiver of the requirements of paragraph (2) and shall provide for the public notice and comment on the petition.

"(I) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition for waiver of the requirements of paragraph (2) not later than 90 days after the date on which the petition is received.

"(J) STUDY.—Not later than 180 days after the date of enactment, the Administrator shall conduct a study of the use of renewable fuels for transportation purposes by region, state, and fuel type. Based on such study, the Administrator shall make specific recommendations to the Administrator regarding the waiver of the requirements of paragraph (2).

"SA 3219. 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 the Energy Information Administration to conduct research to identify its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 189, strike line 3 and all that follows through page 199, line 17, and insert the following:

shall be 1.62 in 2011.

"(B) APPLICABLE VOLUMES FOR FISCAL YEARS 2002 AND 2003.—For the purpose of paragraph (A), the applicable volumes for any year 2002 and 2003 shall be determined in accordance with the following table:

| Year | Volume
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2002</td>
<td>4.7</td>
</tr>
<tr>
<td>2003</td>
<td>5.0</td>
</tr>
</tbody>
</table>

"(C) APPLICABLE VOLUMES FOR FISCAL YEARS 2004 THROUGH 2012.—For the purpose of paragraph (A), the applicable volumes for any year beginning in the year 2004 through 2012 shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>4.7</td>
</tr>
<tr>
<td>2005</td>
<td>4.7</td>
</tr>
<tr>
<td>2006</td>
<td>4.7</td>
</tr>
<tr>
<td>2007</td>
<td>4.7</td>
</tr>
<tr>
<td>2008</td>
<td>4.7</td>
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<td>2010</td>
<td>4.7</td>
</tr>
<tr>
<td>2011</td>
<td>4.7</td>
</tr>
<tr>
<td>2012</td>
<td>4.7</td>
</tr>
</tbody>
</table>

"(D) APPLICABLE PERCENTAGES.—Not later than November 30 of each of calendar years 2010 and 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall
by November 30 of each of calendar years 2010 and 2011 determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a uniform percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall consider the amount for 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.

(7) 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 the small refinery during any year if the small refinery is able to demonstrate that it generate or purchase sufficient credits to meet the requirement described in clause (i) in subsequent calendar years.

(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).

(8) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions to permit a small refinery to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided 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.

(9) SMALL REFINERIES.—

(A) IN GENERAL.—The requirement of paragraph (2) shall be reduced to an amount equal to the product of the number of days during 1 of the periods specified in subparagraph (D) of the calendar year; and

(i) based on a determination by the Administrator that it would not be possible for the person to avoid the requirement under paragraph (2) during 1 of the periods specified in subparagraph (D) of the calendar year; and

(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, may approve or deny a waiver for the purpose of avoiding the requirement under 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 if the Secretary of Agriculture and the Secretary of Energy determine, on a case-by-case basis, that a termination of the waiver would result in significant adverse consumer impacts in 2011.

(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 requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2011, on a national 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 of Energy 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 the study, the Administrator shall, consistent with the recommendations of the Secretary of Energy, in consultation with the Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Transportation, as appropriate, determine whether the requirement under paragraph (2) for the calendar year 2011 will likely result in significant adverse consumer impacts.

(E) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the Administrator shall promulgate regulations to establish a single applicable percentage that the small refinery exemption not later than 90 days after the receipt of the petition.

(10) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2011, on a national 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 of Energy 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, consistent with the recommendations of the Secretary of Energy, in consultation with the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Transportation, and the Secretary of the Treasury, determine whether the requirement under paragraph (2) for the calendar year 2011 will likely result in significant adverse consumer impacts.

(F) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of this section if the Administrator determines that it waives the exemption under subparagraph (A).

(A) I N GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

(i) based on a determination by the Administrator, after public notice and opportunity for comment, that the requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2011, on a national 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 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, consistent with the recommendations of the Secretary of Energy, in consultation with the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Transportation, and the Secretary of the Treasury, determine whether the requirement under paragraph (2) for the calendar year 2011 will likely result in significant adverse consumer impacts.

(B) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of this section if the Administrator determines that it waives the exemption under subparagraph (A).

(A) I N GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

(i) based on a determination by the Administrator, after public notice and opportunity for comment, that the requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2011, on a national 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 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, consistent with the recommendations of the Secretary of Energy, in consultation with the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Transportation, and the Secretary of the Treasury, determine whether the requirement under paragraph (2) for the calendar year 2011 will likely result in significant adverse consumer impacts.

(A) I N GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

(i) based on a determination by the Administrator, after public notice and opportunity for comment, that the requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2011, on a national 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 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, consistent with the recommendations of the Secretary of Energy, in consultation with the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Transportation, and the Secretary of the Treasury, determine whether the requirement under paragraph (2) for the calendar year 2011 will likely result in significant adverse consumer impacts.

(A) I N GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

(i) based on a determination by the Administrator, after public notice and opportunity for comment, that the requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2011, on a national 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 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, consistent with the recommendations of the Secretary of Energy, in consultation with the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Transportation, and the Secretary of the Treasury, determine whether the requirement under paragraph (2) for the calendar year 2011 will likely result in significant adverse consumer impacts.

(A) I N GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

(i) based on a determination by the Administrator, after public notice and opportunity for comment, that the requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2011, on a national 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 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, consistent with the recommendations of the Secretary of Energy, in consultation with the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Transportation, and the Secretary of the Treasury, determine whether the requirement under paragraph (2) for the calendar year 2011 will likely result in significant adverse consumer impacts.

(A) I N GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under this subsection—

(i) based on a determination by the Administrator, after public notice and opportunity for comment, that the requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2011, on a national 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 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, consistent with the recommendations of the Secretary of Energy, in consultation with the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Transportation, and the Secretary of the Treasury, determine whether the requirement under paragraph (2) for the calendar year 2011 will likely result in significant adverse consumer impacts.
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 volume percentage of such gasoline that is renewable fuel.

(3) APPLICABLE PERCENTAGES.—Not later than October 31 of calendar year 2011, the Administrator, by regulation, shall promulgate 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 calculations. 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.

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

(5) CREDIT PROGRAM.—(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it will exercise 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) EXCLUSIONS.—Renewable fuels blended or consumed in 2012 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

(6) 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.

(7) 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 of 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 subparagraph (A), and shall generate or purchase additional renewables credits to offset the renewables deficit for the previous year.

(8) 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 VARIATIONS.—For calendar year 2012, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraphs (1) and (2), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

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

(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

(ii) the applicable seasonal variation described in clause (i) will continue in subsequent calendar years.

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

(i) April through September; and

(ii) January through March and October through December.

(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2012 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

(9) SMALL REFINERIES.—

(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to refineries until January 1, 2012. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the implementation of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for not less than two additional years.

(B) ECONOMIC HARDSHIP.—

(i) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

(10) 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.

(11) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—For calendar year 2012, the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall conduct a study of renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary, waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2012. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (9), pertaining to small refineries.

(12) SMALL REFINERIES.—

(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 SEASONAL VARIATIONS.—For calendar year 2012, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraphs (1) and (2), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

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

(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during 1 of the periods specified in subparagraph (D) of the calendar year; and

(ii) a particular seasonal variation described in clause (i) will continue in subsequent calendar years.

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

(i) April through September; and

(ii) January through March and October through December.

(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2012 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

(F) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall conduct a study of renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary, waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2012. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (9), pertaining to small refineries.
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."

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

"shall be 1.62 in 2006."

SA 3224. 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:

"Applicable volume of renewable fuel

Calendar year: (In billions of gallons)

<table>
<thead>
<tr>
<th>Year</th>
<th>Volume</th>
</tr>
</thead>
<tbody>
<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>

"(B) APPLICABLE VOLUME.—For the purpose of subparagraph (A), the applicable volume for any calendar years 2006 through 2012 shall be determined in accordance with the following table:

"Applicable volume of renewable fuel

Calendar year: (In billions of gallons)

<table>
<thead>
<tr>
<th>Year</th>
<th>Volume</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>
</tbody>
</table>

"(1) the numerator of gallon of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

"(ii) the ratio that—

the number of gallons of gasoline that the Administrator sold or introduced into commerce in calendar year 2012.

"(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each of calendar years 2005 through 2011, the Administrator of the Energy Information Administration shall conduct a study of the volumes of gasoline sales in the United States for the coming calendar year. Based on such studies, the Administrator shall by November 30 of each calendar year 2005 through 2011 determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentage, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refineries during the previous year.

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

"(5) CREDIT PROGRAM.—

"(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, distributes or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel. If a refiner notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the retention of a portion of credits by the small refinery beginning in the year following such notification.

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

"(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

"(i) in the calendar year in which the credit was generated or the next calendar year, or

"(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgated regulations under this paragraph ensuring that generation of the credits is limited to such time frames."

"(D) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the available credits under this subsection are insufficient to meet the requirements under paragraph (2), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) for the coming calendar year is generated or purchased during 1 of the periods specified in subparagraph (F) of each subsequent calendar year.

"(E) 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 any of the periods specified in subparagraph (F) of each subsequent calendar year.

"(J) PERIODS.—The two periods referred to in this paragraph are:

"(i) April through September; and

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

"(K) EXCLUSIONS.—Renewable fuels blended or consumed in 2006 in a state in which the waiver under subparagraph (A) is not included in the study in subparagraph (A).

"(L) 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 for a small refinery 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 the implementation of the requirement would severely harm the economic interests 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) STUDY 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 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. Not later than 180 days after the date of enactment, the Secretary of Energy shall conduct a study to assess whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2006, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, biodiesel supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding the waiver of the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

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

“(F) 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).

“(G) LIFE OF CREDITS.—A credit generated under this subsection shall be valid for 2 years following such notification.

“(H) USE OF CREDITS.—A person that generates credits under subparagraph (A) may sell or tradable person for the purpose of complying with paragraph (2).

“(I) LIFE OF CREDITS.—A credit generated under this subsection shall be valid for 2 years following such notification.

“SA 3225. Mrs. FEINSTEIN 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 into the Senate report on page 189, strike line 3 and all that follows thereon, page 189, line 17, and insert the following:

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

“shall be 1.62 in 2005.

“(1) APPLICABLE VOLUME.

“(i) CALENDAR YEARS 2005 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any calendar years 2005 through 2012 shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>(In billions of gallons)</th>
</tr>
</thead>
<tbody>
<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>
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<td>2008</td>
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<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—

“(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 Energy Information Administration shall provide the Administrator an estimate of the volume of gasoline consumed in 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 establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refiners during the previous year.

“(4) CREDITS.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

“(5) CREDIT PROGRAM.—

“(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by 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 tradable person for the purpose of complying with paragraph (2).

“(C) LIFE OF CREDITS.—A credit generated under this subsection shall be valid for 2 years following such notification.

“(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2) and carry forward the renewables deficit to the next calendar year.

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

“(1) STUDY.—For each calendar years 2005 through 2012, the Administrator of the Energy Information Administration, shall...
conductor 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 requirements 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 the periods specified in subparagraph (D) of the calendar year; and

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

(1) 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; and

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

(d) DETERMINATIONS.—The two periods referred to in this paragraph are—

(i) April through September; and

(ii) January through March and October through December.

(e) EXCLUSIONS.—Renewable fuels blended or consumed in 2005 in a state which has received a waiver under section 208(b) shall not be included in the study in subparagraph (A).

(f) PETITIONS.—(1) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the finding 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) 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).

(iii) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2005, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirement under paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary, waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2005. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraphs (2) in whole, or in part, under paragraph (7), pertaining to waivers.

(g) 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.

(h) OP-N 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).

(i) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2005, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirement under paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary, waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2005. This provision.

SA 3226. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 4. FINGER LAKES NATIONAL FOREST. (a) In general.—Notwithstanding any provision of law, all Federal land within the boundary of Finger Lakes National Forest in the State of New York is withdrawn from—

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

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

(b) Termination.—Not later than 180 days after the date of enactment, the Administrator shall, consistent after consultation, or disposal under the public land laws;

(c) Disposition under all laws relating to mineral and geological leasing (including the Act of July 31, 1947 (commonly known as the "Materials Act of 1947") (30 U.S.C. 601)),

SA 3227. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Title VI, insert the following:

SEC. 610. NORTHWEST HOME HEATING OIL RE-

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:

SEC. 301. STREAMLINING HYDROELECTRIC RELI-CENSING PROCEDURES.

(a) REVIEW OF LICENSING PROCESS.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture, in consultation with the affected states, and the Federal Power Act in order to:

(i) improve co-

(ii) 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 ap-

(b) REPORT.—Within twelve months after the date of enactment of this Act, the Committee on Energy and Natural Re-

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

(ii) January through March and October through December.

(f) PETITIONS.—(1) A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the finding 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) 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).

(iii) STUDY.—Not later than 180 days after the date of enactment, the Secretary of Energy shall complete a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2005, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirement under paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days after the date of enactment, the Administrator shall, consistent with the recommendations of the Secretary, waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2005. This provision.

SA 3226. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 4. FINGER LAKES NATIONAL FOREST. (a) In general.—Notwithstanding any provision of law, all Federal land within the boundary of Finger Lakes National Forest in the State of New York is withdrawn from—

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

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

(b) Termination.—Not later than 180 days after the date of enactment, the Administrator shall, consistent after consultation, or disposal under the public land laws;

(c) Disposition under all laws relating to mineral and geological leasing (including the Act of July 31, 1947 (commonly known as the "Materials Act of 1947") (30 U.S.C. 601)),

SA 3227. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Title VI, insert the following:

SEC. 610. NORTHWEST HOME HEATING OIL RE-
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 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 funding of the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Section 202(a)(4) of the amendment (No. 2917) proposed by Mr. Daschle (as modified by the Thomas Amendment #3000) is amended by striking the following subparagraph (D), renumbering “(D)” as “(E)” and inserting the following:

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

“(E) reduce, avoid, or sequester greenhouse gases from the atmosphere.”

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. 383k) is amended—

(1) by striking the section heading and all that follows through “(a) The Administrator” and inserting the following:

“SEC. 13. BONNEVILLE POWER ADMINISTRATION BONDS.

“(a) BONDS.—

“(1) IN GENERAL.—The Administrator, and (2) by adding at the end the following paragraph:

“(b) 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, 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. 639 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 funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 470, beginning with line 10, strike through line 7 on page 532 and insert the following:

TITLE XIII—CLIMATE CHANGE SCIENCE AND TECHNOLOGY

Subtitle A—Department of Energy Programs

SEC. 1301. DEPARTMENT OF ENERGY GLOBAL CHANGE RESEARCH.

(a) PROGRAM DIRECTION.—The Secretary, acting through the Office of Science, shall conduct a comprehensive research program to understand and address the effects of energy production and use on the global climate system.

(b) PROGRAM ELEMENTS.—

(1) CLIMATE MODELING.—The Secretary shall—

(A) conduct observational and analytical research to acquire and interpret the data needed to describe the radiation balance from the surface of the Earth to the top of the atmosphere;

(B) determine the factors responsible for the Earth’s radiation balance and incorporate improved understanding of such factors in climate models;

(C) improve the treatment of aerosols and clouds in climate models;

(D) reduce the uncertainty in decade-to-century model-based projections of climate change; and

(E) enhance the availability and utility of climate change simulations to researchers and policy makers interested in assessing the relationship between energy and climate change.

(2) CARBON CYCLE.—The Secretary shall—

(A) carry out field research and modeling activities—

(i) to understand and document the net exchange of carbon dioxide between major terrestrial ecosystems and the atmosphere; or

(ii) to evaluate the potential of proposed methods of carbon sequestration;

(B) develop and test carbon cycle models; and

(C) acquire data and develop and test models to simulate and predict the transport, transformation, and rate of energy-related emissions in the atmosphere.

(3) ECOLOGICAL RESPONSE.—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) INTEGRATION.—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 corresponding sequences of these emissions on climate and the resulting effects of human-induced climate change on economic and social systems. The emphasis on critical gaps in integrated assessment modeling, including modeling of technology innovation and diffusion and the development of metrics of economic costs of climate change and policies for mitigating or adapting to climate change.

(c) AUTHORIZATION OF APPROPRIATIONS.

(1) In general.—From amounts authorized under section 1251(b), there are authorized to be appropriated to the Secretary for carrying out activities under this section—

(1) $150,000,000 for fiscal year 2003;

(2) $175,000,000 for fiscal year 2004;

(3) $200,000,000 for fiscal year 2005; and

(4) $225,000,000 for fiscal year 2006.

(2) 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”;

(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; or

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

“(C) reduce, avoid, or sequester greenhouse gases from the atmosphere.”

(2) in subsection (b)—

(A) in paragraph (2), by striking “subsection (a)(1) through (3)” and inserting “subsection (a)(1) through (4)”;

(B) in paragraph (3)—

(1) in subparagraph (A), by striking “and” at the end;

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

(iii) by adding at the end the following:

“(T) to pursue a long-term climate technology strategy designed to demonstrate a variety of technologies by which stabilization of greenhouse gases might be best achieved, including accelerated research, development, demonstration and deployment of—

“(i) renewable energy systems;

“(ii) advanced fossil energy technology;

“(iii) advanced nuclear power plant design;

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

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

“(vi) efficient electrical generation, transmission and distribution technologies; and

“(vii) efficient end use energy technologies.”;

Subtitle B—Department of Agriculture Programs

SEC. 1311. CARBON SEQUESTRATION BASIC AND APPLIED RESEARCH.

(a) BASIC RESEARCH.—

(1) IN GENERAL.—The Secretary of Agriculture shall carry out research in the areas of soil science that promote understanding of—

(A) the net sequestration of organic carbon in soil; and

(B) net emissions of other greenhouse gases from agriculture.

(2) AGRICULTURAL RESEARCH SERVICE.—The Secretary of Agriculture, acting through the Agricultural Research Service, shall collaborate with other Federal agencies in developing data and carrying out research addressing soil carbon fluxes (losses and gains)
and net emissions of methane and nitrous oxide from cultivation and animal management activities.

3. 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 mat-
ters 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 Coop-
erate State Research, Extension, and Edu-
cation Service shall consult with the Na-
tional Resources Conservation Service and other Federal agencies.

(b) APPLIED RESEARCH.—
(1) IN GENERAL.—The Secretary of Agri-
culture shall carry out applied research in the areas of soil science, agronomy, agricul-
tural economics and other agricultural sciences to—
(A) promote understanding of—
(i) how agricultural and forestry practices affect the sequestration of organic and inor-
ganic carbon, and net emissions of other greenhouse gases;
(ii) how changes in soil carbon pools are cost-effectively measured, monitored, and veri-
ified; and
(iii) how public programs and private mar-
ket approaches can be devised to incorporate carbon sequestration in a broader societal framework.

(B) DEVELOPMENT OF MONITORING TECH-
NICAL INSTITUTE OF STANDARDS AND Tech-
nology, in developing new measuring tech-
iques and assessing baselines, carbon or other greenhouse gases.

(C) DEVELOPMENT OF MONITORING TECH-
NICAL INSTITUTE OF STANDARDS AND Tech-
nology, acting through the Natural Re-
source Conservation Service and in consultation with the Agricultural Research Service and in coordination with local extension agents, experts from land grant universities, and other local agricultural or conservation organizations, shall develop user-friendly programs that combine measurement tools and modeling techniques in integrated packages to mon-
tor the carbon sequestering benefits of con-
servation practices and net changes in green-
house gas emissions.

(D) IN GENERAL.—The Secretary of Agri-
culture shall widely disseminate information about the results of demonstration projects and other carbon pools in agricultural soils, plants, and trees; and
(ii) net changes in emissions of other greenhouse gases.

(E) EVALUATION OF IMPLICATIONS.—The pro-
grams under subparagraph (A) shall in-
clude evaluation of the implications for reas-
sembled baselines, carbon or other greenhouse gas leakage, and permanence of sequestra-
tion.

(F) SUBMISSION OF PROPOSALS.—Proposals for projects under subparagraph (A) shall be sub-
mited by the appropriate agency of each State, in cooperation with interested local jurisdic-
tions and State agricultural and con-
servation organizations.

(G) LIMITATION.—Not more than 10 projects under subparagraph (A) may be approved in con-
junction with applied research projects under section 131(b) until benchmark measure-
ment and assessment standards are estab-
lished under section 131(d).

(H) NATIONAL FOREST SYSTEM LAND.—The Sec-
tary 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) OUTREACH.—The Cooperative State Research, Extension, and Education Service shall inform farmers, ranchers, and State agricultural and energy offices in each State of—
(A) the results of demonstration projects under subsection (a); and
(B) the ways in which the methods dem-
onstrated in the projects might be applicable to the operations of those farmers and ranch-
ers.

(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) The amounts available to carry out this section shall be appropriated to the Secretary of Commerce and the Secretary of Agriculture for each fiscal year beginning 2012.

(2) The Secretary of Commerce and the Secretary of Agriculture shall jointly establish a Interagency Working Group on Clean Energy Technology Exports established under subsection (b).

(b) INTERAGENCY WORKING GROUP.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Commerce shall establish an Interagency Working Group on Clean Energy Technology Exports.

(2) DUTIES.—The Interagency Working Group shall focus on and expand energy markets and transferring clean energy technology to the developing countries, countries in transition, and other partner countries that are expected to experience, over the next 30 years, the most significant growth in clean energy markets and U.S. energy technology as part of the energy technology investments 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.

(3) FEDERAL SUPPORT FOR CLEAN ENERGY TECHNOLOGY DEPLOYMENT PROJECT.—The term ‘clean energy technology deployment project’ means a project that—

(A) analyzes technology, policy, and market conditions and criteria that will help ensure that United States industries, including fossil, nuclear, and renewable technologies, including buildings and facilities, vehicle, industrial, and co-generation technology investment, will help ensure that United States industries, including fossil, nuclear, and renewable technologies, including buildings and facilities, vehicle, industrial, and co-generation technology investment,

(b) INTERAGENCY WORKING GROUP.—

(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Commerce shall establish an Interagency Working Group on Clean Energy Technology Exports.

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

(A) analyze technology, policy, and market conditions and criteria that will help ensure that United States industries, including fossil, nuclear, and renewable technologies, including buildings and facilities, vehicle, industrial, and co-generation technology investment, will help ensure that United States industries, including fossil, nuclear, and renewable technologies, including buildings and facilities, vehicle, industrial, and co-generation technology investment,

(3) DEPLOYMENT PROGRAM.—

(5)最も重要な成長を予定している国々と関係するのである。
‘‘(1) RATE OF INTEREST.—The rate of interest of any loan made under clause (1) shall be equal to the rate for Treasury obligations then issued for periods of comparable maturities.

‘‘(3) AMOUNT.—The amount of a loan or loan guarantee under clause (1) shall not exceed 90 percent of the total cost of the qualified international energy deployment project.

‘‘(4) 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.

‘‘(5) 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.

‘‘(6) 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 deployed in the project and not involve a foreign 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. 7651n).

‘‘(E) REPORT.—Not later than 5 years after the date of enactment of this subsection, the Secretary shall submit to the President an annual 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 under the 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 OF GLOBAL CHANGE RESEARCH ACT OF 1990.

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

Paragraph (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. 2923) is amended—

(1) by striking ‘‘Earth and Environment Sciences’’ in section heading and inserting ‘‘Global Change Research’’;

(2) by striking ‘‘Earth and Environmental Sciences’’ in subsection (a) and inserting ‘‘Global Change Research’’;

(3) by striking the last sentence of subsection (b) and inserting ‘‘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 redesigning subsection (d) and (e) as subsections (e) and (f), respectively; and

(6) by inserting after subsection (c) the following:

‘‘(d) SUBCOMMITTEES AND WORKING GROUPS.—

‘‘(1) IN GENERAL.—There shall be a Subcommittee on Global Change Research, which shall carry out such functions of the Committee as the Committee may assign to it.

‘‘(2) MEMBERSHIP.—The membership of the Subcommittee shall consist of—

‘‘(A) the membership of the Subcommittee on Global Change Research of the Committee on Environment and Natural Resources (the functions of which are transferred to the Subcommittee established by this subsection) established by the National Science and Technology Policy Foundation;

‘‘(B) such additional members as the Chair of the Committee may, from time to time, appoint.

‘‘(3) CHAIR.—A high ranking official of one or more departments or agencies described in subsection (b), appointed by the Chair of the Committee with advice from the Chairman of the Council, shall chair the subcommittee. The Chairperson shall be knowledgeable and experienced with regard to the administration of the scientific research programs, and shall be a representative of an agency that contributes substantially, in terms of scientific research capability and budget, to the Program.

‘‘(4) OTHER SUBCOMMITTEES AND WORKING GROUPS.—The Committee may establish such additional subcommittees and working groups as it may find expedient.

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

Section 104 (15 U.S.C. 2923a) is amended—

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

(2) by striking subsection (a) and inserting the following:

‘‘(a) INTEGRATED PROGRAM OFFICE.—

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

‘‘(B) such additional members as the Chair of the Committee may appoint.

‘‘(g) STRATEGIC PLAN; REVISED IMPLEMENTATION PLAN.—The Chairman of the Council, through the Committee, shall develop a strategic plan for the United States Global Change Research Program for the 10-year period beginning in 2002 and submit the plan to the Congress within 180 days after the date of enactment of the Global Change Research Act of 2002. The Committee shall also submit revised implementation plans as required under subsection (a).

SEC. 1335. INTEGRATED PROGRAM OFFICE.

Section 105 (15 U.S.C. 2923b) is amended—

(1) by redesigning 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.—

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

‘‘(B) ensure program and budget recommendations of the Committee are communicated to the President and are integrated into the climate change action strategy.

‘‘(c) RESEARCH GRANTS.—

‘‘(1) IN GENERAL.—There shall be a common assessment and modeling framework that may be used in both research and operations to predict and assess the vulnerability of natural and managed ecosystems and the context of other environmental and social changes.’’; and

(8) by adding at the end following:

‘‘(b) REVIEW OF IMPLEMENTATION PLAN.—The Chairman of the Council, through the Committee, shall develop a strategic plan for the United States Global Change Research Program for the 10-year period beginning in 2002 and submit the plan to the Congress within 180 days after the date of enactment of the Global Change Research Act of 2002. The Committee shall also submit revised implementation plans as required under subsection (a).’’.

SEC. 1336. RESEARCH GRANTS.

Section 106 (15 U.S.C. 2923c) is amended—

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

(2) by striking paragraph (1) of subsection (e), as redesignated.

(3) by striking paragraph (2) of subsection (f), as redesignated.

(4) by striking paragraph (3) of subsection (f), as redesignated.

(5) by striking paragraph (4) of subsection (f), as redesignated.

(6) by redesigning paragraphs (1) and (2) as paragraphs (2) and (3), respectively.

(7) by striking paragraph (4) of subsection (f), as redesignated.

(8) by adding at the end of subsection (f) the following:

‘‘(c) RESEARCH GRANTS.—

‘‘(1) 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 TRANSIT 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 social science research area for research for search in those priority areas.

SEC. 1337. EVALUATION OF INFORMATION.

Section 106 (15 U.S.C. 2906) 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 local government agencies, State, and local government entities and the academic community to enhance partnerships within the academic community to ensure timely and full sharing and dissemination of information to predict regional and local climate changes and impacts; and

(5) in coordination with the private sector, to improve the ability of climate modeling and related systems 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 models, and monitoring of regional and local climate changes and trends; 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 information to predict regional and local climate changes, 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 and its surrounding waters to enhance understanding of the nature and predictability of climate variability in the Asia-Pacific sector, including regional aspects of global environmental change. Such research activities shall be conducted in cooperation with other nations of the region. There are authorized to be appropriated for purposes of this section $1,500,000 to the National Oceanic and Atmospheric Administration, $1,500,000 to the National Aeronautics and Space Administration, and $500,000 for the Pacific ENSO Applications Center.

SEC. 1347. REPORTING ON TRENDS.

(a) ATMOSPHERIC MONITORING AND VERIFICATION PROGRAM.—The Secretary of Commerce, in coordination with relevant Federal agencies, shall, as part of the National Climate Service, establish an atmospheric monitoring and verification program utilizing aircraft, satellite, ground sensors, and modeling capabilities to monitor, measure, and verify atmospheric greenhouse gas levels, dates, and emissions. Where feasible, the program shall measure emissions from identified sources participating in the reporting system for verification purposes. The program shall use measurement and 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. The report shall be provided to the National Oceanic and Atmospheric Administration, the National Oceanic and Atmospheric Administration, and to the public.


(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 "Chairperson" as a provision of an act of 1984 (15 U.S.C. 4103) is amended by adding at the end the following:

"(c) FUNDING FOR ARCTIC RESEARCH.—

(1) IN GENERAL.—With the prior approval of the commission, or under authority delegated by the commission, and subject to such conditions as the Commission may specify, the Executive Director appointed under section 106(a) may—

"(A) make grants to persons to conduct research concerning the Arctic;

"(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 APPROPRIATIONS.—

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

(b) GRANTS.—Section 106 of the Arctic Research and Policy Act of 2002 (15 U.S.C. 4103) is amended by adding at the end the following:

"(a) 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—"
(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 $4,040,000,000 for each of the fiscal years 2003 through 2008, and such sums as may be necessary for fiscal years after fiscal year 2008, to carry out subsection (a).

PART III—OCEAN AND COASTAL OBSERVING SYSTEM

SEC. 1351. OCEAN AND COASTAL OBSERVING SYSTEM.

(a) ESTABLISHMENT.—The President, through the National Oceanic and Atmospheric Administration, shall establish and maintain an integrated ocean and coastal observing system that provides for long-term, continuous, and real-time observations of the oceans and coasts for the purposes of—

(1) understanding, assessing and responding to human-induced and natural processes of global change;
(2) improving weather forecasts and public warnings;
(3) strengthening national security and military preparedness;
(4) enhancing the safety and efficiency of marine operations;
(5) supporting efforts to restore the health of and manage coastal and marine ecosystems and their resources;
(6) monitoring and evaluating the effectiveness of ocean and coastal environmental policies;
(7) reducing and mitigating ocean and coastal pollution; and
(8) providing information that contributes to public awareness of the State and importance of the oceans.

(b) COUNCIL FUNCTIONS.—In addition to its responsibilities under section 7902(a) of title 10, United States Code, the Council shall be responsible for planning and coordinating the observing system and in carrying out this responsibility shall—

(1) develop and submit to the Congress, within 6 months after the date of enactment of this Act, a plan for implementing a national ocean and coastal observing system that—

(A) uses an end-to-end engineering and development approach to develop a system design and schedule for operational implementation;
(B) determines how current and planned observing activities can be integrated in a cost-effective manner;
(C) provides for regional and concept demonstration projects;
(D) describes the role and estimated budget of each Federal agency in implementing the plan;
(E) contributes, to the extent practicable, to the National Global Change Research Plan under section 101 of the Global Change Research Act of 2005 (15 U.S.C. 273c); and
(F) makes recommendations for coordination of ocean observing activities of the United States with those of other nations and international organizations;

(2) serve as the mechanism for coordinating Federal ocean observing requirements and activities;
(3) work with academic, State, industry and other actual and potential users of the observing system to make effective use of existing capabilities and incorporate new technologies;

(4) approve standards and protocols for the administration of the system, including—

(A) a common set of measurements to be collected and distributed routinely and by uniform methods;
(B) standards for quality control and assessment of data;
(C) design, testing and employment of forecast models for ocean conditions;
(D) data management, including data transfer protocols and archiving; and
(E) designation of coastal ocean observing regions; and

(5) in consultation with the Secretary of State, present representation at international meetings on ocean observing programs and coordinate relevant Federal activities with those of other nations.

(c) SYSTEM ELEMENTS.—The integrated ocean and coastal observing system shall include the following elements:

(1) A nationally coordinated network of regional coastal ocean observing systems that measure and disseminate a common set of ocean observations and related products in a uniform manner and according to sound scientific practice, but that are adapted to local and regional needs.

(2) Ocean sensors for climate observations, including the Arctic Ocean and sub-polar seas.

(3) Coastal, relocatable, and cabled sea floor observatories.

(4) Broad band telecommunications that are capable of transmitting high volumes of data from open ocean locations at low cost and in real time.

(5) Ocean data management and assimilation systems that ensure full use of new sources of data from space-borne and in situ sensors.

(6) Focused research programs.

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

(8) Public outreach and education.

SEC. 1352. AUTHORIZATION OF APPROPRIATIONS.

For development and implementation of an integrated ocean and coastal observation system under this title, including financial assistance to regional coastal ocean observing systems, there are authorized to be appropriated $235,000,000 in fiscal year 2003, $315,000,000 in fiscal year 2004, $396,000,000 in fiscal year 2005, and $415,000,000 in fiscal year 2006.

Title E—Climate Change Technology

SEC. 1361. NIST GREENHOUSE GAS FUNCTIONS.

Section 2(c) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)) is amended—

(1) striking "and" after the semicolon in paragraph (21);

(2) by redesigning paragraph (22) as paragraph (23); and

(3) by inserting after paragraph (21) the following:

"(22) perform research to develop enhanced measurement, calibrations, standards, and technologies that will enable the monitoring of greenhouse gases;"

SEC. 1362. DEVELOPMENT OF NEW MEASURE-TECHNIQUES.

(a) IN GENERAL.—The Secretary of Commerce shall initiate a program to develop, with technical assistance from appropriate Federal agencies, national measurement standards and measurement technologies (including technologies to measure carbon changes due to changes in land use cover) to calculate—

(1) greenhouse gas emissions and reductions from agriculture, forestry, and other land use practices;

(2) non-carbon dioxide greenhouse gas emissions from transportation;

(3) greenhouse gas emissions from facilities or sources using remote sensing technology; and

(4) any other greenhouse gas emission or reductions for which no accurate or reliable measurement technology exists.

The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) by redesigning sections 17 through 32 as sections 18 through 33, respectively; and

(2) by inserting after section 16 the following:

"SEC. 17. CLIMATE CHANGE STANDARDS AND PROCESSES.

"(a) IN GENERAL.—The Director shall establish within the Institute a program to perform and support research on global climate change standards and processes, with the goal of providing scientific and technical knowledge applicable to the reduction of greenhouse gases (as defined in section 4 of the Global Climate Change Act of 2002).

"(b) RESEARCH PROGRAM.—

"(1) IN GENERAL.—The Director is authorized to conduct, directly or through contracts or grants, a global climate change standards and processes research program.

"(2) PROGRAM DEVELOPMENT.—The specific contents and priorities of the research program shall be determined in consultation with appropriate Federal agencies, including the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration. The program generally shall include basic and applied research—

"(A) to develop and provide the enhanced measurements, calibrations, data, models, reference material standards which will enable the monitoring of greenhouse gases;"

"(B) to assist in establishing of a baseline reference point for future trading in greenhouse gases and the measurement of progress in emissions reduction;"

"(C) that will be exchanged internationally as scientific or technical information which has been expanded, updated, and mutually recognized measurement standards, and procedures for reducing greenhouses gases; and

"(D) to assist in developing improved industrial processes designed to reduce or eliminate greenhouse gases.

"(c) NATIONAL MEASUREMENT LABORATORIES.—

"(1) IN GENERAL.—In carrying out this section, the Director shall utilize the collective skills of the National Measurement Laboratories of the National Institute of Standards and Technology to improve the accuracy of measurements that will permit better understanding and control of these industrial processes and greenhouse gas emissions into the environment;

"(2) MATERIAL, PROCESS, AND BUILDING RESEARCH.—The National Measurement Laboratories shall conduct research under this subsection that includes—

"(A) developing material and manufacturing processes which are designed for energy efficiency and greenhouse gas emissions into the environment;

"(B) developing environmentally-friendly, ‘green’ chemical processes to be used by industry;

"(C) enhancing building performance with a focus in developing standards or tools which will help incorporate low or no-emission technologies into building designs;

"(3) STANDARDS AND TOOLS.—The National Measurement Laboratories shall develop
standards and tools under this subsection that include software to assist designers in selecting alternate building materials, performance data on materials, artificial intelligence procedures for building sub-systems and ‘smart’ buildings, and improve test methods and rating procedures for evaluating the energy performance of residential and commercial appliances and products.

“(d) NATIONAL VOLUNTARY LABORATORY ACREDITATION PROGRAM.—The Director shall utilize the National Voluntary Laboratory Accreditation Program under this section to establish a program to include specific calibration or test standards and related methods and protocols assembled to satisfy the unique needs for accreditation in measuring the production of greenhouse gases. In carrying out this subsection the Director may cooperate with other departments and agencies of the Federal Government, State and local governments, and private organizations.

SEC. 1364. TECHNOLOGY DEVELOPMENT AND DIFFUSION.

The Director of the National Institute of Standards and Technology, through the Manufacturing Extension Partnership Program, may develop a program to support the implementation of new “green” manufacturing technologies and techniques by the more than 380,000 small manufacturers.

SEC. 1365. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out sections 1345, 1351, and 1361 through 1363, $10,000,000 for fiscal years 2002 through 2006.

Subtitle F—Climate Adaptation and Hazards Prevention

PART I—ASSESSMENT AND ADAPTATION

SEC. 1371. REGIONAL CLIMATE ASSESSMENT AND ADAPTATION PROGRAM.

(a) IN GENERAL.—The President shall establish within the Department of Commerce a National Climate Change Vulnerability and Adaptation Program for regional impacts related to increasing concentrations of greenhouse gases in the atmosphere and climate variability.

(b) COORDINATION.—In designing such program the Secretary shall consult with the Federal Emergency Management Agency, the National Oceanic and Atmospheric Administration, 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 (15 U.S.C. 2901 et seq.), regional vulnerability to phenomena associated with climate change and climate variability, including—

(A) severe 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 level;

and

(2) build upon predictions and other information developed in the National Assessments prepared under the Global Change Research Act of 1990 (15 U.S.C. 2211 et seq.), regional vulnerability to phenomena associated with climate change and climate variability, including—

(A) severe 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 level;

and

(2) to improve resilience to hazards;

(3) to minimize economic impacts; and

(4) to reduce threats to critical biological ecological processes.

(d) INFORMATION AND TECHNOLOGY.—The Secretary shall make available appropriate information and other technologies and products that will assist national, regional, state, and local efforts, as well as efforts by other end-users, to reduce loss of life and property, and coordinate dissemination of such technologies.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) 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 to develop such regional assessments.

(b) COASTAL ADAPTATION PLAN.—The Secretary shall, within 3 years after the date of enactment of this Act, progress a national coastal adaptation plan, composed of individual regional adaptation plans that recommend targets and strategies to address adverse effects 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 will include information contained in the regional assessments and shall identify special needs associated with Arctic areas and the Central, Western, and South Pacific regions.

(c) TECHNICAL PLANNING ASSISTANCE.—The Secretary, through the National Ocean Service, shall provide technical planning assistance and coordination of support or any project to determine the Federal funding share for that project; and

(d) COASTAL RESPONSE PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a 4-year pilot program to provide financial assistance to coastal communities most adversely affected by the impact of climate change or climate variability that are located in States with federally approved coastal zone management programs.

(2) ELIGIBLE PROJECTS.—A project is eligible for financial assistance under the pilot program if—

(A) will restore or strengthen coastal resources, facilities, or infrastructure that have been endangered by such an impact, as determined by the Secretary;

(B) meets the requirements of the Coastal Zone Management Act (16 U.S.C. 1451 et seq.) and is consistent with the coastal management plan of the State in which it is located; and

(C) will not cost more than $100,000.

(d) FUNDS SHARE.—The Federal funding share of any project under this subsection may not exceed 75 percent of the total cost of the project. In the administration of this paragraph—

(1) the Secretary may take into account in-kind contributions and other non-cash support or any project to determine the Federal funding share for that project; and

(2) the Secretary may waive the requirements of this paragraph for a project in a community if—

(i) the Secretary determines that the project is important; and

(ii) the community and available resources of the community in which the project is to be conducted are insufficient to meet the non-Federal share of the project’s costs.

(e) DEFINITIONS.—Any term used in this section that is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)) has the meaning given it by that section.

(f) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated $3,000,000 annually for coastal assessments under subsection (a), and $5,000,000 annually for coastal adaptation grants under subsection (d).

SEC. 1373. ARCTIC RESEARCH CENTER.

(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and other appropriate Federal agencies, including 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 hereby appropriated to the Secretary of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Protection Agency—$35,000,000 for the planning, design, construction, and support of the Barrow Arctic Research Center.

PART II—FORECASTING AND PLANNING PILOT PROGRAMS

SEC. 1381. REMOTE SENSING PROJECTS.

(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration shall establish a framework for planning strategies for adaptation to coastal zone and land use changes related to global climate change or climate variability. Such strategies shall be developed by the Center.

(b) FUNDING.—The Center shall provide grants under this section to the Administrator to carry out the provisions of this subtitle, as follows:

(1) $17,500,000, provided for the planning, design, construction, and support of the Barrow Arctic Research Center.

(2) $20,000,000, provided for fiscal year 2003;

(3) $25,000,000, provided for fiscal year 2004;

(4) $22,500,000, provided for fiscal year 2005; and

(5) $25,000,000, provided for fiscal year 2006.

SEC. 1382. DATABASE ESTABLISHMENT.

The Center shall establish and maintain a comprehensive database of the results of each pilot project completed under section 1381.

SEC. 1383. DEFINITIONS.

In this subtitle:

(1) CENTER.—The term "Center" means the Coastal Services Center of the National Oceanic and Atmospheric Administration.

(2) GEOSPATIAL INFORMATION.—The term "geospatial information" means knowledge of the nature and distribution of physical and cultural features on the landscape based on analysis of data from airborne or space-based 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) $35,000,000 for the planning, design, construction, and support of the Barrow Arctic Research Center.

SEC. 1385. ADMINISTRATION.

The Administrator shall establish such regulations as the Administrator deems necessary to carry out this section.

SEC. 1386. REPORT.

The Administrator shall submit an annual report to the Congress describing the implementation of this section.
more productive, bolster energy security, create jobs, and protect the environment.
(b) SENSE OF CONGRESS.—It is the sense of the United States Congress that the United States should demonstrate international leadership and responsibility in reducing the health, environmental, and economic risks posed by climate change by:

1. taking appropriate action to ensure significant and meaningful reductions in emissions of greenhouse gases from all sectors;
2. creating flexible international and domestic policies, including joint implementation, technology deployment, tradable credits for emissions reductions and carbon sequestration projects that will reduce, avoid, or sequester greenhouse gas emissions; and
3. participating in international negotiations, including putting forth a proposal to the Conference of the Parties, with the objective of securing United States' participation in a future binding climate change Treaty in a manner that is consistent with the environmental objectives of the UNFCCC, that protects the economic interests of the United States, and recognizes the shared international responsibility for addressing climate change, including developing country participation.

Subitle B—Climate Change Strategy

SEC. 101. SHORT TITLE.

This subtitle may be cited as the “Climate Change Strategy and Technology Innovation Act of 2002”.

SEC. 102. 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 as of the date of enactment of this Act—

(1) results in reduced emissions of greenhouse gases;
(2) may substantially lower emissions of other pollutants; and
(3) may generate substantially smaller or less hazardous quantities of solid or liquid waste.

(B) DEPARTMENT.—The term ‘‘Department’’ means the Department of Energy.

(C) DEPARTMENT OFFICE.—The term ‘‘Department Office’’ means the Office of Climate Change Technology of the Department established by section 1014(a).

(D) FEDERAL AGENCY.—The term ‘‘Federal agency’’ has the meaning given the term ‘‘agency’’ in section 551 of title 5, United States Code.

(E) 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 achieve stabilization of greenhouse gas concentrations;

(B) technology development, including—

(i) a national commitment to double energy research and development by the United States public and private sectors; and
(ii) in carrying out such research and development, the White House Office shall ensure—

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

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

(C) participation in other international institutions, or in the support of international activities, that are established or conducted to achieve the long-term goal of the Strategy; and

(D) STRATEGY.—The term ‘‘Strategy’’ means the National Climate Change Strategy developed under section 1013.

(E) WHITE HOUSE OFFICE.—The term ‘‘White House Office’’ means the Office of National Climate Change Policy established by section 1014(a).

SEC. 1013. NATIONAL CLIMATE CHANGE STRATEGY.

(a) IN GENERAL.—The President, through the director of the White House Office and in consultation with the Interagency Task Force, shall develop a National Climate Change Strategy, which shall—

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

(2) recognize that accomplishing the long-term goal of the Strategy will take many decades to more than a century, but acknowledging that significant actions must begin in the near term;

(3) incorporate the 4 key elements;

(4) be developed on the basis of an examination of a broad range of emissions levels and dates for achievement of those levels (including those evaluated by the Intergovernmental Panel on Climate Change and those consistent with U.S. treaty commitments) that, after taking into account actions by other nations, would achieve the long-term goal of the Strategy;

(5) consider the broad range of activities and actions that can be taken by United States entities to reduce, avoid, or sequester greenhouse gas emissions both within the United States and in other nations through the use of market mechanisms, which may include, but not be limited to, mitigation activities, terrestrial sequestration, earning offsets through carbon capture or project-based activities, trading of emissions credits that result from domestic and international activities, and the application of the resulting credits from any of the above within the United States;

(6) minimize any adverse short-term and long-term social, economic, national security, and environmental impacts, including ensuring that the strategy is developed in an economically and environmentally sound manner.

(7) incorporate mitigation approaches leading to the development and deployment of advanced technologies and practices that will reduce, avoid, or sequester greenhouse gas emissions;

(8) be consistent with the goals of energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States;

(9) take into account—

(A) the diversity of energy sources and technologies;

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

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

(10) be based on an evaluation of a wide range of approaches for achieving the long-term goal of the Strategy, including evaluation of—

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

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

(C) participation in other international institutions, or in the support of international activities, that are established or conducted to achieve the long-term goal of the Strategy; and
(B) provide specific recommendations con-
cerning—
(1) measures determined to be appropriate for short-term implementation, giving preference to those that can be carried out with technologically feasible measures that will—
(I) produce measurable net reductions in United States greenhouse gases, 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 impacts, economic, environmental, national security, and social impacts on the United States;
(II) the development of technologies that have the potential to be developed in the United States and abroad.
(2) include any budgetary implications; and
(3) outline interagency, public awareness, outreach, and institutional and technological actions nec-

ecessary to adapt to climate change and its impacts.

(b) Submission to Congress.—Not later than 1 year after the date of enactment of this Act, the President shall submit to Congress the Strategy, in the form of a report to Congress—
(1) a description of the Strategy and its goals, including how the Strategy addresses each of the 4 key elements;
(2) an inventory of Federal programs and activities intended to carry out the Strategy;
(3) a description of how the Strategy will produce measurable net reductions in greenhouse gases or otherwise mitigate the risks of climate change; and
(4) evidence that the Strategy has been developed in a manner that provides for participation by, and consultation among, Federal, State, tribal, and local government agencies, non-governmental organizations, academia, scientific bodies, industry, the public, and other interested parties; and
(5) a description of Federal activities that promote, to the maximum extent practicable, public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues; and
(6) recommendations for legislative or admin-

istrative changes to Federal programs or activities intended to carry out this Strategy, in light of new knowledge of climate change and its impacts and costs or benefits, or technological capacity to improve mitigation and adaption activities.

(c) Updates.—Not later than 4 years after the date of submission of the Strategy to Congress under subsection (b), and at the end of each 5-year period thereafter, the President shall submit to Congress an updated version of the Strategy.

(d) Progress Reports.—Not later than 1 year after the date of submission of the Strategy to Congress under subsection (b), and annually thereafter at the time that the President submits to the Congress the budget of the United States Government under section 1105 of title 21, United States Code, the President shall submit to Congress a report that—
(1) describes the Strategy, its goals, the Federal programs and activities intended to carry out the Strategy through technological, scientific, mitigation, and adaption activities;
(2) evaluates the Federal programs and activities implemented as part of this Strategy against the goals and implementation dates outlined in the Strategy;
(3) assesses the progress in implementation of the Strategy; and
(4) includes any changes to the technology program reports required pursuant to section 1015(a)(x) and subsections (d) and (e) of section 1321.

(e) Authorization of Appropriations.—For the purposes of this subsection, there are

international response to climate change; and
(23) incorporate initiatives to open mar-
kets and promote the deployment of a range of climate-friendly technologies developed in the United States and abroad.

(2) provides for meaningful participation by, and consultation among, Federal, State, tribal, and local government agencies, non-governmental organizations, academia, scientific bodies, industry, the public, and other interested parties; and
(3) includes 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.

(2) describes any changes to Federal programs or activities intended to carry out this Strategy, in light of new knowledge of climate change and its impacts and costs or benefits, or technological capacity to improve mitigation and adaption activities.

(3) R EPORT.—Not later than 1 year after the date of submission of the Strategy to Congress under subsection (b), and at the end of each 5-year period thereafter, the President shall submit to Congress an updated version of the Strategy.

(4) PROGRESS REPORTS.—Not later than 1 year after the date of submission of the Strategy to Congress under subsection (b), and annually thereafter at the time that the President submits to the Congress the budget of the United States Government under section 1105 of title 21, United States Code, the President shall submit to Congress a report that—
(1) describes the Strategy, its goals, the Federal programs and activities intended to carry out the Strategy through technological, scientific, mitigation, and adaption activities;
(2) evaluates the Federal programs and activities implemented as part of this Strategy against the goals and implementation dates outlined in the Strategy;
(3) assesses the progress in implementation of the Strategy; and
(4) includes any changes to the technology program reports required pursuant to section 1015(a)(x) and subsections (d) and (e) of section 1321.

(b) Submission to Congress.—Not later than 1 year after the date of enactment of this Act, the President shall submit to Congress the Strategy, in the form of a report to Congress—
(1) a description of the Strategy and its goals, including how the Strategy addresses each of the 4 key elements;
(2) an inventory of Federal programs and activities intended to carry out the Strategy;
authorized to be appropriated to the National Science Foundation such sums as may be necessary.

SEC. 1014. OFFICE OF NATIONAL CLIMATE CHANGE POLICY.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established, within the Office of the President, the Office of National Climate Change Policy.

(2) FOCUS.—The White House Office shall have the focus of achieving the long-term goal of the Strategy while minimizing adverse short-term and long-term economic and social impacts.

(b) DUTIES.—Consistent with paragraph (2), the White House Office shall—

(A) establish policies, objectives, and priorities for the Strategy;

(B) coordinate with subsection (d), establish the Interagency Task Force to serve as the primary mechanism through which the heads of Federal agencies shall assist the Director of the White House Office in developing and implementing the Strategy;

(C) to the maximum extent practicable, ensure that the Strategy is based on objective, quantitative analysis, drawing on the analytical capabilities of Federal and State agencies, especially the Department Office;

(D) advise the President concerning necessary legislative, organization, management, budgeting, and personnel allocation of Federal agencies involved in climate change response;

(E) advise the President and notify a Federal agency if the policies and discretionary programs of the agency are not well aligned with, or are not contributing effectively to, the long-term goal of the Strategy.

(c) DIRECTOR OF THE WHITE HOUSE OFFICE.—

(1) IN GENERAL.—The White House Office shall be headed by a Director, who shall report directly to the President, and shall consult with the appropriate economic, environmental, national security, domestic policy, science and technology and other offices with the Executive Office of the President.

(2) APPOINTMENT.—The Director of the White House Office shall be a qualified individual appointed by the President, by and with the advice and consent of the Senate.

(d) MANAGING THE DIRECTOR OF THE WHITE HOUSE OFFICE.—

(1) STRATEGY.—In accordance with section 1013, the Director of the White House Office shall manage, develop and updating of the Strategy.

(2) INTERAGENCY TASK FORCE.—The Director of the White House Office shall serve as Chair of the Interagency Task Force.

(e) ADVISORY DUTIES.—

(i) ENERGY, ECONOMIC, ENVIRONMENTAL, TRANSPORTATION, INDUSTRIAL, AGRICULTURAL, BUILDING, FORESTRY, AND OTHER PROGRAMS.—The Director of the White House Office, using an integrated perspective considering the totality of actions in the United States, shall advise the President and the heads of Federal agencies on—

(I) the extent to which the United States tax policy, trade policy, and foreign policy are capable of producing progress on the long-term goal of the Strategy; and

(II) the extent to which proposed or newly created tax policy, trade policy, and foreign policy positively or negatively affect the ability of the United States to achieve the long-term goal of the Strategy.

(ii) INTERNATIONAL TREATIES.—The Secretary of State, acting in conjunction with the Interagency Task Force and using analytical tools available to the White House Office, shall provide to the Director of the White House Office an opinion that—

(I) to the maximum extent practicable, the economic and environmental costs and benefits of any proposed international treaties or components of treaties that have an influence on greenhouse gas management; and

(II) assesses the extent to which the treaties advance the long-term goal of the Strategy, while minimizing adverse short-term and long-term economic and social impacts and considering other impacts.

(f) CONSULTATION.—

(1) WITH UNIFIED INTERAGENCY TASK FORCE.—To the extent practicable and appropriate, the Director of the White House Office shall consult with all members of the Interagency Task Force before providing advice to the President.

(2) WITH OTHER INTERESTED PARTIES.—The Director of the White House Office shall establish the Interagency Task Force before providing advice to the President.

(g) PUBLIC EDUCATION, AWARENESS, OUTREACH, AND INFORMATION-SHARING.—The Director of the White House Office, to the maximum extent practicable, shall promote public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues.

(h) ANNUAL REPORTS.—The Director of the White House Office, in consultation with the Interagency Task Force and other interested parties, shall prepare the annual reports for submission by the President to Congress under section 1013(c).

(i) ANALYSIS.—During development of the Strategy, preparation of the annual reports submitted under paragraph (4), and provision of advice to the President and the heads of Federal agencies, the Director of the White House Office shall place significant emphasis on the use of objective, quantitative analysis, taking into consideration any uncertainties associated with the analysis.

(j) STAFF.—

(1) IN GENERAL.—The Director of the White House Office shall employ a professional staff, including the staff appointed under paragraph (2), of not more than 25 individuals to carry out the duties of the White House Office.

(2) INTERGOVERNMENTAL PERSONNEL AND FELLOWSHIPS.—The Director of the White House Office may use the authority provided by the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and subchapter VI of chapter 33 of title 5, United States Code, and fellowships, to obtain staff from Federal agencies, academia, scientific bodies, or a National Laboratory (as that term is defined in section 1203), for appointments of a limited term.

(k) AUTHORIZATION OF APPROPRIATIONS.—

(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies for the purpose of proving the financial and technical and economic viability of technology central to addressing climate change; and
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 or other appropriate program offices of the Department that support research and development in the areas relating to the project; 

(2) managed by the Department Office; and 

(3) in the case of a project that reaches a sufficient level of technological maturity such that the task program crosses the threshold of high-risk research and moves into the realm of more conventional technology development; 

(i) the scale of the climate change challenge; and 

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

(2) Interagency contributions of all Department programs to the Strategy; and 

(F) advise the Secretary on all aspects of climate change-related issues, including necessary coordination with other Department programs, division of effort, and personnel allocation in the programs involved in climate change response-related activities.

(A) Initial reports.—The Department Office shall prepare an annual report for submission by the Secretary to Congress and the White House Office that—

(A) to the extent to which non-Federal projects supported by the Department Office under this subtitle are acceptable on a geologic time-scale; and 

(iii) the extent to which forest, agricultural, and other terrestrial systems are suitable for carbon sinks.

(3) AREAS OF EXPERTISE.

(A) in general.—The Department Office shall develop and maintain expertise in integrated assessment, modeling, and related capabilities necessary—

(i) to understand the relationship between natural, agricultural, industrial, energy, and economic systems; 

(ii) to design effective research and development programs; and 

(iii) to assist with the development and implementation of the Strategy.

(B) TECHNOLOGY TRANSFER AND DIFFUSION.—The expertise described in clause (1) 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 goals of the Strategy, the Department Office shall conduct assessments of deployment of climate-friendly technology.

(6) ANALYSIS.—During development of the Strategy, the Department Office shall assess the extent to which the incoming technologies and technologies described in the Strategy, 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.—

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).

(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 206(b)(1) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6616(b)) is amended—

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

(2) by inserting after paragraph (6) the following:

“(7) improving efforts to understand, assess, predict, mitigate, and respond to global climate change.”

(b) ADVISE DIRECTOR OF OFFICE OF NATIONAL CLIMATE CHANGE POLICY.—Section 207 of that Act (42 U.S.C. 6616) is amended—

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

(2) by inserting after subsection (a) the following:

“(b) ADVISE DIRECTOR OF OFFICE OF NATIONAL CLIMATE CHANGE POLICY.—In carrying out this Act, the Director shall advise the Director of the Office of National Climate Change Policy on matters concerning science and technology as they relate to global climate change.”

Subtitle D—Miscellaneous Provisions

SEC. 1031. ADDITIONAL INFORMATION FOR REGULATORY REVIEW.

In each case that an agency prepares and submits a Statement of Energy Effects pursuant to Executive Order 13211 of May 18, 2001 (relating to actions concerning regulations that significantly affect energy supply, distribution, or use), the agency shall also submit an estimate of the change in net annual greenhouse gas emissions resulting from the significant energy action and any reasonable alternatives to the action.

SEC. 1032. GREENHOUSE GAS EMISSIONS FROM FEDERAL FACILITIES.

(a) METHODOLOGY.—Not later than one year after the date of enactment of this section, the Secretary of Energy, Secretary of Agriculture, Secretary of Commerce, and Administrator of the Environmental Protection Agency shall publish a jointly developed methodology for preparing estimates of annual greenhouse gas emissions from all Federal, 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, including stationary, mobile, and indirect emissions, using the methodology published under subsection (a).

SA 3233. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, Mr. JERFORDS, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGaman). Mr. DASCHLE sought to fund 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:

Respectfully submitted, on March 17 and all that follows 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)) is amended by adding at the end the following:

“(4) APPOVAL.—

(A) IN GENERAL.—After notice and opportunity for hearing, if the Commission determines that the proposed transaction will serve the public interest, the Commission shall approve the proposed 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) enhances competition in wholesale electricity markets; and

(ii) will not have an adverse impact on competition in retail electricity markets, enhance competition in retail electricity markets; and

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

(iv) will result in a competitive 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) RULERS AND PROCEDURES TO ENSURE COMPETITION WHOLESALE MARKETS.—

“(1) IN GENERAL.—Not later than 270 days after the date of enactment of this subsection, the Commission shall adopt such rules and procedures as the Commission determines are necessary to define and determine the conditions necessary—

(A) to maintain competitive wholesale markets;

(B) to effectively monitor market conditions and trends;

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

(D) to protect the public interests; and

(E) to ensure the maintenance of just and reasonable wholesale rates.

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

(A) ensure that 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 PROVISION.—Section 203 of this Act (relating to market-based rates) shall be of no effect.

“(5) TO ENSURE COMPETITIVE WHOLESALE MARKETS.

“(b) REMEDIAL MEASURES FOR MARKET POWER.

“(1) 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.

“(2) 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 exercises 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—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the “Public Utility Holding Company Act of 2002.”

SEC. 222. DEFINITIONS.

In this subtitle:

(1) AFFILIATE.—The term ‘affiliate’ of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term ‘associate company’ of a company means any company in the same holding company system with such company.

(3) COMMISSION. The term ‘Commission’ means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term ‘company’ means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term ‘electric utility company’ means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EMPLOYEE PROTECTIVE ARRANGEMENT.—The term ‘employee protective arrangement’ means a provision that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions relative to employment;

(D) assurances of employment to employees of acquired companies; or

(E) 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 section 209(a)(2) and (3), respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79q-5a, 79q-5b), as sections existed on the day before the effective date of this subtitle.

(8) GAS UTILITY COMPANY.—The term ‘gas utility company’ means any company that owns or operates facilities used for distribution of natural gas exclusively 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.

(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 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) 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 electric energy 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 person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

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

(14) PUBLIC UTILITY.—The term “public utility” means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sale of electric energy at wholesale in interstate commerce.

(15) PUBLIC UTILITY COMPANY.—The term “public utility company” means an electric utility company, a gas utility company, or a company or affiliate thereof.

(16) STATE.—The term “State” means any political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(17) SUBSIDIARY COMPANY.—The term “subsidiary company” of a holding company means:
(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and
(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon a public utility or subsidiary companies of holding companies.

(18) VOTING SECURITY.—The term “voting security” means any security presently entitling the person entitled thereto 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. ACCOUNTING FOR LIABILITIES.

(a) IN GENERAL.—Each holding company and each affiliate or associate company thereof shall produce for examination such books, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will facilitate 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 subject to confidential use only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) AUDITING.—The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(f) PREEMPTION.—Nothing in this section shall preempt any State law obligating a holding company or any 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 transfer of assets, goods, or services (other than the sale of electricity or gas) or into any financial transaction (including any 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 transparent and fully disclosed by the public utility company in a financial statement or other report that is made 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) financial transaction (including the issuance, purchase, sale of securities, loans, or guarantees of indebtedness or value) that does not appear in the financial statements or reports maintained by that holding company or affiliate for accounting purposes, unless the transaction is clearly and fully disclosed by that holding company or affiliate in a financial statement or other report that is made available to the public.

SEC. 226. ACCESS TO BOOKS AND RECORDS.

(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 findings under subparagraph (A) with respect to a proposed transaction, the Commission shall, at a minimum, find that the proposed transaction will—
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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. 713, 715). Each exempt wholesale generator and foreign utility company that on the day before the effective date of this subtitle.
(7) GAS UTILITY COMPANY.—The term ‘‘gas utility company’’ means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.
(8) HOLDING COMPANY.—The term ‘‘holding company’’ means—
(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company.
(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise voting power with respect to any rate, charge, or service that is subject to the jurisdiction of the Commission.
(9) HOLDING COMPANY SYSTEM.—The term ‘‘holding company system’’ means a holding company, together with its subsidiary companies.
(10) JURISDICATIONAL RATES.—The term ‘‘jurisdictional rates’’ means rates established by the Commission.
(11) NATURAL GAS COMPANY.—The term ‘‘natural gas company’’ means a natural gas company.

SEC. 221. SHORT TITLE.
This subtitle may be cited as the ‘‘Public Utility Holding Company Act of 2002’’.

SEC. 222. DEFINITIONS.
In this subtitle:
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(2) ASSOCIATE COMPANY.—The term ‘‘associate company’’ of a company means any company in the same holding company system with such company.
(3) COMMISSION.—The term ‘‘Commission’’ means the Federal Energy Regulatory Commission.
(4) COMPANY.—The term ‘‘company’’ means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.
(5) ELECTRIC UTILITY COMPANY.—The term ‘‘electric utility company’’ means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.
(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms ‘‘exempt wholesale generator’’ and ‘‘foreign utility company’’ have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 713, 715). Each exempt wholesale generator and foreign utility company that on the day before the effective date of this subtitle.
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(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. 713, 715). Each exempt wholesale generator and foreign utility company that on the day before the effective date of this subtitle.
(7) GAS UTILITY COMPANY.—The term ‘‘gas utility company’’ means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.
(8) HOLDING COMPANY.—The term ‘‘holding company’’ means—
(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company.
(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise voting power with respect to any rate, charge, or service that is subject to the jurisdiction of the Commission.
(9) HOLDING COMPANY SYSTEM.—The term ‘‘holding company system’’ means a holding company, together with its subsidiary companies.
(10) JURISDICATIONAL RATES.—The term ‘‘jurisdictional rates’’ means rates established by the Commission.
(11) NATURAL GAS COMPANY.—The term ‘‘natural gas company’’ means a natural gas company.
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 electricity or natural gas consumers.

**SA 3235. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW and Mr. JEFFORDS) offered the amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 28 strike line 17 and all that follows through page 33, line 17, and insert the following:

SEC. 22 . ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 798a(a)) 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. 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 is owned, directly or indirectly, 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) COMPANY.—The term "Commission" means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term "company" means a corporation, partnership, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidator or assignee of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term "electric utility company" means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR and FOREIGN UTILITY COMPANY.—The terms "exempt wholesale generator" and "foreign utility company" have the same meaning as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5a, 79z-5b), as those sections existed on the day before the effective date of this subtitle.
Beginning on page 28 strike line 17 and all that follows through page 33, line 17, and insert the following:

**SEC. 222. DEFINITIONS.**

In this subtitle:

(1) AFFILIATE.—The term “affiliate” of a company means any company that owns or operates facilities used for distribution at retail (other than the distribution only of natural gas containers or containers 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.

(2) HOLDING COMPANY.—The term “holding company” means—

(A) any person that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to have a substantial or 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 may cause to be charged, that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term “holding company system” means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term “jurisdictional rates” means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale.

(15) STATE COMMISSION.—The term “State commission” means—

(A) any 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, is vested with such authority;

(B) an association of such boards, agencies, or officers that, under the laws of such State, is vested with such authority;

(C) an association of such boards, agencies, or officers of a State that, under the laws of such State, is vested with such authority.

SA 3236. Mr. DAYTON (for himself, Mr. WELLSTONE, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFFORDS) 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 commercialization over fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

SEC. 221. SHORT TITLE.

This subtitle may be cited as the “Public Utility Holding Company Act of 2002”.

SEC. 2. ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 792(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 shall—

(i) if the Commission finds that the proposed transaction is consistent with the public interest, the Commission shall approve the transaction;

(ii) to the extent 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 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 utilizes effective regulatory oversight.

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SEC. 2. WHOLESALE MARKETS AND MARKET COMPETITIVENESS.

(a) RULES AND PROCEDURES TO ENSURE COMPETITIVE WHOLESALE MARKETS.—

(1) IN GENERAL.—Section 205 of the Federal Power Act (16 U.S.C. 792?) is amended by adding at the end the following:

(9) PROHIBITION ON STATE INTERVENTION.—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.

(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 of natural gas containers or containers 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.

(8) HOLDING COMPANY.—The term “holding company” means—

(A) any person that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to have a substantial or 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 may cause to be charged, that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term “holding company system” means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term “jurisdictional rates” means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale.

(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 a person who owns, controls, 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) PREEMPTIVE COVERAGE.—The term “preemptive coverage” means—

(A) any 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, is vested with such authority;

(B) an association of such boards, agencies, or officers that, under the laws of such State, is vested with such authority;

(C) an association of such boards, agencies, or officers of a State that, under the laws of such State, is vested with such authority.

(2) INEFFECTIVENESS OF OTHER PROVISION.—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) Utility or public utility.—The term “public utility” means any person who owns or operates facilities used for the transmission of electric energy in interstate commerce or the sale of electric energy at wholesale in interstate commerce.

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

(15) STATE COMMISSION.—The term “State commission” means any commission, board, agency, office, 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 controlled or influenced by the management of the holding company, individually or in combination with other holding companies, so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by the subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term “voting security” means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

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


SEC. 224. ACCESS TO BOOKS AND RECORDS.

(a) In general.—Each holding company and each affiliate or associate company thereof shall maintain, and shall produce for the Commission, upon request, any and all books, records, accounts, memorandum, and other data that the Commission may reasonably require in order to satisfy itself that it is in full compliance with any of the provisions of this Act.

(b) Repeal.—Section 203 of the Federal Power Act (16 U.S.C. 824d) is amended by striking paragraph (4) and inserting in its place the following:

"(4) PROTECTION AGAINST ANTIMONOPOLY ACT VIOLATIONS.—"(A) In general.—If after a complaint under section 807(a) of this Act (relating to market-based rates) is commenced, the Commission determines that the proposed transaction will serve the public interest, the Commission shall authorize the transaction.

(B) Adoption of remedies.—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 consider the effect of the proposed transaction on retail electricity markets, enhance competition in retail electricity markets;

(2) provide for the effective implementation of an approved market design that facilitates effective regulatory oversight.

(2) SWAPPED COMBINATIONS.—The term "swapped combinations" means the use of financial instruments that facilitate market power.

SEC. 225. UTILITIES AND MARKETS.

PUBLIC Utility Company.—The term "public utility 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.

ASSOCIATE COMPANY.—The term "associate company" of a company means any company, together with its subsidiary companies, of which the holding company has power to vote, 10 percent or more of the outstanding voting securities.

AFFILIATE.—The term "affiliates" refers to any 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 the subtitle upon subsidiary companies of holding companies.

UTILITY HOLDING COMPANY Act of 1935.—The term "utility company" means any company that owns or operates facilities used for the transmission, generation, transmission, or distribution of electric energy for sale.

SEC. 226. UTILITIES AND MARKETS.

This subtitle may be cited as the "Public Utility Holding Company Act of 2002".

SEC. 227. 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, together with its subsidiary companies, of which the holding company has power to vote, directly or indirectly, by such company.

(3) STATE COMMISSION.—The term "State commission" means any commission, board, agency, office, 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.

(4) PUBLIC UTILITY COMPANY.—The term "public utility 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.

(5) HOLDING COMPANY SYSTEM.—The term "holding company system" means a company that owns or operates facilities used for the transmission, generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms "exempt wholesale generator" and "foreign utility company" have the same meanings as in sections 2 and 3, respectively, of the Public Utility Holding Company Act of 1935 (16 U.S.C. 79b-5a, 79b-6b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term "gas utility company" means any company that owns or operates facilities used for distribution at retail (other than the distribution of natural or manufactured gas for heat, light, or power) 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 controls, or has 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, that is subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) PURCHASE.—The term "purchase" means the acquisition of stock, securities, or any other asset or assets of another company or of any other person.

SEC. 228. REMEDIES.

For the purposes of this subtitle, any person described in section 227(1) or (2) who is subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(1) DEPARTMENT OF ENERGY.—The term "Department of Energy" means the Department of Energy of the United States, as constituted by the Energy Reorganization Act of 1970 (84 Stat. 2619).

SEC. 229. APPLICABILITY.

The provisions of this subtitle apply to any person who owns or operates facilities used for the transmission, generation, transmission, or distribution of electric energy for sale.
shall be borne by the holding company and the associate or affiliate company thereof.

(d) **CONFIDENTIALITY.**—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(4) **AUDITING.—** The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(5) **PREEMPTION.—** Nothing in this section shall preempt any State law obligating a holding company or any associate or affiliate thereof to produce books and records.

**SA 3238. Mr. DAYTON (for himself, Mr. WELLS, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment to insert the following:**

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SEC. 222. DEFINITIONS.

(1) **AFFILIATE.—** The term "affiliate" means any company, 5 percent or more of whose outstanding voting securities are owned, controlled, or held with power to vote, by a holding company and (A) any person, the management or policies of which are directed or controlled by the holding company, 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.

(2) **DISTRICT COURT.**—The term "district court" means any district court of the 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 district court has jurisdiction.

(3) **SEMENT.**—The term "sient" means any security presently entitling 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) **GENERAL.**—Each holding company and each associate company thereof shall produce for examination any personnel, books, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will assist the Commission in carrying out its responsibilities.

(b) **COURT JURISDICTION.**—Any United States district court located within the State in which the State commission is seeking to examine personnel or materials described in subsection (a), or within the District of Columbia or within any State in which the district court has jurisdiction, shall have the jurisdiction to enforce compliance with this section.

(c) **COST RECOVERY.**—The cost of any audit of a holding company or any affiliate or associate company ordered by the Commission or a State commission under this section shall be borne by the holding company and the associate or affiliate company thereof.

(d) **CONFIDENTIALITY.**—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) **AUDITING.—** The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(f) **PREEMPTION.—** Nothing in this section shall preempt any State law obligating a holding company or any associate or affiliate thereof to produce books and records.

**SA 3238. Mr. DAYTON (for himself, Mr. WELLS, Mr. FEINGOLD, Ms. CANTWELL, Mrs. BOXER, Mr. WYDEN, Mrs. MURRAY, Ms. STABENOW, and Mr. JEFFORDS) submitted an amendment to insert the following:**

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(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 under section 206, 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 consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets; and

(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 . ELECTRIC UTILITY MERGER PROVISIONS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824a) 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 under section 206, 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 consider the effect of the proposed transaction on competition in retail electricity markets, enhance competition in retail electricity markets; and

(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) **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 Act, and each associate or affiliate company ordered by the Commission or a State commission under this section shall—

(A) to maintain competitive wholesale markets;

(B) to effectively monitor market conditions and trends;

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

(D) to protect the public interest; and

(E) to ensure the maintenance of just and reasonable wholesale rates.

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

(A) ensure that any grant of authority by the Commission to a public utility to charge market-based rates for any sale of electric energy subject to the jurisdiction of the Commission is consistent with the rules and procedures adopted by the Commission under paragraph (1); and

(B) establish and improve remedies applicable to a public utility that—

(i) violates a rule or procedure adopted under paragraph (1); or

(ii) by any other means uses a grant of authority to exercise market power or manipulate the market.

(3) **NO LIMITATION ON FEDERAL ANTITRUST REMEDIES.**—The filing with the Commission of a request for authorization to charge market-based rates, and the acceptance or approval by the Commission of such a request, shall not affect the availability of any remedy under Federal antitrust law with respect to any rate, charge, or service that is subject to the authorization.

(B) **DEFERRAL OF OTHER PROVISION.**—Section 233 of this Act (relating to market-based rates) shall be of no effect.

(4) **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 a public utility to maintain energy prices above competitive levels.

(b) **COMMISSION JURISDICTION.**—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 take such actions as are necessary to mitigate and remedy the adverse competitive effects of the market power exercised.

Subtitle B—Amendments to the Public Utility Holding Company Act

SEC. 221. SHORT TITLE. This subtitle may be cited as the "Public Utility Holding Company Act of 2002."

SEC. 222. DEFINITIONS. In this subtitle:

(1) **AFFILIATE.**—The term "affiliate" of a company means any company, 5 percent or more of whose 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 unincorporated, who carry on an activity not as a deceased and 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 section 236, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

7. Gas utility company.—The term “gas utility company” means any company that owns or operates facilities used for distribution in interstate commerce of natural gas for resale of electric energy at wholesale in interstate commerce.

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, that owns, controls, or holds, with power to vote, by such holding company, together with its subsidiary companies, 10 percent or more of the outstanding voting securities of an exempt wholesale generator and, in addition, 10 percent or more of the total value of all classes of securities of any affiliated utility owned or controlled by such holding 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 for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

11. Natural gas company.—The term “natural gas company” means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

12. Person.—The term “person” means an individual or company.

13. Public utility.—The term “public utility” means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sale of electric energy at wholesale in interstate commerce.

14. Public utility company.—The term “public utility company” means an electric utility company or a gas utility company.

15. State.—The term “State” means any commission, board, agency, or officer, by whatever name designated, of any State or political subdivision 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 has determined that the transaction will not be detrimental to the public interest or the interests of electric energy and electric utility consumers or competition; or

(2) if, in the opinion of the Commission, the transaction is in the public interest, the Commission shall promulgate such rules as it deems 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.

(17) Voting security.—The term “voting security” means any security presently entitled to vote in the direction or management of the affairs of a company.

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


SEC. 224. ACCESS TO BOOKS AND RECORDS.

(a) In General.—Each holding company and each affiliate or associate company thereof shall produce for examination such personnel, books, accounts, memoranda, records, and any other materials upon an order of the Commission or any State commission finding that the production of such materials will assist the Commission or the State commission in carrying out its responsibilities.

(b) Court Jurisdiction.—Any United States district court located within the State in which the public utility is headquartered, or the State commission is seeking to examine personnel or materials described in subsection (a), or within the District of Columbia or within any state in which the public utility is headquartered, shall have the jurisdiction to enforce compliance with this section.

(c) Cost Recovery.—The cost of any audit of a holding company or any affiliate or associate company ordered by the Commission or a State commission under this section shall be borne by holding company and the association or affiliate thereof.

(d) Confidentiality.—Information provided to the Commission or State commission shall be treated as confidential only if the holding company or affiliate or associate company thereof demonstrates to the court that such information should not be made public.

(e) Auditing.—The Commission, in consultation with appropriate State commissions, shall conduct an audit every 3 years of the books and records of each holding company and each affiliate or associate company thereof.

(f) Preemption.—Nothing in this section shall preempt any State law obligating a holding company or affiliate or associate company thereof to produce books and records.

SEC. 225. TRANSACTION TRANSPARENCY.

(a) Promotional Activities.—No holding company or affiliate thereof shall enter into any—

(1) transaction for the purchase, sale, lease, or other disposition, directly or indirectly, of any financial transaction (including the sale of electric energy to enhance its mission areas) in which the public utility is headquartered, or the provision of goods or services to a public utility company; or

(2) loan to, or guarantee of, the indebtedness of another public utility company for the purchase, sale, lease, or other disposition of goods or services for the public utility, or the provision of goods or services for the public utility.

(b) Transactions with Affiliates.—Any financial transaction between a public utility company and any affiliate of, such public utility company; or the provision of goods or services for the public utility company for the purchase, sale, lease, or other disposition of goods or services for the public utility company; or the provision of goods or services to a public utility company; or the provision of goods or services for the public utility; or the provision of goods or services for the public utility.

(c) Limitation on Authority.—Nothing in this section or the regulations promulgated under this section shall restrict the authority of any State to prevent holding company diversification from adversely affecting electric or natural gas consumers.

SA 3239. Mr. BROWNBACK (for himself, Mr. CORZINE, Mr. LIEBERMAN, Mr. MCCAIN, Mr. JEFFORDS, Mr. CHAFEE, Mr. NELSON of Nebraska, and Mr. ROMNEY) 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’s National Greenhouse Gas Database (NGCD) and the National Greenhouse Gas Inventory Program (NGIP), to be used as a clearinghouse for greenhouse gas emissions inventories and other data, including all relevant information of and for greenhouse gas inventories.

TITLED III—NATIONAL GREENHOUSE GAS DATABASE

SEC. 1101. PURPOSE.

The purpose of this title is to establish a greenhouse gas inventory, reductions registry, and information system that—

(1) are complete, consistent, transparent, and accurate;
(2) will create reliable and accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and

(3) will reduce regulatory and financial burdens and encourage 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 or facility, as adjusted upward by the designated agency to reflect actual reductions that are verified in accordance with—

(1) regulations promulgated under section 1104(c)(1); 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.

(d) DESIGNATED AGENCY.—The term "designated agency" means a department or agency to which responsibility for a function or program is assigned under the memorandum of agreement entered into under section 1103(a).

(e) DIRECT EMISSIONS.—The term "direct emissions" means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.

(f) ENTITY.—The term "entity" means—

(A) a person located in the United States; or

(B) a public or private entity, to the extent that the entity operates in the United States.

(g) FACILITY.—The term "facility" means—

(A) all buildings, structures, or installations located on any 1 or more contiguous or adjacent properties of an entity; and

(B) a fleet of 20 or more motor vehicles under the common control of an entity.

(h) GREENHOUSE GAS.—The term "greenhouse gas" means—

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons;

(F) sulfur hexafluoride; and

(G) any other anthropogenic climate-forcing emissions with significant ascertainable global warming potential, as—

(i) determined by the National Academy of Sciences under section 1107(b)(3); and

(ii) determined in regulations promulgated under section 1104(c)(1) or revisions to the regulations to be, appropriate and practicable for coverage under this title.

(i) INDIRECT EMISSIONS.—The term "indirect emissions" means greenhouse gas emissions that—

(A) are a result of the activities of an entity; but

(B)(i) are emitted from a facility owned or controlled by an entity; and

(ii) are not reported as direct emissions by the entity the activities of which resulted in the emissions.

(j) MANAGEMENT.—The term "management" means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

(k) MEASUREMENT.—The term "measurement" means the capture, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

(l) MILESTONE.—The term "milestone" means greenhouse gas emission reductions established as a component of the national inventory for compliance with the United Nations Framework Convention on Climate Change, done on May 9, 1992, as amended by the Kyoto Protocol to the United Nations Framework Convention on Climate Change, done on December 11, 1997.

(m) NATIONAL GREENHOUSE GAS DATABASE.—The term "National Greenhouse Gas Database" means the database established under section 1104.

(n) NATIONAL GREENHOUSE GAS DATABASE COMPONENTS.—The term "National Greenhouse Gas Database Components" means greenhouse gas emission reductions specified in subparagraphs (A)(i) and (ii) of paragraph (7).

(o) NATIONAL GREENHOUSE GAS DATABASE COMPONENTS.—The term "National Greenhouse Gas Database Components" means the greenhouse gas emission reductions included in subparagraphs (A)(i) and (ii) of paragraph (7).

(p) NATIONAL NEXUS.—The term "National Nexus" means the National Greenhouse Gas Data Base under section 1105(a).

(q) RELIABLE.—The term "reliable" means greenhouse gas emissions that—

(i) are established as of the date of enactment of this Act, and that are verified and adjusted upward by the designated agency to reflect actual reductions that are verified in accordance with—

(A) regulations promulgated under section 1104(c)(1); and

(B) relevant standards and methods developed under this title.

(r) REGISTRY.—The term "registry" means the National Greenhouse Gas Data Base under section 1105(a).

(s) RESPONSIBILITY.—The term "responsibility" means an obligation of an entity to be, appropriate and practicable for coverage under this title.

(t) SEQUESTRATION.—The term "sequestration" means greenhouse gas emission reductions established as a component of the national inventory for compliance with the United Nations Framework Convention on Climate Change, done on May 9, 1992, as amended by the Kyoto Protocol to the United Nations Framework Convention on Climate Change, done on December 11, 1997.

(u) SOIL.—The term "soil" means agricultural land including pastures, cropland, and rangeland.

(v) SOURCE.—The term "source" means—

(A) a person located in the United States; or

(B) a public or private entity, to the extent that the entity operates in the United States.

(w) VOLUME.—The term "volume" means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.

SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall enter into a memorandum of agreement with the heads of Federal agencies, in consultation with the designated agency, to establish a comprehensive system for greenhouse gas emission reductions and atmospheric concentration of greenhouse gases; and

(b) NO JUDICIAL REVIEW.—The final version of the memorandum of agreement shall not be subject to judicial review.

SEC. 1104. NATIONAL GREENHOUSE GAS DATA BASE

(a) ESTABLISHMENT.—As soon as practicable after the date of enactment of this Act, the designated agencies, in consultation with the private sector and nongovernmental organizations, shall jointly establish, operate, and maintain a database, to be known as the "National Greenhouse Gas Database", to collect, verify, and aggregate information on greenhouse gas emissions by entities.

(b) NATIONAL GREENHOUSE GAS DATABASE COMPONENTS.—The database shall consist of—

(1) an inventory of greenhouse gas emissions; and

(2) a registry of greenhouse gas emission reductions.

(c) COMPREHENSIVE SYSTEM.—

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the designated agencies shall jointly promulgate regulations to implement a comprehensive system for greenhouse gas emissions reporting, inventorying, and reductions registration.

(b) REQUIREMENTS.—The designated agencies shall ensure, to the maximum extent practicable, that—

(i) the comprehensive system described in paragraph (1) is designed to—

(A) maximize completeness, transparency, and accuracy of information reported; and

(B) minimize the costs incurred by entities in measuring and reporting greenhouse gas emissions; and

(ii) the regulations promulgated under paragraph (1) establish procedures and protocols necessary—

(A) to prevent the reporting of some or all of the same greenhouse gas emissions or emission reductions by more than 1 reporting entity; and

(B) to provide for corrections to errors in data submitted to the database;

(iii) to provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;

(iv) to provide for adjustments to reflect new technologies or methods for measuring and calculating greenhouse gas emissions; and

(v) to account for changes in registration of ownership of emission reductions resulting from a voluntary private transaction between reporting entities.

SEC. 1105. GREENHOUSE GAS REDUCTION REPORTING

(a) IN GENERAL.—An entity that participates in the registry shall—

(i) provide to the database over time;

(ii) provide for corrections to errors in data submitted to the database;

(iii) to provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;

(iv) to provide for adjustments to reflect new technologies or methods for measuring and 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

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(i) provide to the database over time;

(ii) provide for corrections to errors in data submitted to the database;

(iii) to provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;

(iv) to provide for adjustments to reflect new technologies or methods for measuring and calculating greenhouse gas emissions; and

(v) to account for changes in registration of ownership of emission reductions resulting from a voluntary private transaction between reporting entities.

SEC. 1105. GREENHOUSE GAS REDUCTION REPORTING

(a) IN GENERAL.—An entity that participates in the registry shall—

(i) provide to the database over time;

(ii) provide for corrections to errors in data submitted to the database;

(iii) to provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;

(iv) to provide for adjustments to reflect new technologies or methods for measuring and 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.
(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 designated agencies determine in the regulations promulgated under section 1104(c)(1) may be practicable and useful for the purposes of this title, such as—
(i) direct emissions from stationary sources;
(ii) indirect emissions from imported electricity, heat, and steam;
(iii) noncombustion 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 if the purposes of achieving and commoditizing greenhouse gas reductions through use of the registry; and
(B) submit to any designated agency, for inclusion in the registry, information that has been verified in accordance with regulations promulgated under section 1104(c)(1) and that relates to—
(i) all greenhouse gases emitted, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;
(ii) any project or activity for the reduction of greenhouse gas emissions from any other entity, including a project or activity relating to—
(I) fuel switching;
(II) energy efficiency improvements;
(III) use of combined heat and power systems;
(IV) management of cropland, grassland, or grazing land;
(V) a forestry activity that increases forest carbon stocks or reduces forest carbon emissions;
(VI) carbon capture and storage;
(VII) methane recovery;
(VIII) greenhouse gas reduction programs; and
(X) any other practice for achieving greenhouse gas reductions as recognized by 1 or more designated agencies.
(3) EXAMINATION AND REPORTING.—
(A) IN GENERAL.—If the Director of the Office of National Climate Change Policy determines under section 1108(b) that the reporting requirements under paragraph (1) shall apply to all entities (other than entities exempted by this paragraph), regardless of participation or nonparticipation in the registry, an entity that fails to submit reports under paragraph (1) only if, in any calendar year after the date of enactment of this Act, the total greenhouse gas emissions of at least 1 facility owned by an entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation).
(B) IN GENERAL.—If the Director of the Office of National Climate Change Policy determines under section 1108(b) that the reporting requirements under paragraph (1) shall apply to all entities (other than entities exempted by this paragraph), regardless of participation or nonparticipation in the registry, an entity that fails to submit reports under paragraph (1) only if, in any calendar year after the date of enactment of this Act, the total greenhouse gas emissions of at least 1 facility owned by an entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation).
(4) PROVIDING VERIFICATION INFORMATION BY REPORTING ENTITIES.—Each entity that submits a report under this section shall be required to re-report that data for the purposes of this title.
(5) REVIEW OF PARTICIPATION.—For the purpose of section 1108, a entity that, as of the date of enactment of this Act, already is required to report carbon dioxide emissions data to a Federal agency shall be required to submit reports under paragraph (1) only if, in any calendar year after the date of enactment of this Act, the total greenhouse gas emissions of at least 1 facility owned by an entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation).
(6) INDEPENDENT THIRD-PARTY VERIFICATION.—To meet the requirements of this section and section 1106, a entity that is required to submit a report under this section may—
(A) obtain independent third-party verification; and
(B) present the results of the third-party verification to each appropriate designated agency.
(7) AVAILABILITY OF DATA.—
(A) IN GENERAL.—The designated agencies shall ensure, to the maximum extent practicable, that information in the database is—
(i) published;
(ii) accessible to the public; and
(iii) made available in electronic format on the Internet.
(B) EXCEPTION.—Subparagraph (A) shall not apply in any case in which the designated agencies determine that publishing such information makes it impractical. Any information described in that subparagraph poses a risk to national security.
(8) DATA INFRASTRUCTURE.—The designated agencies shall ensure, to the maximum extent practicable, that the database, and is integrated with, Federal, State, and regional greenhouse gas data collection and reporting systems in effect as of the date of enactment of this Act.
(9) ADDITIONAL ISSUES TO BE CONSIDERED.—In promulgating the regulations under section 1104(c)(1) and in establishing 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 reductions, (B) the data and information systems and measures necessary to identify, track, and verify greenhouse gas emission reductions in a manner that will encourage the development of private sector trading and exchanges;
(C) the greenhouse gas reduction and sequestration methods and standards applied in other countries, as applicable or relevant;
(D) the extent to which available fossil fuels, greenhouse gas emissions, and greenhouse gas production and importation data are adequate to implement the database;
(E) the differences in, and potential uniqueness of, the facilities, operations, and business and other relevant practices of persons in the private and public sectors that may be expected to participate in the registry; and
(F) the need of the registry to maintain a reliable information baseline of entities so that, in the event of any future action by Congress to require entities, individually or collectively, to reduce greenhouse gas emissions, Congress will be able—
(i) to take into account that information; and
(ii) to avoid enacting legislation that penalizes entities for achieving and reporting reductions;
(d) ANNUAL REPORT.—The designated agencies shall jointly publish an annual report that—
(1) describes the total greenhouse gas emissions and emission reductions reported to the database during the year covered by the report;
(2) provides entity-by-entity and sector-by-sector analyses of the emissions and emission reductions reported;
(3) describes the atmospheric concentrations of greenhouse gases; and
(4) provides a comparison of current and past atmospheric concentrations of greenhouse gases.
(e) CONFIDENTIALITY OF REPORTS.—Any privileged and confidential trade secret and commercial or financial information that is submitted under this section shall be protected in accordance with section 552(b)(4) of
title 5, United States Code, except that the information shall be made available to the public if the designated agencies jointly determine that disclosure of the information is necessary for a determination of the validity of emission reductions that have been—
(1) recorded in the registry; and
(2) transferred or traded based on value created and assigned in the registry.

SEC. 1106. MEASUREMENT AND VERIFICATION.

(a) Standards.—
(1) In general.—Not later than 1 year after the date of enactment of this Act, the designated agencies shall jointly develop comprehensive measurement and verification methods and standards to ensure a consistent and technically accurate record of greenhouse gas emissions, emissions reductions, sequestration, and atmospheric concentrations for use in the registry.

(b) Requirements.—The methods and standards developed under paragraph (1) shall address the need for—
(A) standardized measurement and verification practices for reports made by all entities participating in the registry, taking into account—
(i) protocols and standards in use by entities desiring to participate in the registry as of the date of enactment of the methods and standards under paragraph (1);
(ii) boundary issues, such as leakage and shifting; and
(iii) avoidance of double counting of greenhouse gas emissions and emission reductions;
(B) measurement and verification of actions taken to reduce, avoid, or sequester greenhouse gas emissions;
(C) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon capture technologies, including—
(i) organic soil carbon sequestration practices; and
(ii) forest preservation and reforestation activities that adequately address the issues of permanence, leakage, and verification; and
(D) such other measurement and verification standards as the Secretary of Commerce, the Administrator, and the Secretary of Energy determine to be appropriate; and
(E) other factors that, as determined by the designated agencies, will allow entities to adequately establish a fair and reliable measurement and reporting system.

(b) Review and Revision.—The designated agencies shall periodically review, and revise as necessary, the methods and standards developed under subsection (a).

(c) Public Participation.—The Secretary of Commerce shall 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 such other methods and standards as the designated agencies deem necessary or required pursuant to this section.

(d) Experts and Consultants.—
(1) In general.—The designated agencies may obtain the services of experts and consultants in the private and nonprofit sectors in accordance with section 3109 of title 5, United States Code, in the areas of greenhouse gas measurement, certification, and emission trading.

(e) Administrative 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 section 1308.

(b) Review of Scientific Methods.—The designated agencies shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall—
(1) review the scientific methods, assumptions, and standards used by the designated agencies in implementing this title;
(2) not later than 4 years after the date of enactment of this Act, submit to Congress a report that describes any recommendations for improving—
(A) those methods and standards; and
(B) related elements of the programs, and structure of the database, established by this title; and
(3) regularly review and update as appropriate the list of anthropogenic climate-forcing emissions with significant global warming potential described in section 1102(b)(2).

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 1106(c) with respect to a particular fiscal year are material to the determination of the national aggregate anthropogenic greenhouse gas emissions.

(b) Increased Applicability of Requirements.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of the aggregate national anthropogenic greenhouse gas emissions are being reported to the registry—
(1) the reporting requirements under section 1105(c)(1) shall apply to all entities (except any nonparticipating entities described in section 1105(c)(3)), regardless of any participation or nonparticipation by the entities in the registry; and
(2) each entity shall submit a report described in section 1105(c)(1)—
(A) not later than the earlier of—
(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or
(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and
(B) annually thereafter.

(c) Resolution of Disapproval.—For the purposes of this section, the determination of the Director of the Office of National Climate Change Policy under subsection (a) shall be considered to be a major rule as defined in section 804(2) of title 5, United States Code (subject to the congressional discharge process described in section 802 of title 5, United States Code).

SEC. 1109. ENFORCEMENT.

(a) If an entity that is required to report greenhouse gas emissions under section 1105(c)(1) or 1108 fails to comply with that requirement, the Attorney General may, at the request of the designated agencies, bring a civil action in United States district court against the entity to impose on the entity a civil penalty of not more than $25,000 for each day for which the entity fails to comply with that requirement.

SEC. 1110. REPORT ON STATUTORY CHANGES AND HARMONIZATION.

(a) In general.—Not later than 3 years after the date of enactment of this Act, the President shall submit to Congress a report that describes any modifications to this title or any other provision of law that are required 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.

SA 3240. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to work with universities, the National Academy of Sciences under which the National Academy of Sciences shall—
(1) review the scientific methods, assumptions, and standards used by the designated agencies in implementing this title;
(2) not later than 4 years after the date of enactment of this Act, submit to Congress a report that describes any recommendations for improving—
(A) those methods and standards; and
(B) related elements of the programs, and structure of the database, established by this title; and
(3) regularly review and update as appropriate the list of anthropogenic climate-forcing emissions with significant global warming potential described in section 1102(b)(2).

SEC. 301. ALTERNATIVE MANDATORY CONDITIONS.

(a) Review of Alternative Mandatory Conditions.—The Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce and the Secretary of Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources under which the National Academy of Sciences shall—
(1) review the scientific methods, assumptions, and standards used by the designated agencies in implementing this title;
(2) not later than 4 years after the date of enactment of this Act, submit to Congress a report that describes any recommendations for improving—
(A) those methods and standards; and
(B) related elements of the programs, and structure of the database, established by this title; and
(3) regularly review and update as appropriate the list of anthropogenic climate-forcing emissions with significant global warming potential described in section 1102(b)(2).

Strike Title III and insert the following:

SEC. 302. STUDY ON NUCLEAR ELECTRIC RELICENSING PROCEDURES.

(a) Review of Licensing Process.—The Federal Energy Regulatory Commission, the Secretary of Commerce, and the Secretary of Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources 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;
tribes, shall undertake a review of the process for issuance of a license under section Part I of the Federal Power Act in order to: (1) improve coordination of their respective responsibilities; (2) coordinate the schedule for all major actions by the applicant, the Commission, affected Federal and State agencies, Indian Tribes, and other affected parties; (3) set milestones at every stage of the process of the scope and type of reasonable and necessary information, studies, data, and analysis to be provided by the license applicant; (4) facilitate coordination between the Commission and the resource agencies of analysis under the National Environmental Policy Act; and (5) provide for streamlined procedures.

(b) Report.—Within twelve months after the date of enactment of this Act, the Federal Energy Regulatory Commission and the Secretaries of the Interior, Commerce, and Agriculture, shall jointly submit a report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives addressing the issues specified in subsection (a) of this section and reviewing the responsibilities and procedures of each agency involved in the process. The report shall contain any legislative or administrative recommendations to improve coordination and streamline 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 568, strike line 6 and all that follows through page 570, line 7 and insert the following:

SEC. 1701. REGULATORY REVIEWS.

(a) Regulatory Reviews.—Not later than one year after the date of enactment of this section, each Federal agency shall review relevant regulations and standards to identify:

(1) existing regulations and standards that act as barriers to market entry for emerging energy technologies (including fuel cells, combined heat and power, distributed power generation, small-scale renewable energy, combined heat and power, small-scale renewable energy, geothermal heat pump technology, and energy recovery in industrial processes), and

(2) actions the agency is taking or could take to—

(A) remove barriers to market entry for emerging energy technologies.

(B) increase energy efficiency and conservation, or

(C) encourage the use of new and existing processes to meet energy and environmental goals.

(b) Report to Congress.—Not later than 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 167, line 2, strike “commodities and”.

On page 188, 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 199, line 1.

On page 209, line 3, strike “importer, or distributor” and insert “or importer”.

On page 265, line 5, strike “(2) Effective Date.—” and insert “(2) EXCEPTIONS.—This subsection shall not apply to others.”

(3) EFFECTIVE DATE.—This section” and insert “(2) EFFECTIVE DATE.—” and insert “(2) EXCEPTIONS.—This subsection shall not apply to others.”

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

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

SA 3243. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

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

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 5, lines 8 through 9, strike “on” and insert “ENERGY”.

On page 5, lines 13-14 strike “standard described in” and insert “low emissions vehicle standards established under authority of”.

On page 6, line 5, strike “electrical” and insert “energy”.

SA 3245. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 101, strike line 24 and all that follows through page 102, line 2 and insert the following:

“(6) TRIBAL LANDS.—The term ‘tribal lands’ means any tribal trust lands, or other lands owned by an Indian tribe that are within such tribe’s reservation.”.

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:

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:

At the end of title VI the following:

SEC. 611. 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 from enactment of this Act, the Secretary shall report to Congress on her plan to resolve these conflicts.

SA 3249. Mr. BINGAMAN (for Mr. BAUCUS) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 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. 8267(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 referred to in subparagraph (a), the Secretary may include savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract or energy savings performance contract and related to 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.—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) 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:

<table>
<thead>
<tr>
<th>Maximum Available Power Is</th>
<th>At Least 2.5 Percent But Less Than 5 Percent</th>
<th>At Least 5 Percent But Less Than 10 Percent</th>
<th>At Least 10 Percent But Less Than 20 Percent</th>
<th>At Least 20 Percent But Less Than 30 Percent</th>
<th>At Least 30 Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>$250</td>
<td>$500</td>
<td>$750</td>
<td>$1,000</td>
<td>$1,500</td>
<td>$2,000</td>
</tr>
<tr>
<td>$2,500</td>
<td>$5,000</td>
<td>$7,500</td>
<td>$10,000</td>
<td>$12,500</td>
<td>$15,000</td>
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<td>$30,000</td>
</tr>
<tr>
<td>$10,000</td>
<td>$20,000</td>
<td>$30,000</td>
<td>$40,000</td>
<td>$50,000</td>
<td>$60,000</td>
</tr>
</tbody>
</table>

SA 3250. Mr. BINGAMAN (for Mrs. CARNAHAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 294, after line 18, insert the following and renumber the subsequent paragraph:

"(6) Air conditioners and heat pumps—

(A) are small duct,
(B) are high velocity,
(C) are external static pressure several times that of conventional air conditioners or heat pumps—

shall not be subject to paragraphs (1) through (4), but shall be subject to standards prescribed by the Secretary in accordance with subsections (o) and (p). The Secretary shall prescribe such standards by January 1, 2004."

SA 3251. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 267, strike line 15 and all that follows through page 269, line 13, and insert the following:

SEC. 916. COST SAVINGS FROM REPLACEMENT FACILITIES.

(a) COST SAVINGS FROM REPLACEMENT FACILITIES.—Section 801(a) of the National Energy Conservation Policy Act (42 U.S.C. 8267(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 referred to in subparagraph (a), the Secretary may include savings through the construction and operation of one or more buildings or facilities to replace one or more existing buildings or facilities, benefits ancillary to the purpose of such contract or energy savings performance contract and related to water recycling or reuse, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not at a Federal hydroelectric facility.".

(a) MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.

(1) TERMINATION.—This section shall not apply to any property placed in service—


(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking "calendar year 2004" in clause (i) and inserting "calendar years 2004 and 2005"; and (B) by striking "calendar year 2010" in the case of property relating to hydrogen); and

(c) CONFORMING AMENDMENTS FOR VEHICLE CREDITS.—

(1) Section 30B(c)(1)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended—

"If percentage of the credit amount is:

maximum available

power is:

At least 5 percent but less than 10 percent .......... $500

At least 10 percent but less than 20 percent ............................................ $750

At least 20 percent but less than 30 percent ........................................... $1,000

At least 30 percent ........................................ $1,500.

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

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

(4) by striking "$3,000" in paragraph (2)(B)(ii) and inserting "$4,000";

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

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

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

(8) by striking "for 2005" in paragraph (3)(B)(i) and inserting "for 2004";

(9) by striking the dash and all that follows "for 2004" in paragraph (3)(B) and inserting "for 2005";

(d) ADDITIONAL MODIFICATIONS TO CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Section 30 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding a new paragraph (3) to subsection (b), which reads as follows:


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. 3. MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(a) MODIFICATIONS TO NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—Subsection (b) of section 30B of the Internal Revenue Code of 1986, as added by this Act, is amended—

(1) by striking "$4,000" in paragraph (1)(A) and inserting "$6,000";

(2) by striking "$1,000" in paragraph (2)(A)(i) and inserting "$2,000";

(3) by striking "$1,500" in paragraph (2)(A)(ii) and inserting "$2,500";

(4) by striking "$2,000" in paragraph (2)(A)(iii) and inserting "$3,000";

(5) by striking "$2,500" in paragraph (2)(A)(iv) and inserting "$4,000";

(6) by striking "$3,000" in paragraph (2)(A)(v) and inserting "$5,000";

(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

(g) EFFECTIVE DATE.—Except as provided in subsection (e)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.
Revenue Code of 1986, as added by this Act, is amended to read as follows:

179A of the Internal Revenue Code of 1986 is amended by inserting "$1,000" in paragraph (2)(B)(i) and inserting "$1,500" in paragraph (2)(B)(i)(II) and inserting "$1,500", and (3)(B)(i) and inserting "for 2003".

(2) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2011, and (3) any other property placed in service after December 31, 2011, and purchased before January 1, 2012,

C O NFORMING AMENDMENTS FOR VEHICLE C REDITS.—

(a) IN GENERAL.—Subparagraph (C) of section 606(a)(2), as amended by this Act, is changed 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, 2006, and purchased before January 1, 2010, and

(3) any other property placed in service after September 30, 2002, and purchased before January 1, 2007,

(b) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—

SEC. 45M. ALASKA NATURAL GAS.

(a) IN GENERAL.—For purposes of section 38, the Alaska natural gas credit of any taxpayer for any taxable year is the credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude, which is attributable to the taxpayer and sold by or on behalf of the taxpayer and used by the unrelated person in the taxable year (within the meaning of section 45).

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

"(A) $3.25, over

"(B) the average monthly price at the AECO C Hub in Alberta, Canada, for Alaska natural gas for the month in which occurs the date of such entering.

"(C) ALASKA NATURAL GAS.—For purposes of this section, the term "natural gas" means natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude produced in compliance with the applicable State and Federal pollution prevention, control, and permit requirements from the area generally known as the North Slope of Alaska (including the continental shelf thereof within the meaning of section 638(1)), determined without regard to the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)).

"(D) RECAPTURE.—

"(A) such excess, or

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the Alaska natural gas credit received by the taxpayer for such years had been zero.

"(C) SPECIAL RULES.—

"(1) NO CREDITS AGAINST TAX.—Any increase in tax under this chapter which would result in the credits allowed under this chapter shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 45.

"(e) APPLICATION OF RULES.—For purposes of section 38, the rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.
“(f) No Double Benefit.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

“(g) Interpretation.—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 (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) Additional Excise Tax.—Section 45M(a)(2), as amended by this Act, is amended 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).”.

“(d) 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) and an electric ENTIRE REGULAR TAX AND MINIMUM TAX.—

“(1) In General.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) SPECIAL RULES FOR ALASKA NATURAL GAS CREDIT.—

“(A) In General.—In the case of the Alaskan 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 subparagraph (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

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

“(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, and section 38(c)(2)(A)(ii), as amended by this Act, and subsection (I) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting “or the Alaska natural gas credit” after “producer credit”.

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

“Sec. 45M. Alaska natural gas.”.

SA 3258. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal year 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows: Strike section 708.

SA 3259. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal 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. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal year 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows: On page 64, line 24, after “geothermal,” insert “waste heat produced as a by-product of an agronomic or agricultural manufacturing process.”.

SA 3261. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows: On page 64, line 24, after “landfill gas,” 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. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal year 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows: On page 73, line 13, after “energy,” insert “waste heat produced as a by-product of an agronomic or agricultural manufacturing process.”.

SA 3263. Mr. SMITH of Oregon submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows: On page 73, line 13, after “energy,” insert “waste heat produced as a by-product of an agronomic or agricultural manufacturing process.”.

SEC. 3. CONSUMER PRODUCT SAFETY ACT.

(a) LOW-SPEED ELECTRIC BICYCLES.—The Consumer Product Safety Act (15 U.S.C. 2051 et seq.) is amended by adding at the end the following:

“SEC. 38. (a) Notwithstanding any other provision of law, low-speed electric bicycles consumer products within the meaning of section 3(a)(1) and shall be subject to the Commission regulations published at section 1500.18(a)(12) and part 1512 of title 16, Code of Federal Regulations.

“(b) For the purpose of this section, the term ‘low-speed electric bicycle’ means a 2- or 3-wheeled vehicle with fully operable pedals and an electric motor that propels the bicycle at a speed of not less than 750 watts (1 hp), whose maximum speed on a paved level surface, when powered solely by such motor with no rider within the operator who weighs 170 pounds, is not less than 20 mph.

“(c) To further protect the safety of consumers who ride low-speed electric bicycles, the Commission may promulgate new or amended requirements applicable to such vehicles as necessary and appropriate.

“(d) This section shall supersede any State law or requirement with respect to low-speed electric bicycles to the extent that such State law or requirement is more stringent than the Federal law or requirements referred to in subsection (a).

(b) CONFORMING AMENDMENTS.—Section 1 of the Consumer Products Safety Act (15 U.S.C. 2051 note) is amended by amending the table of contents to read as follows:

“TABLE OF CONTENTS

“Sec. 1. Short title; table of contents.

“Sec. 2. Findings and purposes.

“Sec. 3. Definitions.


“Sec. 5. Product safety information and research.

“Sec. 6. Public disclosure of information.

“Sec. 7. Consumer product safety standards.

“Sec. 8. Banned hazardous products.


“Sec. 11. Imminent hazards.

“Sec. 12. Product certification and labeling.

“Sec. 15. Notification and repair, replacement, or refund.

“Sec. 16. Inspection and recordkeeping.

“Sec. 17. Imported products.

“Sec. 18. Exports.

“Sec. 19. Prohibited acts.

“Sec. 20. Civil penalties.

“Sec. 21. Criminal penalties.

“Sec. 22. Injunctive enforcement and seizure.

“Sec. 23. Suits for damages by persons injured.

“Sec. 24. Private enforcement of product safety rules and of section 15 orders.

“Sec. 25. Effect on private remedies.


“Sec. 27. Additional functions of Commission.

“Sec. 28. Historic Hazards Advisory Panel.

“Sec. 29. Cooperation with States and with other Federal agencies.

“Sec. 30. Transfers of functions.”}
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:

S.‘‘(1) The term ‘‘intermittent generator’ means a facility that generates electricity using wind, solar or waste heat produced as a by-product of an agronomic or agricultural manufacturing process.’’

SA 3266. Mr. SMITH of Oregon (for himself and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Section 821, strike the ‘‘ ’’, and insert the following:

‘‘(e) FUEL DELIVERY TECHNOLOGY SYSTEM PILOT PROGRAM.—

(1) The Secretary of Transportation is directed to establish a pilot program to demonstrate the fuel economy and environmental benefits of fuel delivery system technology. The 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 operated on specified fuel delivery systems, containing 300 to 500 parts per million of sulfur. The measured increase in fuel economy shall be minimum of 40 percent and the reduction in exhaust emissions shall be minimum of 65 percent. The retrofit pilot program shall also include quantification of exhaust emissions when operating on bio-diesel as well as low-sulfur diesel fuel. Upon completion of the retrofit pilot program, the fuel delivery system technology shall be placed on the Environmental Protection Agency’s Registration 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 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 this 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 En-

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 facilities.

(e) MATURITY.—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.

(f) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or modified without the written approval of the Secretary.

(g) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

(h) GUARANTER FEE.—The recipient of a loan guarantee under subsection (b) shall pay to the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusively evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(j) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually 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 coastal community corporate entities, recognized as eligible for the special provisions of title XVI of the United States Code for Indians because of their status as Indians.

(2) RENEWABLE ENERGY.—The term ‘renewable energy’ means electric energy generated from—

(A) a solar, wind, biomass, geothermal, or fuel cell source; or

(B)(i) additional hydroelectric generation capacity achieved from increased efficiency; or

(ii) an addition of new capacity at a hydroelectric dam in existence on the date of enactment of this Act.

(b) Requirement.—

(1) IN GENERAL.—The President shall ensure that, of the total amount of electric energy that all Federal agencies, in the aggregate, consume during any fiscal year, renewable energy shall comprise not less than—

(A) 3 percent in fiscal years 2003 through 2004;

(B) 5 percent in fiscal years 2005 through 2009; and

(C) 7.5 percent in fiscal year 2010 and each fiscal year thereafter.

(2) INNOVATIVE PURCHASING PRACTICES.—In carrying out paragraph (1), the President shall encourage Federal agencies to use innovative purchasing practices.

(c) TRIBAL POWER GENERATION.—The President shall seek to ensure that, to the extent economically feasible and technically practicable, not less than one-half of the amount specified in subsection (b) shall be renewable energy that is—

(1) an Indian tribe; or

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

(d) BIENNIAL REPORT.—In 2004 and every 2 years thereafter, the Secretary of Energy shall submit to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives a report on the progress of the Federal Government in meeting the goals established by this section.

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

SEC. 3. NET METERING OF ELECTRIC ENERGY.

(a) Definition.—In section 111(d)(13) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)(13)) as amended by section 245 is amended—

(1) in subparagraph (A), by inserting ‘‘the total sales of electric energy for purposes other than resale of which exceeded 1,000,000,000 kilowatt-hours during the preceding calendar year after ‘electric utility’’ and

(2) by striking subparagraph (C).

SEC. 4. STATE REFERENDA TO LIFT MORATORIA ON OFFSHORE OIL AND GAS DRILLING.

(a) IN GENERAL.—Notwithstanding any moratorium or executive order temporarily suspending or permanently prohibiting offshore oil or gas drilling on submerged land off the coast of a State—

(1) the State may hold a referendum on whether to allow production of oil or gas on the submerged land, including whether to impose any restrictions on the proximity of such drilling to the shore; and

(2) if such production is approved by the referendum, the President shall authorize a lease sale for the submerged land.

(b) ROYALTIES.—

(1) NEW LEASES UNDER SUBSECTION (A).—Of any royalties collected after the date of enactment of this Act from drilling conducted under subsection (a), 30 percent shall be distributed to the States offshore of which oil or gas is produced if the State has a State Plan approved in accordance with section 1811(c)(7).

(2) NEW DEEP WATER LEASES.—For fiscal year 2007, and each fiscal year thereafter, of any royalties collected after the date of enactment of this Act from leases in water 800 or more meters deep that are issued after the date of enactment of this Act, 30 percent shall be distributed to the States offshore of which the leases lie if the State has a State Plan approved in accordance with section 1811(c)(7).

(3) EXISTING LEASES.—Notwithstanding section 8(g)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1338(g)(3)), on and after the date that is 10 years after the date of enactment of this Act, 30 percent of amounts collected from leases issued before, or after, the date of enactment of this Act shall be distributed to the States offshore of which the leases lie if the State has a State Plan approved in accordance with section 1811(c)(7).

(c) OCS PRODUCTION STATE.—A State that allows production of oil or gas under this section shall be treated as an OCS Production State for the purposes of section 1811.
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 regional production of energy from offshore natural gas or oil. The Secretary 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 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. 1. TRANSMISSION EXPANSION.

Section 205 of the Federal Power Act is amended by adding 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.

(b) ROYALTIES.—

(1) NEW LEASES UNDER SUBSECTION (a).—Of any royalty received after the date of enactment of this Act from drilling conducted under subsection (a), 30 percent shall be distributed to the States off the shore of which oil or gas is produced.

(2) NEW DEEP WATER LEASES.—For fiscal year 2007, and each fiscal year thereafter, of any royalties collected during the fiscal year from leases in water 200 or more meters deep that are issued after the date of enactment of this Act, 30 percent shall be distributed to the States off the shore of which oil or gas is produced.

SEC. 4A. 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.

"(1) IN GENERAL.—When a person applies for a license for electricity production, as compared with the condition initially prescribed by the Secretary or the Secretary of Commerce under section 4, and the Secretary determines, based on substantial evidence, that the alternative condition—

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

(2) will cost less to implement, or result in improved operation of the project works for electricity production, as compared with the condition initially deemed necessary by the Secretary.

(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 be necessary under the first proviso of that subsection, the license applicant or licensee may propose an alternative condition.

(c) ACCEPTANCE OF PROPOSED ALTERNATIVE CONDITION.—Notwithstanding the first proviso of section 4(e), the Secretary may accept an alternative condition proposed under subsection (b), and the Commission shall include in the license the alternative condition.

(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 under 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. 301. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.

SEC. 206. OPERATION OF NAVIGATION FACILITIES.
(section 106) of the Federal Power Act (16 U.S.C. 803));
(4) section 18 of the Federal Power Act (16 U.S.C. 811); or
section 14(d) of the Clean Water Act (33 U.S.C. 1344(d)).
(b) STUDY.—The Federal Energy Regulatory Commission shall, jointly with the Secretary of Commerce, the Secretary of the Interior, and the Secretary of Agriculture, conduct a study of all new licenses issued for existing projects under section 15 of the Federal Power Act (16 U.S.C. 808) since January 1, 1994.
(c) SCOPE.—The study shall analyze—
(1) the length of time the Commission has taken to issue each new license for an existing project;
(2) the additional cost to the licensee attributable to new license conditions;
(3) the change in generating capacity attributable to new license conditions;
(4) the environmental benefits achieved by new license conditions;
(5) significant unmitigated environmental damage of the project and costs to mitigate such damage; and
(6) the benefits arising from the issuance or failure to issue new licenses for existing projects under section 15 of the Federal Power Act or the imposition or failure to impose new license conditions.
(d) CONSULTATION.—The Commission shall give interested persons and licensees an opportunity to submit information and views in writing.
(e) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes findings made as a result of the study.

SEC. 302. DATA COLLECTION PROCEDURES.
(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Energy Regulatory Commission, the Secretary of the Interior, the Secretary of Commerce, and the Secretary of Agriculture shall jointly develop procedures for ensuring complete and accurate data concerning the time and cost to parties in the hydroelectric licensing process under part I of the Federal Power Act (16 U.S.C. 791 et seq.).
(b) DATA.—Data described in subsection (a) shall be published regularly, but not less frequently than every 3 years.

SA 3276. Mr. WYDEN (for himself, Ms. CANTWELL, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. 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:

‘‘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 plan in which employees may be necessary that the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (ii) the continuation of collective bargaining rights; (iii) the protection of individual employees against a worsening of their positions related to employment; (iv) assurances of employment to employees of acquired companies; (v) assurances of priority of reemployment to employees who are laid off; and (vi) paid training or retraining programs, that the Commission concludes will fairly and equitably protect the interests of employees affected by the proposed transaction; and’’.

SA 3277. Ms. COLLINS (for herself, Mrs. MURRAY, Ms. CANTWELL, Mr. JEFFORDS, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. 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 in title XIII, insert the following:

‘‘SEC. 1348. RESEARCH ON ABRUPT CLIMATE CHANGE.
(a) DEFINITION.—The term ‘abrupt climate change’ means a change in climate that occurs so rapidly or unexpectedly that human or natural systems have difficulty adapting to it.
(b) The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall carry out a program of scientific research on abrupt climate change designed to—
(1) develop a global array of terrestrial and oceanographic indicators of paleoclimate in order to sufficiently identify and describe past instances of abrupt climate change;
(2) improve understanding of thresholds and nonlinearities in geophysical systems related to the mechanisms of abrupt climate change;
(3) incorporate these mechanisms into advanced geophysical models of climate change to reproduce abrupt climate changes;
(4) test the output of these models against past abrupt climate changes;
(5) incorporate the results of research conducted under this section into the research program required under section 1346 of this title.

SA 3278. Mr. SCHUMER 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 188, line 15, after ‘‘States’’ insert ‘‘, except New York and California’’.

SA 3279. Mr. SCHUMER 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 205, line 9 insert the following:

SEC. 820. ALTERNATIVE FUEL VEHICLE ACCELERATION ACT.
(a) DEFINITIONS.—In this section:
(1) ALTERNATIVE FUEL VEHICLE.—The term ‘‘alternative fuel vehicle’’ means a motor vehicle that is powered in whole or in part by electricity (including electricity supplied by a fuel cell), liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrocarbon, methanol or ethanol in quantities equal to or greater than 85 percent by volume, or propane. Vehicles designed to operate solely on gasoline or diesel derived from fossil fuels, and vehicles with a conventional fuel vehicle (CFV) engine, shall not be considered alternative fuel vehicles.
(2) ALTERNATIVE FUEL VEHICLE INTERMODAL PROJECT.—The term ‘‘alternative fuel vehicle intermodal project’’ means a project that uses alternative fuel vehicles in an intermodal application to demonstrate the transportation of people, goods, or services by use of alternative fuel vehicles.
(3) INTERMODAL APPLICATION.—The term ‘‘intermodal application’’ means transportation activities that are conducted so that people, 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 non-conventional modes 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 development of an intermodal transportation system that uses alternative fuel vehicles, infrastructure necessary to directly support a project funded by the grant including fueling and other support equipment, and maintenance of vehicles, infrastructure, and equipment acquired as part of a project funded by the grant.
(3) APPLICATIONS.—(a) REQUIREMENTS.—The Secretary shall issue requirements for applying for grants under the pilot program. At a minimum, the Secretary shall require that the applications be submitted by the head of a State or local government or a metropolitan transportation authority, or any combination thereof, and shall include a description of the alternative fuel vehicle intermodal project proposed in the application, an estimate of the startup or depreciation of the project, an estimate of the air pollution emissions reduced and fossil fuel displaced as a result of the project, a plan to collect and disseminate environmental data over the life of the project, a description of how the project will be sustainable without federal assistance after the completion of the grant, a complete description of the costs of each project including acquisition, construction, operation, and maintenance costs over the expected life of the project, and a description of which federal funds will be used and which federal assistance and which by assistance from non-federal partners. An applicant may carry out a project under partnership with public or private entities.
(4) SELECTION CRITERIA.—In evaluating applications, the Secretary shall consider each...
applicant’s previous experience with similar projects and shall give priority consideration to applications that are most likely to maximize protection of the environment and demonstrate commitment to the part of the applicant to ensure funding for the project and to ensure that the project will be maintained or expanded after federal assistance is terminated.

(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 programs and shall ensure a broad geographic distribution of project sites. The Secretary shall establish mechanisms to ensure that the information an academic institution gains 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) GRANT PURPOSES.—Grants under this paragraph may be used for the development or revision of alternative fuel vehicle operating and maintenance training programs, to provide grants to accredited academic institutions to develop curricula and to conduct training which support the objectives of the pilot program.

(3) JOINT REPORTS.—The Secretary of Energy, the Secretary of Transportation and the Administrator of the Environmental Protection Agency, or their designees, as appropriate, shall consult 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 readily utilize the Department of Transportation in assuring that the objectives of demonstrating intermodal activities with alternative fuel vehicles are more fully achieved.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $200,000,000 to carry out this program, to remain available until expended.

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 (p); and

(2) by inserting after subsection (n) the following:

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(c) RENEWABLE FUEL PROGRAM.—

(1) DEFINITIONS.—In this section:

(A) CELLULOSE BIOMASS ETHANOL.—The term ‘cellulose biomass ethanol’ means ethanol derived from lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.

(B) RENEWABLE FUEL.—

(i) dedicated energy crops and trees;

(ii) wood and wood residues;

(iii) plants;

(iv) grasses;

(v) agricultural residues;

(vi) fibers;

(vii) animal wastes and other waste materials;

(viii) municipal solid waste;

(ix) RENEWABLE FUEL.

(1) In general.—The term ‘renewable fuel’ means motor vehicle fuel that—

(I) 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, cattle, or other place where decaying organic material is found; and

(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

(ii) inclusion.—The term ‘renewable fuel’ includes cellulosic biomass ethanol and biodiesel (as defined in section 32(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)).

(2) RENEWABLE FUEL PROGRAM.—

(A) IN GENERAL.—Not later than one year from enactment of this provision, the Administrator shall promulgate regulations ensuring that gasoline sold or dispensed to consumers in Petroleum Administration for Defense (PAD) regions and other regions as appropriate for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where refineries can be used, or impose any per-gallon obligation for the use of renewables. If the Administrator does not promulgate such regulations, the applicable volume shall be 1,620,000,000 gallons in 2004.

(B) APPLICABLE VOLUME.—

(1) CALENDAR YEARS 2004 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2004 through 2012 shall be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Calendar year (In billions of gallons)</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>SAFETY /FUEL FUEL.</td>
<td>2.3</td>
<td>2.6</td>
<td>2.9</td>
<td>3.2</td>
<td>3.5</td>
<td>3.9</td>
<td>4.3</td>
<td>4.7</td>
<td>5.0</td>
</tr>
</tbody>
</table>

(II) RENEWABLE FUEL PROGRAM.—

(1) 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

(2) 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 estimate for the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by February 15 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 paragraphs (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 BIOFUELS.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

(5) CREDIT PROGRAM.—(A) IN GENERAL.—A person that refines, blends, or imports gasoline may satisfy the requirements of paragraph (2) through the submission to the Administrator of credits — 

(i) issued to the person under subparagraph (C); 

(ii) obtained by purchase or other transfer under subparagraph (E) or (F); or 

(iii) borrowed under subparagraph (G).

(B) FUEL YEAR.—For calendar year 2004 and each calendar year thereafter, each person that refines, blends, or imports gasoline shall submit to the Administrator, not later than February 15 of the following calendar year, a report that includes —

(I) the volume of renewable fuel blended into gasoline; 

(II) the credits issued to the person under subparagraph (C); 

(III) the credits used under subparagraph (D); 

(iv) the credits sold or transferred under subparagraph (E); and 

(v) the credits borrowed under subparagraph (G).

(C) ISSUANCE AND TRACKING OF CREDITS.—(I) PROGRAM.—The Administrator shall establish a program to issue, monitor the sale of, and track credits, to refiners, blenders, and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations.

(II) IN GENERAL.—A credit may be counted — 

(i) in general —

(1) for a credit issued to the person under subparagraph (C); and 

(2) for a credit issued to the person under subparagraph (D); 

(III) in specific circumstances —

(A) IN GENERAL.—A credit may be counted —

(i) in general —

(1) for a credit issued to the person under subparagraph (C); and 

(2) for a credit issued to the person under subparagraph (D); 

(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, that the promulgation of regulations under clause (i) with respect to an area from a Governor of a State under subparagraph (A), the Administrator after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation, shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and 

(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate not later than 90 days after the date of receipt of the notice from a Governor under that subparagraph.

(IV) RIGHTS AND DUTIES OF THE ADMINISTRATOR.—(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may make the regulations described in subparagraph (A) applicable to refiners, blenders, and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met.

(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, that the promulgation of regulations under paragraph (2) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation, shall extend the effective date of the regulations under paragraph (2) with respect to the area for not more than 1 year; and 

(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate not later than 90 days after the date of receipt of the notice from a Governor under that subparagraph.

(V) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended —

(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may make the regulations described in subparagraph (A) applicable to refiners, blenders, and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations.

(B) EFFECTIVE DATE.—

(i) IN GENERAL.—With respect to an area in a State for which the Governor submits a notification under subparagraph (A), the regulations described in subparagraph (A) shall take effect on the later of —

(1) the first day of the first high ozone season for the area that begins after the date of receipt of the notification; or 

(2) 1 year after the date of receipt of the notification.

(ii) EXTENSION OF EFFECTIVE DATE BASED ON DETERMINATION OF INSUFFICIENT SUPPLY.—

(A) 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 that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation, shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and 

(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation, shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and 

(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate not later than 90 days after the date of receipt of the notice from a Governor under that subparagraph.
under paragraph (1) is accurate. The Administrator shall rely, to the extent practicable, on existing reporting and recordkeeping requirements to avoid duplicative requirements.

(3) APPLICABLE LAW.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality, to the extent possible.

(e) SENATE OF THE UNITED STATES.—It is the sense of the Senate that the Secretary of Transportation and the Secretary of the Treasury should—

(1) advise Congress on the elimination of the adverse effects that the production and use of renewable fuel, under the amendments made in Petroleum Administration for Defense Districts II and III may cause; and

(2) ensure that any adverse effects on the highway trust fund allocations to the states located in Petroleum Administration for Defense Districts II and III are minimal.

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. MURkowski) 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 add the following:

SECT. 1. USE OF NATIONAL GUARD BY THE STATES FOR SECURITY OF 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"; and

(B) by inserting before the period the following: "all, and all members of the National Guard on duty described in the following sentence"; and

(2) in the second sentence, by inserting before the period the following: "and, in the case of a member of the National Guard, shall include duty, not in Federal service, for the provision of security with respect to nuclear facilities in a State pursuant to orders of the Governor or other appropriate authority of the State."

SA 3282. Mr. GRAMM 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 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, 41B, 40N, and 40Q 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 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 216, after line 13, add the following:

SEC. 3. LANDFILL GAS.

(a) CREDIT FOR PRODUCING LANDFILL GAS FUEL.—

(1) IN GENERAL.—Section 29, as amended by this Act, is amended by adding at the end the following new subparagraph:

(iii) COORDINATION WITH SECTION 29.—The term "qualified energy resource" 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 enactment of this subsection, the facility is first placed in service, is not a facility that is eligible for a credit under section 29, and is not a facility the term "qualified energy resource" shall not include any landfill gas the production of
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:

SEC. 8. FEDERAL FUEL CELL VEHICLE FLEET PILOT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) FUEL CELL VEHICLE.—The term ‘‘fuel cell vehicle’’ means a vehicle that derives all, or a significant part, of its propulsion energy from 1 or more fuel cells.

(2) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of Energy.

(b) PROGRAM.—The Secretary shall establish a cost-shared program to purchase, operate, and evaluate fuel cell vehicles in integrated service in Federal fleets to demonstrate the viability of fuel cell vehicles in commercial use in a range of climates, duty cycles, and operating environments.

(c) COOPERATIVE AGREEMENTS.—In carrying out the program, the Secretary may enter into cooperative agreements with Federal agencies and manufacturers of fuel cell vehicles.

(d) COMPONENTS.—The program shall include the following components:

(1) SELECTION OF PILOT FLEET SITES.—

(A) IN GENERAL.—The Secretary shall—

(i) consult with fleet managers of Federal agencies to identify potential fleet sites; and

(ii) select 4 or more Federal fleet sites at which to carry out the program.

(B) CRITERIA.—The criteria for selecting fleet sites shall include:

(i) geographic diversity;

(ii) a wide range of climates, duty cycles, and operating environments;

(iii) the interdependence and capability of the participating agencies;

(iv) the appropriateness of a site for refueling infrastructure and for maintaining the fuel cell vehicles;

(v) such other criteria as the Secretary determines to be necessary to the success of the program.

(2) FUEL 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.

(7) 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.

(b) PROGRAM.—The Secretary shall—

(1) NON-FEDERAL BUILDINGS.—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.

(c) 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 sites and operation;

(B) provides a summary of data collected under subsection (d)(5);

(C) assesses the results of the program; and

(D) recommends any modifications in the program that may be necessary to achieve the purposes of this section.

(2) REPORT.—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) $75,000,000 for fiscal year 2003;

(2) $75,000,000 for fiscal year 2004;

(3) $100,000,000 for fiscal year 2005;

(4) $100,000,000 for fiscal year 2006;

(5) $60,000,000 for fiscal year 2007; and

(6) $40,000,000 for fiscal year 2008.

SEC. 9. STUDY OF FUEL CELL USE IN FEDERAL BUILDINGS.

(a) DEFINITIONS.—In this section:

(1) FEDERALLY FUNDED BUILDING.—In this section, the term ‘‘federally funded building’’ means a building—

(A)(i) that is owned by the Federal Government; or

(ii) of which more than 20 percent of the cost of construction is paid with Federal funds; and

(B) the design of which is begun after the date of enactment of this Act.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of how to encourage the appropriate use of fuel cells in federally funded buildings.

(2) REQUIREMENTS.—In conducting the study, the Secretary shall—

(A) quantify and determine how to increase the public benefit from fuel cells in federally funded buildings based on the ability of fuel cells to—

(i) improve building energy efficiency;

(ii) operate independent of the electric transmission grid and function as emergency generators required for support of fire and life-safety systems;

(iii) provide high-reliability and high- quality power for computer operations;

(iv) provide operating flexibility;

(v) reduce demand for power from and load on the electric transmission and distribution grid through distributed generation;

(vi) provide—

(I) heat and power for use in buildings; and

(II) hydrogen or oxygen for various uses;

(vii) function in hybrid configurations with renewable power sources; and

(viii) reduce air and noise pollution;

(B) quantify the price of fuel cells, including the potential effects of large Federal purchases on the price of fuel cells;

(C) ascertain appropriate annual targets for the use of fuel cells in federally funded buildings, starting in fiscal year 2005;

(D) identify any modifications needed in—

(i) building specifications;

(ii) building design;

(iii) building codes;

(iv) construction practices; and

(v) building operations;

(E) identify and evaluate financial and nonfinancial incentives to advance the goals specified in subparagraph (A).

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study that includes recommendations to Congress and the States for programs to maximize the use of fuel cells in buildings.

(d) REVIEW.—Not later than 18 months after the date of submission of the report under paragraph (1), the Secretary shall—

(1) review the conclusions and implementation of the recommendations; and

(2) submit to Congress a report on any modifications necessitated by technical and policy developments.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 3286. Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. HATCH, Mr. THOMAS, Mr. HAGEL, and Mrs. CAINHAY) 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:

DIVISION II—ENERGY TAX INCENTIVES

SEC. 1900. SHORT TITLE, ETC.

(a) Short Title.—This division may be cited as the ‘‘Energy Tax Incentives Act of 2002’’.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

c) Table of Contents.—The table of contents for this division is as follows:

Sec. 1900. Short title; etc.

TITLE XIX—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION AND TAX CREDIT

Sec. 1901. 2-year extension of credit for producing electricity from wind and poultry waste.

Sec. 1902. Credit for electricity produced from biowaste.

Sec. 1903. Credit for electricity produced from swine and bovine waste nutrients, geothermal energy, and solar energy.

Sec. 1904. Treatment of persons not able to use entire credit.

TITLE XX—ALTERNATIVE VEHICLES AND FUELS INCENTIVES

Sec. 2001. Modification of credit for qualified motor vehicle credit.

Sec. 2002. Modification of credit for qualified electric vehicles.

Sec. 2003. Credit for installation of alternative fuels delivery stations.

Sec. 2004. Credit for retail sale of alternative fuels as motor vehicle fuel.

Sec. 2005. Small ethanol producer credit.

Sec. 2006. All alcohol fuels taxes transferred to Highway Trust Fund.

Sec. 2007. Increased flexibility in alcohol fuels tax credit.


TITLE XXI—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

Sec. 2101. Credit for construction of new energy efficient home.

Sec. 2102. Credit for energy efficient appliances.

Sec. 2103. Credit for residential energy efficient property.

Sec. 2104. Credit for business installation of qualified fuel cells.

Sec. 2105. Energy efficient commercial buildings deduction.

Sec. 2106. Allowance for deduction for qualified new or retrofitted energy management devices.

Sec. 2107. Three-year applicable recovery period for depreciation of qualified energy management devices.

Sec. 2108. Energy credit for combined heat and power system property.

Sec. 2109. Credit for energy efficiency improvements to existing homes.

TITLE XXII—CLEAN COAL INCENTIVES

Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-based Electric Utility Generation Facilities

Sec. 2201. Credit for production from a qualifying clean coal technology unit.

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

Sec. 2211. Credit for investment in qualifying advanced clean coal technology unit.

Sec. 2212. Credit for production from a qualifying advanced clean coal technology unit.

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

Sec. 2211. Treatment of persons not able to use entire credit.

TITLE XXIII—OIL AND GAS PROVISIONS

Sec. 2301. Modification of credit for qualified facility.

Sec. 2302. Natural gas gathering lines treated as 15-year property.

Sec. 2303. Expensing of capital costs incurred in complying with environmental protection agency sulfur regulations.

Sec. 2304. Environmental tax credit.

Sec. 2305. Determination of small refiner exception to oil depletion deduction.

Sec. 2306. Natural gas production income limit extension.

Sec. 2307. Amortization of geological and geophysical expenditures.

Sec. 2308. Amortization of delay rental payments.

Sec. 2309. Study of coal bed methane.

Sec. 2310. Extension and modification of credit for producing fuel from a nonconventional source.

Sec. 2311. Natural gas distribution lines treated as 15-year property.

TITLE XXIV—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

Sec. 2401. Ongoing study and reports regarding tax issues resulting from electric utility restructuring.

Sec. 2402. Modifications to special rules for nuclear decommissioning costs.

Sec. 2403. Treatment of certain income of cooperatives.

TITLE XXV—ADDITIONAL PROVISIONS

Sec. 2501. Extension of accelerated depreciation and wage credit benefits on all taxes transferred to Indian reservations.

Sec. 2502. Study of effectiveness of certain provisions by GAO.

TITLE XXVII—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT

Sec. 2701. Modification of credit for producing electricity from nonconventional source.

(a) In General.—Subparagraphs (A) and (C) of section 45(c)(3) relating to qualified facility, as amended by section 629(a) of the Job Creation and Worker Assistance Act of 2002, are each amended by striking “January 1, 2004” and inserting “January 1, 2007”.  

(b) Effective Date.—The amendments made by this paragraph shall be applied to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

Sec. 2702. Credit for electricity produced from biomass.

(a) Extension and Modification of Placed-In-Service Rules.—(Paragraph (3) of section 45(c) is amended—

(i) by striking subparagraph (B) and inserting—

(B) the 3-year period beginning after December 31, 2002, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii);  

(ii) SPECIAL RULE FOR POSTEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service after the date of the enactment of this clause, the 3-year period beginning after the date the facility is originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii);  

(iii) SPECIAL RULES FOR PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service before the date of the enactment of the clause, the 10-year period in subsection (a)(2)(A)(ii) shall be substituted for the 10-year period in subsection (a)(2)(A);  

(iv) CREDIT ELIGIBILITY.—In the case of any facility described in clause (i), if the owner of such facility is the person eligible for the credit applicable under subsection (a) is the lessee or the operator of such facility;  

(v) DEFINITION OF BIOMASS.—(I) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended—

(A) by striking “and” at the end of subparagraph (B) and inserting “, and”,  

(B) by striking the period at the end of subparagraph (C) and inserting “, and”, and  

(C) by adding at the end the following new subparagraph:

“(D) biomass (other than closed-loop biomass).”;

(2) BIOMASS DEFINED.—Section 45(c)(1) (relating to definitions) is amended by adding at the end the following new paragraph:

“(6) BIOMASS.—The term ‘biomass’ means any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and is derived from—

‘(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including growth timber which has been permitted or contracted for removal by any appropriate Federal authority through the National Environmental Policy Act or by any appropriate State authority,  

‘(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood waste (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including growth timber which has been permitted or contracted for removal by any appropriate Federal authority through the National Environmental Policy Act or by any appropriate State authority,  

‘(C) agricultural and forest-related wood, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.”.

(c) Coordination With Section 29.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:

“(6) Coordination with section 29.—The term ‘qualified facility’ shall not include any facility the production from which is taken into account in determining any credit under section 29 for the taxable year or any prior taxable year.”.

(d) Clerical Amendments.—
(1) The heading for subsection (c) of section 45 is amended by inserting “and SPECIAL RULES” after “DEFINITIONS”.
(2) The heading for subsection (d) of section 45 is amended by inserting “ADDITIONAL” before “DEFINITIONS”.

(3) EFFECTIVE DATES.—
(1) In GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to electricity sold after the date of the enactment of this Act.
(2) CERTAIN BIOMAS FACILITIES.—With respect to any facility described in section 45(c)(3)(D)(i) of the Internal Revenue Code of 1986, as added by this section, which is placed in service before January 1, 2007, the date of the enactment of this clause and which is originally placed in service after December 31, 2002.

SEC. 1903. CREDIT FOR ELECTRICITY PRODUCED FROM SWINE AND BOVINE WASTE NUTRIENTS, GEOTHERMAL ENERGY, AND SOLAR ENERGY.

(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—
(1) In GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking “and” at the end of subparagraph (A) and inserting a comma, and by adding at the end of subparagraph (C) a new paragraph (D) as follows:

“(D) the term ‘swine and bovine waste nutrients’, ‘(F) geothermal energy, and ‘(G) solar energy.”.

(2) DEFINITIONS.—Section 45(c) (relating to definitions and special rules), as amended by this Act, is amended by redesignating paragraphs (2) through (6) as paragraphs (6) through (10) and by inserting after paragraph (5) the following new paragraphs:

“(6) SWINE AND BOVINE WASTE NUTRIENTS.—The term ‘swine and bovine waste nutrients’ means swine and bovine manure and litter, including bedding material for the disposition of manure.

“(7) GEOTHERMAL ENERGY.—The term ‘geothermal energy’ means energy derived from a geothermal deposit (within the meaning of section 612(b)(2)).”.

(b) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Section 45(c)(3) (relating to placed-in-service rules), as amended by this Act, is amended by adding at the end of that subsection the following new paragraph:

“(3) SWINE WASTE NUTRIENTS FACILITY.—In the case of a facility using swine waste nutrients to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subchapter and before January 1, 2007.

“(4) GEOTHERMAL OR SOLAR ENERGY FACILITY.—

“(i) In GENERAL.—In the case of a facility using geothermal or solar energy to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subchapter and before January 1, 2007.

“(ii) SPECIAL RULE.—In the case of any facility described in clause (i), the 5-yearperiod beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).”.

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

SEC. 1904. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) In GENERAL.—Section 45(d) (relating to additional definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(8) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

“(A) ALLOWANCE OF CREDIT.—

“(i) In GENERAL.—Except as otherwise provided in this subsection—

“(I) any credit allowable under subsection (a) with respect to any facility described in clause (ii) may be transferred or used as provided in this paragraph, and

“(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

“(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

“(I) an organization described in section 501(c)(12) and exempt from tax under section 501(a),

“(II) an organization described in section 512(a)(7) and exempt from income tax under this subtitle,

“(III) a State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

“(IV) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

“(b) TRANSFER OF CREDIT.—

“(1) IN GENERAL.—In general, described in paragraph (a)(1) may transfer any credit to which subparagraph (a)(1) applies through an assignment to any other person not described in subparagraph (a)(1). Such transfer may be revoked only with the consent of the Secretary.

“(2) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is claimed once and not reassigned by such other person.

“(c) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (III), (IV), or (V) of subparagraph (a)(1), any credit referred to in paragraph (a)(1) may be transferred to another person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002.

“(d) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) to which subparagraph (a)(1) applies shall not be treated as income for purposes of section 501(c)(12).

“(e) TREATMENT OF UNRELATED PERSONS.—For purposes of subparagraph (a)(1), sales among and between persons described in subparagraph (a)(1) shall be treated as sales between unrelated persons.

“(f) CREDITS NOT REDUCED BY TAX-EXEMPT BONDS OR CERTAIN OTHER SUBSIDIES.—Section 45(b)(3) (relating to credit reduced for tax-exempt bonds, taxable years ending after May 25, 2002, and other liabilities), as amended by this Act, is amended by striking “and” at the end of subparagraph (A) and inserting “or” in lieu thereof.

“(g) AMENDMENTS.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

TITILE XX—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

SEC. 2001. ALTERNATIVE MOTOR VEHICLE CREDITS.

(a) In GENERAL.—Subpart B of part IV of subchapter A of chapter 31 (relating to foreign tax credit, etc.) is amended by adding after the end of such section the following new section:

“SEC. 30A. ALTERNATIVE MOTOR VEHICLE CREDIT.

“(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for any taxable year an amount equal to the sum of—

“(1) the new qualified fuel cell motor vehicle credit determined under subsection (b), and

“(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

“(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

“(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

“(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

“(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

“(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds, and

“(C) $40,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

“(D) $60,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

“(2) ENHANCE FUEL EFFICIENCY.—

“(A) IN GENERAL.—The amount determined under paragraph (1) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

“(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

“(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

“(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

“(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy,

“(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2000 model year city fuel economy,

“(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2000 model year city fuel economy,

“(vii) $4,000, if such vehicle achieves at least 300 percent of the 2000 model year city fuel economy.

“(B) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of paragraph (1)(A), the 2000 model year city fuel economy shall be the 2000 model year city fuel economy.

“(C) USE AS AN OFFSET.—Notwithstanding any other provision of law, any amount determined under subsection (a)(2) shall be treated as any other provision of law, any amount determined under subsection (a)(2) shall be treated as income for purposes of section 501(c)(12).

“(d) AMENDMENTS.—The amendments made by this section shall apply to any taxable year ending after the date of the enactment of this Act.
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:

"If vehicle inertia
The 2000 model year
weight class is:

1,500 or 1,750 lbs ................. 43.7 mpg
2,000 lbs .............................. 38.6 mpg
2,250 lbs .............................. 34.1 mpg
2,500 lbs .............................. 30.7 mpg
2,750 lbs .............................. 27.9 mpg
3,000 lbs .............................. 26.6 mpg
3,500 lbs .............................. 22.0 mpg
4,000 lbs .............................. 19.3 mpg
4,500 lbs .............................. 17.2 mpg
5,000 lbs .............................. 15.0 mpg
5,500 lbs .............................. 14.1 mpg
6,000 lbs .............................. 12.9 mpg
6,500 lbs .............................. 11.9 mpg
7,000 to 8,000 lbs ................... 11.1 mpg.

(ii) In the case of a light truck:

"If vehicle inertia
The 2000 model year
weight class is:

1,500 or 1,750 lbs ................. 37.6 mpg
2,000 lbs .............................. 33.7 mpg
2,250 lbs .............................. 30.6 mpg
2,500 lbs .............................. 28.0 mpg
2,750 lbs .............................. 25.9 mpg
3,000 lbs .............................. 24.1 mpg
3,500 lbs .............................. 21.3 mpg
4,000 lbs .............................. 19.0 mpg
4,500 lbs .............................. 17.3 mpg
5,000 lbs .............................. 15.8 mpg
5,500 lbs .............................. 14.6 mpg
6,000 lbs .............................. 13.6 mpg
6,500 lbs .............................. 12.8 mpg
7,000 to 8,500 lbs ................... 12.0 mpg.

"(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the ad-
mnistration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

"(3) NEW QUALIFIED FUEL CELL MOTOR VEH-
ICLE.—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 more cells which convert elec-
trical energy directly into electricity by combi-
ing 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 auto-
mobile 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 emis-
sion vehicle standard under section 242(l)
of the Clean Air Act for that make and model
year, and

"(ii) for 2004 and later model vehicles, has
received a certificate that such vehicle meets
or exceeds the Bin 5 Tier II emission level
established in regulations prescribed by the
Administrator of the Environmental Protection
Agency under section 712(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 cred-
it amount determined under paragraph (2).

"(2) CREDIT AMOUNT.—

"(A) IN GENERAL.—The credit amount de-
termined under this paragraph shall be de-
termined in accordance with the following tables:

(i) In the case of a new qualified hybrid
motor vehicle which is a passenger auto-
mobile or light truck and which provides the
following percentage of the maximum avail-
able power:

"If percentage of the
The credit amount is:
maximum available
power is:

At least 5 percent but less than 10 $250
At least 10 percent but less than 20 $500
percent
At least 20 percent but less than 30 $750
percent.
At least 30 percent .......................... $1,000.

(ii) In the case of a new qualified hybrid
motor vehicle which is a heavy duty hybrid
motor vehicle and which provides the fol-
lowing percentage of the maximum available
power:

"If percentage of the
The credit amount is:
maximum available
power is:

At least 20 percent but less than 30 $1,000
At least 30 percent but less than 40 $1,750
percent.
At least 40 percent but less than 50 $2,000
percent.
At least 50 percent but less than 60 $2,250
percent.
At least 60 percent .......................... $2,500.

(iii) If such vehicle has a gross vehicle
weight rating of not more than 14,000 pounds:

"If percentage of the
The credit amount is:
maximum available
power is:

At least 20 percent but less than 30 $1,000
At least 30 percent but less than 40 $1,750
percent.
At least 40 percent but less than 50 $2,000
percent.
At least 50 percent but less than 60 $2,250
percent.
At least 60 percent .......................... $2,500.

(iv) If such vehicle has a gross vehicle
weight rating of more than 14,000 but not
more than 25,000 pounds:

"If percentage of the
The credit amount is:
maximum available
power is:

At least 20 percent but less than 30 $1,000
At least 30 percent but less than 40 $1,750
percent.
At least 40 percent but less than 50 $2,000
percent.
At least 50 percent but less than 60 $2,250
percent.
At least 60 percent .......................... $2,500.

(v) $2,500, if such vehicle achieves at least
225 percent but less than 250 percent of
the 2000 model year city fuel economy,

"(VI) $3,000, if such vehicle achieves at
least 250 percent of the 2000 model year
city fuel economy.

"(ii) 2000 MODEL YEAR CITY FUEL ECONOMY.—
For purposes of clause (i), the 2000 model
year city fuel economy with respect to a vehi-
cle shall be determined using the tables
provided in subsection (b)(2)(B) with respect
to such vehicle.

"(1) INCREASE FOR ACCELERATED EMISSIONS
PERFORMANCE.—The amount determined
under subparagraph (A)(ii) with respect to an appli-
cable heavy duty hybrid motor vehicle shall be increased by the increased credit
amount determined in accordance with the following tables:

(i) In the case of a vehicle which has a gross vehicle weight rating of not more
than 14,000 pounds:

"If the model year is: The increased credit
amount is:

2002 .................................................. $3,500
2003 .................................................. $3,000
2004 .................................................. $2,500
2005 .................................................. $2,000
2006 .................................................. $1,500.

(ii) In the case of a vehicle which has a gross vehicle weight rating of more than
14,000 pounds but not more than 26,000 pounds:

"If the model year is: The increased credit
amount is:

2002 .................................................. $9,000
2003 .................................................. $7,750
2004 .................................................. $6,500
2005 .................................................. $5,250
2006 .................................................. $4,000.

(iii) In the case of a vehicle which has a gross vehicle weight rating of more than
26,000 pounds:

"If the model year is: The increased credit
amount is:

2002 .................................................. $14,000
2003 .................................................. $12,000
2004 .................................................. $10,000
2005 .................................................. $8,000
2006 .................................................. $6,000.

"(D) DEFINITIONS.—

"(1) 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 inter-
nal combustion or heat engine which is cer-
tified as meeting the standards set in the
regulations prescribed by the Admin-
istrator of the Environmental Protection
Agency for the year 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 en-
ergy from both of the following onboard
sources of stored energy:

"(I) An internal combustion or heat engine
using consumable fuel which, for 2002 and
later model vehicles, has received a certifi-
cate of conformity under the Clean Air Act
and meets or exceeds a level of not greater
than 0.01 gram of particulate matter and
0.01 gram of oxides of nitrogen per hour of
horsepower.

"(II) A rechargeable energy storage sys-
tem.
standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

(11) **HEAVY DUTY HYBRID MOTOR VEHICLE.**—For purposes of paragraph (10)(i), the term ‘maximum available power’ means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power test, divided by the vehicle’s total traction power. The term ‘total traction power’ means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

(12) **NEW QUALIFIED HYBRID MOTOR VEHICLE.**—For purposes of this subsection, the term ‘new qualified hybrid motor vehicle’ means a motor vehicle—

(i) 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) a rechargeable energy storage system,

(ii) in the case of a passenger automobile or light truck—

(1) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act for that make and model year,

(2) 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(1) of the Clean Air Act for that make and model year vehicle, and

(iii) 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, and

(iv) 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.

(13) **NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.**— Except as provided in paragraph (5), the credit determined under this subsection is an amount equal to—

(A) 40 percent, plus

(B) 30 percent, if such vehicle—

(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available from the Administrator of the Environmental Protection Agency under section 202(1) of the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 290(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard),

(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the excess of the manufacturer’s suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

(4) **QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE DEFINED.**—For purposes of this subsection—

(A) **IN GENERAL.**—The term ‘qualified alternative fuel motor vehicle’ means any motor vehicle—

(i) which is only capable of operating on an alternative fuel,

(ii) the original use of which commences with the taxpayer,

(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

(iv) which is made by a manufacturer.

(B) **ALTERNATIVE FUEL.**—The term ‘alternative fuel’ includes—

(i) all fuels derived from biomass;

(ii) hydrogen;

(iii) liquefied natural gas; liquefied petroleum gas; hydrogen, and any liquid at least 85 percent of the volume of which consists of methane; and

(iv) any fuel that is a mixture of petroleum-based fuel and a fuel other than petroleum-based fuel,

(C) **75/25 MIXED-FUEL VEHICLE.**—For purposes of this subsection, the term ‘75/25 mixed-fuel vehicle’ means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

(i) is certified under the Clean Air Act, or

(ii) has received a certificate of conformity under the Clean Air Act and meets or exceeds the low emission vehicle standard under section 81.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

(iii) the original use of which commences with the taxpayer,

(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

(v) which is made by a manufacturer.

(C) **75/25 MIXED-FUEL VEHICLE.**—For purposes of this subsection, the term ‘75/25 mixed-fuel vehicle’ means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

(A) is certified under the Clean Air Act, or

(B) has received a certificate of conformity under the Clean Air Act, or

(C) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 81.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

(D) is capable of performing efficiently in normal use and meets or exceeds the equivalent qualifying California low emission vehicle standard.

(5) **CREDIT FOR MIXED-FUEL VEHICLES.**—(A) **IN GENERAL.**—For purposes of this section, the term ‘mixed-fuel vehicle’ means—

(i) a motor vehicle—

(A) which is only capable of operating on both—

(1) an alternative fuel, and

(2) a petroleum-based fuel,

and

(ii) which—

(A) is certified under the Clean Air Act and meets or exceeds the low emission vehicle standard under section 243(e)(2) of title 40, Code of Federal Regulations, or

(B) is capable of performing efficiently in normal use, and

meets or exceeds the equivalent qualifying California low emission vehicle standard,

(B) **ALTÉRNA TIVE FUEL.**—The term ‘alternative fuel’ includes—

(i) all fuels derived from biomass;

(ii) hydrogen;

(iii) liquefied natural gas; liquefied petroleum gas; hydrogen, and any liquid at least 85 percent of the volume of which consists of methane; and

(iv) any fuel that is a mixture of petroleum-based fuel and a fuel other than petroleum-based fuel.

(6) **NO DOUBLE BENEFIT.**—The amount of any deduction or other credit allowable under this chapter—

(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).

(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

(7) **PROPERTY USED BY TAX-EXEMPT ENTITIES.**—In the case of a credit amount which is allowable with respect to a motor vehicle acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the property; and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

(8) **RECAPTURE.**—The Secretary shall, by regulations, provide for recapturing the benefits of the credit and 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 or sale of less than the economic life of a vehicle).

(9) **PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.**—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) and with respect to the portion of the cost of any property taken into account under section 179.

(10) **ELECTION TO NOT TAKE CREDIT.**—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have his election applied to any taxable year.

(11) **CARRYBACK AND CARRYFORWARD ALLOWED.**...
"(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the "unused credit year"), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unused credit year.

(B) RULERS.—Rules similar to the rules of section 30(d) (relating to special rules) with respect to the credit carryback and credit carryforward under subparagraph (A).

"(1) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

"(a) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

"(b) the motor vehicle safety provisions of sections 30101 through 30109 of title 49, United States Code.

"(g) REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

"(2) COORDINATION IN PERSPECTIVE OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

"(h) TERMINATION.—This section shall not apply to any property purchased after—

"(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

"(2) in the case of any other property, December 31, 2007.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (27), by striking the last paragraph of section (28) and inserting "and, and", and by adding at the end the following new paragraph:

"(28) to the extent provided in section 30B(c)(5)."

(2) Section 55(c)(2) is amended by inserting "30B(c)," after "30B(c)(3)."

(3) Section 6501(m) is amended by inserting "30B(c)(10)," after "30B(c)(4)."

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting the item relating to section 30B after the following new item:

"Sec. 30B. Alternative motor vehicle credit."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

SEC. 2002. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking "10 percent of".

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting in lieu thereof the following new paragraph:

"(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

"(A) In the case of a vehicle which conforms to the motor vehicle safety standards applicable to such vehicle, the lesser of

(i) $2,500, or

(ii) $6,000, if such vehicle is—

(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable battery as measured pursuant to the urban dynamometer schedules under appendix I to part 30 of title 49, Code of Federal Regulations, or

(II) capable of a payload capacity of at least 1,000 pounds.

"(B) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $10,000.

"(C) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.

"(B) RULES.—Rules similar to the rules of section 30 shall apply with respect to the credit carryback and credit carryforward under paragraph (A).

"(C) IN GENERAL.—If the credit amount allowed under subsection (b)(2) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

"(D) RULERS.—Rules similar to the rules of section 30 shall apply with respect to the credit carryback and credit carryforward under paragraph (A)."

(d) EFFECTIVE DATE.—The amendments made by this section shall be in effect in taxable years ending after September 30, 2002, in taxable years ending after such date.

SEC. 2003. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.

"(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

"(b) TERMINATION.—The credit allowed under subsection (a) is—

"(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $3,000, and

"(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

"(c) CARRYBACK AND CARRYFORWARD ALLOWED.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.

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

"(1) qualified clean-fuel vehicle refueling property.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A.

"(2) Residential clean-fuel vehicle refueling property.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

"(3) Retail clean-fuel vehicle refueling property.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is described in paragraph (2) of section 30(d) relating to special rules, is owned by an entity other than the individual or entity under whose name the property is held, and is used for the sale of retail clean-fuel vehicle refueling property to the public.
(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over.

(2) the tentative minimum tax for the taxable year.

(3) Basis Reduction.—For purposes of this title, the basis of any property shall be reduced by the cost of the 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 property with respect to which a credit is allowed under subsection (a).

(b) Refueling Property Installed for Tax-Exempt Entities.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

(i) Cash 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 year” in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

(2) Rules.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

(j) Regulations.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

(k) 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 (2), by striking the period at the end of paragraph (2) and inserting “, and”, and by adding at the end the following new paragraph:

“(3) to the extent provided in section 30C(f).”.

(2) Section 55(c)(2), as amended by this Act, is amended by inserting “30C(e),” after “30B(e)”. (3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting at the beginning of the list relating to section 39B the following new item:

“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, 2002, in taxable years ending after such date.


(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 sale to any qualified motor vehicle which

(1) APPLICABLE AMOUNT.—The term ‘ap

(2) ALTERNATIVE FUEL.—The term ‘alternative fuel’ means: (A) any liquid fuel, natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

(3) GASOLINE GALLON EQUIVALENT.—The term ‘gasoline gallon equivalent’ means, with respect to any alternative fuel, the amount (determined by the Secretary) of fuel having a Btu content of 114,000.

(4) QUALIFIED MOTOR VEHICLE.—The term ‘qualified motor vehicle’ means any motor vehicle described in section 99(e)(2) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

(5) SOLD AT RETAIL.—(A) In General.—The term ‘sold at retail’ means the sale, for a purpose other than resale, after manufacture, production, or importation.

(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) in 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.

(6) ALLOCATION OF CREDIT.—(A) ELECTION TO ALLOCATE.—In the case of a cooperative organization, the amount of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

(B) TREATMENT OF ORGANIZATIONS AND PARTNERS.—Section 469(d)(2)(A) is amended by striking “subpart D” and inserting “subpart D, other than section 469(a)(1).”.

(7) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—(A) In General.—Subsection (c) of section 38 relating to limitation based on amount of business done with or for such patrons is amended by striking “30,000,000” each place it appears and inserting “60,000,000”.

(b) Improvements to Small Ethanol Producer Credit.

(1) Definition of Small Ethanol Producer.—Section 40G (relating to credits for small ethanol producers) is amended by striking “30,000,000” and inserting “30,000,000”.

(2) Small Ethanol Producer Credit Not A Passive Activity Credit.—Clause (1) of section 40G(d)(2)(A) is amended by striking “subpart D” and inserting “subpart D, other than section 40G(a)(1).”.

(3) Allowing Credit Against Entire Regular Tax and Minimum Tax.—(A) In General.—Subsection (c) of section 38 relating to limitation based on amount of business done with or for such patrons is amended by striking “Creation and Worker Assistance Act of 2002, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

“(4) Special Rules for Small Ethanol Producer Credit.—

Sec. 3088

CONGRESSIONAL RECORD — SENATE

April 22, 2002

Section 3088

Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.”.

(e) Effective Date.—The amendments made by this section shall take effect as if included in the tax laws as enacted by the Act.

Sec. 506. Small Ethanol Producer Credit.

Sec. 30C. Clean-fuel vehicle refueling property credit.

Sec. 40G. Credit for small ethanol producer credit to patrons of a cooperative.

Sec. 179A. Additional first-year depreciation.
"(A) IN GENERAL.—In the case of the small ethanol producer credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) that are payable to the taxpayer shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

"(B) SMALL ETHANOL PRODUCER CREDIT.—For purposes of this subsection, the term ‘small ethanol producer credit’ means the credit allowable under subsection (a) by reason of section 40(a)(3).

(B) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(i), as added by section 301(b)(2) of the Job Creation and Worker Assistance Act of 2002, and subclause (II) of section 38(c)(2)(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’.

(C) CONFORMING AMENDMENTS.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

"SEC. 87. ALCOHOL FUEL CREDIT.

‘Gross income includes an amount equal to the sum of—

"(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

"(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2)."

(C) CONFORMING AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

"(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(a)(8)."

(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 TRANS- FERRED TO HIGHWAY TRUST FUND.

(a) IN GENERAL.—Section 5650(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) is amended—

"(1) by striking ‘ator’ and inserting ‘ator’; and

"(2) by striking the comma at the end of subparagraph (C).

(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. 2007. INCREASED FLEXIBILITY IN ALCOHOL FUELS TAX CREDIT.

(a) ALCOHOL FUELS CREDIT MAY BE TRANS- FERRED.—Section 40 (relating to alcohol fuels used as fuel) is amended by adding at the end the following new subsection:

"(1) CREDIT MAY BE TRANSFERRED.—

"(I) IN GENERAL.—A taxpayer may transfer any credit allowable under paragraph (1) or (2) of subsection (a) with respect to alcohol used in the production of ethyl tertiary butyl ether to the extent that such tax credit is attributable to the credit allowable under section 40(a)(2).

"(II) QUALIFIED ASSIGNEE.—For purposes of this subsection, the term ‘qualified assignee’ means any person who—

"(A) is liable for taxes imposed under section 4081,

"(B) is required to register under section 4101, and

"(C) obtains a certificate from the taxpayer described in paragraph (I) which identifies the amount of alcohol used in such production.

(b) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in paragraph (I) is claimed once and not reassigned by a qualified assignee.

(b) ALCOHOL FUELS CREDIT MAY BE TAKEN AGAINST MOTOR FUELS TAX LIABILITY.—

"(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

"SEC. 4104. CREDIT AGAINST MOTOR FUELS TAXES.

‘(a) ELECTION TO USE CREDIT AGAINST MOTOR FUELS TAXES.—There is hereby allowed as a credit against the taxes imposed by section 4001 any credit allowed under paragraph (1) or (2) of section 40(a) with respect to alcohol used in the production of ethyl tertiary butyl ether to the extent that such credit is attributable to the credit allowable under section 40(a)(2) as a credit under section 40, and

"(b) the taxpayer or qualified assignee elects to claim such credit under this section.

(b) ELECTION IRREVOCABLE.—Any election under subsection (a) shall be irrevocable.

(b) REQUIRED STATEMENT.—Any return claiming a credit pursuant to an election under this section shall be accompanied by a statement that the credit was not, and will not, be claimed on an income tax return.

(c) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to avoid the claiming of double benefits and to prescribe the periods with respect to which the credit may be claimed.

(c) CONFORMING AMENDMENT.—Section 40(c) is amended by striking ‘or section 4001(c)’ and inserting ‘section 4001(c), or section 4104’.

(d) CLERICAL AMENDMENT.—The table of sections of subtitle C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

"Sec. 4104. Credit against motor fuels taxes."

SEC. 2008. INCENTIVES FOR BIODIESEL.

(a) CREDIT FOR BIODIESEL USED AS FUEL.—

"(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 32 is amended by adding at the end the following new section:

"SEC. 4081. BIODIESEL USED AS FUEL.

‘(a) GENERAL RULE.—For purposes of section 40, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit,

"(b) DEFINITION OF BIODIESEL MIXTURE CREDIT.—

"(1) BIODIESEL MIXTURE CREDIT.—

"(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the number of gallons of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

(b) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

"(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.
"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.".

"(f) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2005.

"(2) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting "plus", and by adding at the end the following new paragraph:

"(16) The biodiesel fuels credit determined under section 40B(a), and

"(3) CONFORMING AMENDMENTS.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

"(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting "40B(e)," after "40B(d),"

"(2) BIODIESEL MIXTURES.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40B(b)(2)), the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture (as defined in section 40B(b)(1)(B))."

"(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) BIODIESEL MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40B(b)(2)) which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel rate (as defined in section 40B(b)(1)(B)) with respect to such fuel.

"(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any fuel sold after December 31, 2002, and before January 1, 2006.

"(4) CONSTRUCTION.—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.

"(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), and 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, and

(B) the construction of which is substantially completed after the date of the enactment of this section, and

(C) the first use of which after construction is as a principal residence (within the meaning of section 121),

"(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

"(5) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

(A) 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), and 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, and

(B) the construction of which is substantially completed after the date of the enactment of this section, and

(C) the first use of which after construction is as a principal residence (within the meaning of section 121),

"(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.

"(5) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home, and

(B) exterior windows (including skylights) and doors.

"(6) MANUFACTURED HOME INCLUDED.—The term 'qualifying new home' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280), and the manufactured home producer of such home.
energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heating pump, and amendment by this Act, is amended by adding at the end the following new section:

**SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.—**The term ‘qualified energy efficient appliance’ means—

(A) a clothes washer described in subparagrap (A)(i),

(B) a refrigerator described in subparagraph (A)(ii), and

(C) an electric or gas range described in subparagraph (B)(i) of subsection (b)(1), or

(D) an energy star certified refrigerator-freezer which has an internal volume of at least 28 cubic feet and meets the following standards:

(i) the average number of appliances in a household, and

(ii) the average number of appliances in a household, and

(iii) refrigerators described in paragraph (1), and

(iv) refrigerators described in paragraph (1), and

(B) LIMITATION ON MAXIMUM CREDIT.—

(1) IN GENERAL.—The maximum amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall be—

(2) CLOTHES WASHER.—The term ‘clothes washer’ includes a residential style coin operated washer, including a residential style coin operated washer.

(3) REFRIGERATOR.—The term ‘refrigerator’ includes an automatic defrost refrigeration system with an internal volume of at least 16.5 cubic feet.

(4) MEF.—The term ‘MEF’ means Modulus Energy Factor (as determined by the Secretary of Energy).

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Agency, develop prescriptive component-based packages that are equivalent in energy performance to properties that qualify under subparagraph (C).

(3) Energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heating pump, and amendment by this Act, is amended by adding at the end the following new section:

**SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.—**The term ‘qualified energy efficient appliance’ means—

(A) a clothes washer described in subparagraph (A)(i),

(B) a refrigerator described in subparagraph (A)(ii), and

(C) an electric or gas range described in subparagraph (B)(i) of subsection (b)(1), or

(D) an energy star certified refrigerator-freezer which has an internal volume of at least 28 cubic feet and meets the following standards:

(i) the average number of appliances in a household, and

(ii) the average number of appliances in a household, and

(iii) refrigerators described in paragraph (1), and

(iv) refrigerators described in paragraph (1), and

(B) LIMITATION ON MAXIMUM CREDIT.—

(1) IN GENERAL.—The maximum amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall be—

(2) CLOTHES WASHER.—The term ‘clothes washer’ includes a residential style coin operated washer, including a residential style coin operated washer.

(3) REFRIGERATOR.—The term ‘refrigerator’ includes an automatic defrost refrigeration system with an internal volume of at least 16.5 cubic feet.

(4) MEF.—The term ‘MEF’ means Modulus Energy Factor (as determined by the Secretary of Energy).
Section 25C. Residential Energy Efficient Property Credit Before Effective Date.

SEC. 25C. RESIDENTIAL ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

(A) IN GENERAL.—The term ‘qualified Tier 2 energy efficient building property expenditure’ means an expenditure attributable to Tier 2 energy efficient building property.

(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term ‘Tier 2 energy efficient building property’ includes—

(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

(ii) a natural gas heat pump which has a heating seasonal performance factor (HSPF) of at least 8.5, an energy efficiency ratio (EER) of at least 15 and an energy efficiency ratio (EER) of at least 12.5,

(iii) a natural gas heat pump which has a coefficient of performance of at least 1.25 for heating and of at least 15 for cooling,

(iv) a central air conditioner which has an energy efficiency ratio (EER) 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.

(vi) labor costs. — Expenditures for labor costs properly allocable to the preparation, assembly, or original installation of the property described in paragraph (1), (2), (3), or (4) and for piping or wiring to connect such property to the dwelling unit shall be taken into account for purposes of this section.

(B) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of large scale energy storage shall not be taken into account for purposes of this section.

(C) SPECIAL RULES.—For purposes of this section—

(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under sub-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.

(TENANT STOCK—COOPERATIVE HOUSING CORPORATION.)—In the case of an individual who is a tenant-stockholder (as defined in section 251) in a cooperative housing corporation (as defined in section 251), such individual shall be treated as having made his tenant-stockholder’s proportionate share
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(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 proportional share of any expenditures of such association.

(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term ‘condominium management association’ means an association which meets the requirements of paragraph (1) of section 258(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 subsection (b) of section 48, 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)).

(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.

(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

(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 sum of the regular tax liability (as defined in section 26(b)(2)) plus the tax imposed by section 55, over—

(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.

(2) CONFORMING AMENDMENTS.—
(A) Section 25C(c), as added by subsection (a), is amended by striking ‘‘section 25B’’ and inserting ‘‘section 25B and 25C’’.

(B) Section 25B(b)(4)(B) is amended by inserting ‘‘section 25C’’ after ‘‘section 25B’’.

(C) Section 24(b)(3)(B) is amended by striking ‘‘23 and 25B’’ and inserting ‘‘23, 25B, and 25C’’.

(D) Section 25B(e)(1)(C) is amended by inserting ‘‘section 25C’’ after ‘‘section 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 25B’’ and inserting ‘‘25B, and 25C’’.

(H) Section 1400C(d)(1) is amended by striking ‘‘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)(1)(C), as in effect for taxable years beginning before January 1, 2004, is amended by inserting ‘‘section 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 inserting ‘‘section 25C’’ after ‘‘this section’’.

(5) The table of sections for part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

‘‘Sec. 25C. Residential energy efficient property.’’

(6) EFFECTIVE DATES.—

(1) In general.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after December 31, 2002, in taxable years ending after such date.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2002.

SEC. 2105. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.

(a) IN GENERAL.—Paragraph (1) 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 this subsection shall be allowed in the taxable year in which the construction of the building is completed.

‘‘(d) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENSES.—For purposes of this section—

(1) IN GENERAL.—The term ‘‘energy efficient commercial building property expenses’’ means an amount paid or incurred for energy efficient commercial building property installed on or in connection with new construction or reconstruction of property—

(A) for which depreciation is allowable under section 167,

(B) which is located in the United States, and

(C) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and single family housing property which is not within the scope of Standard 90.1-1999 (described in paragraph (2)). Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

‘‘(e) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of paragraph (1)—

(A) IN GENERAL.—The term ‘‘energy efficient commercial building property’’ means any property which reduces total annual energy and power costs with respect to the
lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1–1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under subparagraph (B) and (C) if qualified professionals as provided under paragraph (5).

(2) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall establish regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, taking into consideration the provisions of California Nonresidential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

(i) The expenditures, 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.

(iii) The expenditure in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air conditioning and water heating system, and the lighting system shall be allo-
cated 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 calculation methods under this subparagraph need not comply fully with section 11 of such Standard 90.1–1999.

(v) The calculation methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this subsection regardless of whether the heating source is a gas or oil furnace or an electric heat pump.

(vi) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

(VII) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

(VIII) The calculation methods may take into account the extent of occupancy in the building, and allow the taxpayer to take into account measured performance that exceeds typical performance.

(C) QUALIFIED COMPUTER SOFTWARE.—For purposes of this subparagraph, the term ‘qualified computer software’ means software—

(i) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary;

(ii) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this subsection, and

(iii) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

(3) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or after December 31, 2007, the Secretary shall pro-
mulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this subsection.

(4) NOTICE TO OWNER.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

(5) CERTIFICATION.—

(A) IN GENERAL.—Except as provided in this paragraph, the Secretary shall prescribe procedures for the inspection and testing for compliance of buildings that are comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qual-
ify a Home Ratings Systems Organization, a local building code agency, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this section.

(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with 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 under this section 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.

(ii) the construction of which is not completed on or before December 31, 2009.

(6) EFFECTIVE DATE.—The amendments made by this Act, are amended by inserting ‘‘or by section 179B’’.

(7) Section 323(b)(3)(B) is amended by striking ‘‘or 179A’’ and inserting ‘‘, or’’, and by insert-
ing after subparagraph (H) the following new sub-
paragraph:

(I) expenditures for which a deduction is allowed under section 179A.

(8) Section 179A is amended by striking ‘‘or by section 179B’’.

(9) Section 179A is amended by striking ‘‘or 179A’’ and inserting ‘‘, or’’, and by insert-
ing after subparagraph (H) the following new sub-
paragraph:

(I) expenditures for which a deduction is allowed under section 179B.

(a) In General.—Part VI of chapter B of chapter 1 relating to itemized deductions for individuals and corporations, as amended by this Act, is amended by inserting after section 179A the following new section:

Sec. 179C. ALLOWANCE FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.

(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services, there shall be allowed as a deduction an amount equal to the cost of each qualified energy management device placed in service during the taxable year.

(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified energy management device shall not exceed $30.

(c) QUALIFIED ENERGY MANAGEMENT DEVICES.—In the case of qualified energy management device means any tangible property to which section 168 applies if such property is a meter or metering device—

(i) which is acquired and used by the tax-
payer to enable consumers to manage their purchase or use of electricity or natural gas in response to energy price and usage signals and

(ii) which permits reading of energy price and usage signals on at least a daily basis.

(d) PROPERTY USED OUTSIDE THE UNITED STATES.—In the case of property which is not qualified for the purposes of this section, the portion of the cost of the property taken into account under section 179.

(e) BASIS REDUCTION.—
SEC. 2107. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.

(a) In general.—Subparagraph (A) of section 168(h)(3) (relating to classification of property) is amended by striking “and” at the end of clause (ii), by inserting “or” at the end of clause (ii), and by inserting “or” at the end of clause (i).

(b) Definition of Qualified Energy Management Device.—Section 168(h) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

“(i) any qualified energy management device.”;

(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 beginning after such date.

SEC. 2108. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.

(a) In general.—Subparagraph (A) of section 48(h)(3) (relating to combined heat and power system property), as amended by this Act, is amended by striking “or” at the end of clause (ii), by adding “or” at the end of clause (iii), and by inserting after clause (iii) the following new clause:

“(iv) combined heat and power system property.”;

(b) Combined Heat and Power System Property.—Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

“(5) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this subsection, the term ‘combined heat and power system property’ means property comprising a system—

“(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

“(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

“(iii) which produces during its normal application, and

“(iv) which is placed in service after December 31, 2002, in taxable years ending after such date.

(2) Prior credit amounts for taxpayer.—Subsection (b) of section 48(a)(5)(C) may be carried back to a taxable year with respect to property described in section 48(a)(5) which may be carried back to a taxable year ending before January 1, 2003.”;
(1) such component or combination of measures is installed in or on a dwelling;

(2) owned and used by the taxpayer as the taxpayer’s principal residence (within the meaning of section 121);

(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

(c) Definitions and Special Rules.—For purposes of this section—

(1) DOLLAR AMOUNTS IN CASE OF J OINT OCCUPANCY.—In the case of any dwelling unit for which the provisions of subsection (a) are applied with respect to any calendar year, the dollar amounts shall be reduced by the amount of the credit allowed under subsection (a) for the taxable year with respect to any such component or combination of components, and shall be determined on the basis of applicable energy efficiency ratings (including product labeling) for weather-tight insulation, weather-stripping, and other measures for the improvement of energy usage in the main dwelling unit.

(2) PERFORMANCE-BASED METHOD.—(A) IN GENERAL.—The Secretary, after examining the requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

(3) CONDOMINIUMS.—(A) IN GENERAL.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation, the term ‘building envelope component’ means—

(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term ‘condominium management association’ means—

(2) Tenant-stockholder in Cooperative Housing Corporation.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation, the term ‘building envelope component’ means—

(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

(a) the 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.

(2) Conforming Amendments.—(A) Section 25D(c), as added by subsection (a), is amended by striking “section 25(a) for such taxable year reduced by the amount of the credits allowable under this subpart (other than this section)” and inserting “section 25(b)”.

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking “25C” and inserting “25C, and 25D”.

(C) Section 24(b)(3), as amended by this Act, is amended by striking “25C” and inserting “25C, and 25D”.

(D) Section 26(e)(1)(C), as amended by this Act, is amended by inserting “25D,” after “25C”.

(E) Section 1400C(d), as amended by this Act, is amended by striking “25D” and inserting “25C, and 25D”.

(F) Section 23(a)(1), as amended by this Act, is amended by striking “25C” and inserting “25C, and 25D”.

(G) Section 904(b), as amended by this Act, is amended by striking “25C” and inserting “25C, and 25D”.

(H) Section 1400C(d), as amended by this Act, is amended by striking “25C” and inserting “25C, and 25D”.

(i) Additional Conforming Amendments.—(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting “25C, and 25D”.

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting “25D,” after “25C”.

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking “and 25D”.

(4) Section 23(a)(1), as amended by this Act, is amended by striking “25C, and 25D”.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

“Sec. 25D. Energy efficiency improvements to existing homes.”.

(d) Effective Dates.—(1) In General.—Except as provided by paragraph (2), the amendments made by this subtitle shall apply to expenditures made after December 31, 2002, in taxable years ending after such date.
(2) SECTION 38.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to the product of—

(a) the applicable amount of clean coal technology production credit, multiplied by

(b) the applicable percentage.

(b) APPLICABLE AMOUNT.—(1) In general. For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.30/2008.

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

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

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

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

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

(B) uses coal to produce 75 percent or more of its thermal output as electricity,

(C) has a design net heat rate of not more than 12,000 Btu per pound (HHV) of heat input, and

(D) has a design net heat rate of not more than 12,000 Btu per pound (HHV) of heat input.

(2) DESIGN NET HEAT RATE.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV) shall be adjusted on the date of the enactment of this section.

(3) R EGULATIONS.—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.

(4) NATIONAL LIMITATION ON THE AMOUNT OF CLEAN COAL TECHNOLOGY UNITS.—(A) IN GENERAL.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units.

(b) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF QUALIFYING CLEAN COAL TECHNOLOGY UNITS.—(1) IN GENERAL.—For purposes of subsection (d)(1)(E), the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

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

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

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

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

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

(c) APPLICABLE PERCENTAGE.—(1) In general. For purposes of this section, the applicable percentage is the percentage described in paragraph (3), (4), or (5) of section 45(d) shall apply.

(2) APPLICABLE AMOUNT.—(A) In general. For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.30/2008.

(b) APPLICABLE AMOUNT.—(1) In general. For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.30/2008.

(2) APPLICABLE AMOUNT.—(A) In general. For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.30/2008.

(b) APPLICABLE AMOUNT.—(1) In general. For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.30/2008.

(2) APPLICABLE AMOUNT.—(A) In general. For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.30/2008.
availability of regulations and other administrative guidance from the Secretary.".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 30(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", plus", and, by adding at the end the following new paragraph:

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

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

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

(a) ALLOWANCE OF CREDIT.—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 subsection:

"(2) CREDIT.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

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

"(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B)."

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

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

SEC. 2211. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.

(a) ALLOWANCE OF CREDIT.—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 section:

"Sec. 45I. Credit for investment in qualifying advanced clean coal technology units.

(b) AMOUNT OF CREDIT.—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 section:

"Sec. 45I. Credit for investment in qualifying advanced clean coal technology units.

SEC. 45I1. QUALIFICATIONS FOR ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.

(a) IN GENERAL.—For purposes of section 45I, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—

(1) IN GENERAL.—For purposes of section 45I, an "advanced clean coal technology unit" means an advanced clean coal technology unit of the taxpayer which—

"(A)(I) in the case of a unit placed in service after the date of the enactment of this section and before January 1, 2013, and

"(B)(I) is eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

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

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

"(iv) an eligible other technology unit, and

"(B) the carbon emission rate requirements of paragraph (5).

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

"(A) is placed in service after the date of the enactment of this section and before January 1, 2013, and

"(B) has a design net heat rate of not more than 6,350 (8,750 in the case of units placed in service before 2009), and 3,550 in the case of units placed in service after 2008 and before 2013),

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

"(A) is placed in service after the date of the enactment of this section and before January 1, 2017, and

"(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013),

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

"(A) is placed in service after the date of the enactment of this section and before January 1, 2017,

"(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013), and

"(C) has a net thermal efficiency (HVG) using coal with fuel or chemical co-production of not less than 43.8 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) ELIGIBLE OTHER TECHNOLOGY UNIT.—The term ‘eligible other technology unit’ means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

"(6) CARBON EMISSION RATE REQUIREMENTS.

"(A) IN GENERAL.—As excepted in subparagraph (B), a unit meets the requirements of this paragraph if—

"(i) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.65 pound of carbon per kilowatt hour, and

"(ii) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

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

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

"(4) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF ADVANCED CLEAN COAL TECHNOLOGY UNITS.

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

"(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts, and

"(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts.

"(E) USE OF UNITS IN SERVICE.—Each such unit may be counted in determining the limitations of this section with respect to units placed in service after 2008 and before 2013.

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

"(5) APPLICABLE PERCENTAGE.—For purposes of this section, the applicable percentage is the percentage equal to the ratio of the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

"(6) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF ADVANCED CLEAN COAL TECHNOLOGY UNITS.

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

"(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts, and

"(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts.

"(E) USE OF UNITS IN SERVICE.—Each such unit may be counted in determining the limitations of this section with respect to units placed in service after 2008 and before 2013.

"(F) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.
megawatts in the case of units placed in service before 2009).

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

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

(a) to carry out the purposes of this subsection and section 45J.

(b) LIMITATION ON QUALIFIED ADVANCED CLEAN COAL TECHNOLOGY UNIT.—The term 'qualified advanced clean coal technology unit' means any property being constructed or for the taxable year with respect to the tax credit allowed under section 38 respecting such 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.—Except as provided in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

(e) Qualified Investment.—For purposes of paragraph (3)(C), the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units shall be established by the Secretary of Energy as part of a competitive solicitation.

(f) General rule.—For purposes of paragraphs (3)(C), (C), and (D) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and 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 any property placed in service during the taxable year which is attributable to the qualifying advanced clean coal technology unit (as defined by section 48A) which is attributable to the qualifying advanced clean coal technology unit credit determined under section 48A and which is attributable to the construction of such unit.

(h) Qualified Progress Expenditures.—For purposes of paragraph (3)(C), the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units shall be established by the Secretary of Energy as part of a competitive solicitation.

(i) 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.

(j) Qualified Progress Expenditure Property Defined.—For purposes of this subsection, the term 'qualified progress expenditure property means any property being constructed or for the taxable year which is attributable to the credit allowed under section 48 respecting such property.

(k) Qualified Progress Expenditures Defined.—For purposes of this subsection—

(A) SELF-CONSTRUCTED PROPERTY.—In the case of property constructed by a taxpayer, 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 property constructed by another person for the construction of such property, the term 'qualified progress expenditures means the amount paid during the taxable year to another person for the construction of such property.

(l) 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.—Except with the consent of the Secretary, an election, once made, may not be revoked except with the consent of the Secretary.

(E) SELECTION CRITERIA.—For purposes of paragraph (3)(C), the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units shall be established by the Secretary of Energy as part of a competitive solicitation.

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

(G) RECUPERCATION.—Section 50(a) (relating to recapture) is amended by striking 'taxpayer' and by adding at the end 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 investment tax credit allowed under section 48 or the energy credit under section 48 that is allowed unless the taxpayer elects to waive the application of such credit to such property.

(B) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'property ceases to qualify for progress expenditures' means that the property ceases to qualify for the purposes of this subsection.

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

(D) TRANSITIONAL RULE.—Section 59(a)(9)(D) (relating to transitional rules), as amended by section 39, shall be applied in the case of a unit originally placed in service before 2009, if—

17 NO CARRYBACK OF SECTION 48A CREDIT BEFORE EFFECTIVE DATE.—No portion of the credit under section 48A shall be carried back to a taxable year ending on or before the date of the enactment of section 48A.

(E) TECHNICAL AMENDMENTS.—

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, unless otherwise provided.

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

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to busi-
The design net heat rate is:

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<tbody>
<tr>
<td>Not more than 8,400</td>
<td>$0.0060</td>
<td>$0.0038</td>
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<tr>
<td>More than 8,400 but not more than 8,550</td>
<td>$0.0025</td>
<td>$0.0010</td>
<td></td>
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<tr>
<td>More than 8,550 but less than 8,750</td>
<td>$0.0010</td>
<td>$0.0010</td>
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The design net heat rate is:

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<tbody>
<tr>
<td>Not more than 7,770</td>
<td>$0.0105</td>
<td>$0.0090</td>
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<tr>
<td>More than 7,770 but not more than 8,125</td>
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<td>$0.0068</td>
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<tr>
<td>More than 8,125 but less than 8,350</td>
<td>$0.0075</td>
<td>$0.0055</td>
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The design net heat rate is:

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<tr>
<td>Not more than 7,380</td>
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<td>$0.0115</td>
<td></td>
</tr>
<tr>
<td>More than 7,380 but not more than 7,720</td>
<td>$0.0120</td>
<td>$0.0090</td>
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The unit design net thermal efficiency (HHV) is:

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<tr>
<td>Not less than 40.6 percent</td>
<td>$0.0060</td>
<td>$0.0038</td>
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<tr>
<td>Less than 40.6 but not less than 40 percent</td>
<td>$0.0025</td>
<td>$0.0010</td>
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<tr>
<td>Less than 40 but not less than 39 percent</td>
<td>$0.0010</td>
<td>$0.0010</td>
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The unit design net thermal efficiency (HHV) is:

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<tbody>
<tr>
<td>Not less than 43.6 percent</td>
<td>$0.0105</td>
<td>$0.0090</td>
<td></td>
</tr>
<tr>
<td>Less than 43.6 but not less than 42 percent</td>
<td>$0.0085</td>
<td>$0.0068</td>
<td></td>
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<tr>
<td>Less than 42 but not less than 40.9 percent</td>
<td>$0.0075</td>
<td>$0.0055</td>
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The unit design net thermal efficiency (HHV) is:

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<tbody>
<tr>
<td>Not less than 44.2 percent</td>
<td>$0.0140</td>
<td>$0.0115</td>
<td></td>
</tr>
<tr>
<td>Less than 44.2 but not less than 43.9 percent</td>
<td>$0.0120</td>
<td>$0.0090</td>
<td></td>
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(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.

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 39(b), as amended by this Act, is amended by striking ‘‘plus’’ at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ‘‘, plus’’, and by adding at the end the following new paragraph:

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

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

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

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

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

(3) USE OF CREDIT AS AN OFFSET.—

The amount of any tax credit for qualified crude oil production (as determined without regard to this paragraph) shall be treated as arising from the exercise of an essential government function.

'(4) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(d), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan or obligation on which interest has accrued under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 1901 et seq.), as in effect on the date of the enactment of this section.

'(5) USE BY TVA.—

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

'(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated for purposes of the same tax year in the same manner as if the credits had been paid in cash and shall be applied first against the interest charged on the appropriations investment.

'(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described in clause (i) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall not be available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

'(D) LIMITATION ON AMOUNT OF PRODUCTION.—The credit determined under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall be treated as income for purposes of section 901(c)(12).

'(6) TREATMENT OF UNRELATED PERSONS.—

For purposes of this subsection, sales among persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(A) shall be treated as sales between unrelated parties.

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

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

SEC. 221. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.

(a) In General.—Section 45I, as added by this Act, is amended by adding at the end the following new subsection:

'(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 oil or natural gas produced by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is productive shall be made without regard to the tax-exempt status of the person.

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

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

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

'(iii) a public utility (as defined in section 191(b)),

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

'(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality of an Indian tribal government,

'(vi) the Tennessee Valley Authority.

'(2) TRANSFER OF CREDIT.—

'(A) In General.—A person described in clause (i) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Any assignment may be revoked only with the consent of the Secretary.

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

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

'(3) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(d), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan or obligation on which interest has accrued under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 1901 et seq.), as in effect on the date of the enactment of this section.

'(4) USE BY TVA.—

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

'(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated for purposes of the same tax year in the same manner as if the credits had been paid in cash and shall be applied first against the interest charged on the appropriations investment.

'(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described in clause (i) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall not be available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.

'(D) LIMITATION ON AMOUNT OF PRODUCTION.—The credit determined under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall be treated as income for purposes of section 901(c)(12).

'(6) TREATMENT OF UNRELATED PERSONS.—

For purposes of this subsection, sales among persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(A) shall be treated as sales between unrelated parties.

'(B) EFFECTIVE DATE.—The 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 XXIII—OIL AND GAS PROVISIONS

SEC. 220. CRUDE OIL AND NATURAL GAS PRODUCTION.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45K. CREDIT FOR PRODUCING OIL AND GAS.

'"(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—

'(i) the credit amount, and

'(ii) the qualified credit oil production and any qualified natural gas production which is attributable to the taxpayer.

'(b) CREDIT AMOUNT.—For purposes of this section—

'(1) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production) in the case of a taxable year after 2002, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 33(b)(3)(B) by substituting '2001' for '1990').

'(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2002, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 33(b)(3)(B) by substituting '2001' for '1990').

'(3) REFERENCE PRICE.—For purposes of this paragraph, the term ‘reference price’ means, with respect to any calendar year—

'(i) in the case of qualified crude oil production, the reference price determined under section 45K(2)(d)(2)(C), and

'(ii) in the case of qualified natural gas production, the Secretary’s estimate of the average wellhead price of 1,000 cubic feet for all domestic natural gas.

'(4) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—

'(1) the terms ‘qualified crude oil production’ and ‘qualified natural gas production’ mean domestic crude oil or natural gas which is produced from a qualified marginal well,

'(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—

'(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil or natural gas or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.

'(B) PROPORTIONATE REDUCTIONS.—

'(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced by the number of days in such taxable year bears to 365.

'(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not in production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days in which production occurs bears to the total number of days in the taxable year.

'(3) DEFINITIONS.—
(A) QUALIFIED MARGINAL WELL.—The term ‘qualified marginal well’ means a domestic well—

(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or

(ii) which, during the taxable year—

(1) has average daily production of not more than 5 barrels, and

(2) 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 by such terms by section 613A(e).

(C) BARRREL EQUIVALENT.—The term ‘barrel equivalent’ means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.

(D) OTHER RULES.—

(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer’s revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.

(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only by the owner which (a) 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.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 29(d)(4)(A) is amended—

(1) by striking “plus” at the end of paragraph (2), by striking the period at the end of paragraph (2)(B) 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).”

(c) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

“(19) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the marginal oil and gas well production credit determined under section 45K may be carried back to a taxable year ending on or before the date of the enactment of section 45K.

(d) COORDINATION WITH OTHER PROVISIONS.—Section 29(a)(1) is amended—

(1) by striking “2001” and inserting “2002”, and by adding at the end the following new paragraph:

“(2) The table of sections for part VI of subchapter B of chapter 1 of 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 section:

“Sec. 45K. Credit for producing oil and gas from marginal wells.”

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

SEC. 2302. EXAMINING LINES TREATED AS 7-YEAR PROPERTY.

(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property as nonresidential real property 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 (a) of section 168, as amended by this Act, is amended by adding at the end the following new paragraph:

“(16) NATURAL GAS GATHERING LINE.—The term ‘natural gas gathering line’ means—

(A) a gas pipeline, a gathering pipeline, or a transmission determined to be a gathering line by the Federal Energy Regulatory Commission, or

(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a common point to the point at which such gas first reaches—

(i) a gas processing plant;

(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline;

(iii) an interconnection with an intrastate transmission pipeline, or

(iv) a direct interconnection with a local distribution company, a generation facility, storage facility, or an industrial consumer.”.

(c) ALTERNATIVE SYSTEM.—The table contained in section 168(e)(3)(B) is amended by inserting after subparagraph (C)(i) the following new item:

“(C)(ii) ............................................... 10”.

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

SEC. 2303. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.

(a) IN GENERAL.—(1) Part VI of subchapter B of chapter 1 of subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by striking “plus” at the end of paragraph (2), by inserting after subparagraph (B)(i) the following new subparagraph:

“(ii) any natural gas gathering line, and”.

(b) CONFORMING AMENDMENTS.—

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

“(K) expenditures for which a deduction is allowed under section 179D.”.

(2) Section 263A(c)(3) is amended by inserting “179C.” after “section”.

(3) Section 312(k)(3)(B), as amended by this Act, is amended by inserting “or” at the end of subparagraph (E), by inserting after subparagraph (H) the following new subparagraph:

“(I) the Federal Energy Regulatory Commission, as in effect on the date of the enactment of this section, and

(c) COORDINATION WITH OTHER PROVISIONS.—Section 29 of this Act, as amended by this Act, is amended by striking “or” at the end of section (3), by striking the period at the end of section (17) and inserting “; and”, and by adding at the end the following new paragraphs:

“(20) to the extent provided in section 179D(d).”.

(5) Section 1245(a), as amended by this Act, is amended by inserting “179C.” after “section”.

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by striking “and” at the end of paragraph (35), by striking the period at the end of subparagraph (C) and inserting “; and”, and by adding at the end the following new paragraph:

“179C. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.”.

(c) 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. 2304. ENVIRONMENTAL TAX CREDIT.

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

"S3102 CONGRESSIONAL RECORD — SENATE April 22, 2002

(A) QUALIFIED CAPITAL COSTS.—The term ‘qualified capital costs’ means any costs which—

(i) are otherwise chargeable to capital account, and

(ii) 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 the date of the enactment of this section.

(b) COORDINATION WITH OTHER PROVISIONS.—Section 29B shall not apply to amounts which are treated as expenses under this section.

(c) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (b).

(d) CONTROLLING GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414, shall be treated as a single employer.

(b) CONFORMING AMENDMENTS.—

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

“(K) expenditures for which a deduction is allowed under section 179D.”.

(2) Section 263A(c)(3) is amended by inserting “179C.” after “section”.

(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking “or” at the end of subparagraph (E), by inserting after subparagraph (H) the following new subparagraph:

“(I) the Federal Energy Regulatory Commission, as in effect on the date of the enactment of this section, and

(c) COORDINATION WITH OTHER PROVISIONS.—Section 29 of this Act, as amended by this Act, is amended by striking “or” at the end of section (3), by striking the period at the end of section (17) and inserting “; and”, and by adding at the end the following new paragraphs:

“(20) to the extent provided in section 179D(d).”.

(5) Section 1245(a), as amended by this Act, is amended by inserting “179C.” after “section”.

(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by striking “and” at the end of paragraph (35), by striking the period at the end of subparagraph (C) and inserting “; and”, and by adding at the end the following new paragraph:

“179C. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.”.

(c) 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. 2304. ENVIRONMENTAL TAX CREDIT.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) as amended by this Act, is amended by adding at the end the following new section:
SEC. 45L. ENVIRONMENTAL TAX CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the amount of the environmental tax credit determined under this section with respect to any facility shall be the amount of the qualified capital costs paid or incurred by such small business refiner with respect to such facility during any taxable year ending with or before the date which is 1 year after the date of the enactment of this section and ending with the date which is 1 year after the date on which the Secretary does not notify the taxpayer of the certification determined under subsection (a) for any preceding 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 of the environmental tax credit determined under subsection (a) for the taxable year of such refiner with respect to such facility.

"(2) REDUCED PERCENTAGE.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 179D(a)(2)(B)(ii).

"(c) DEFINITIONS.—For purposes of this section—

"(1) IN GENERAL.—The terms ‘small business refiner’ and ‘qualified capital costs’ have the same meaning as given in section 179D.

"(2) APPLICABLE PERIOD.—The term ‘applicable period’ means, with respect to any facility, the period beginning on the day after the date which is 1 year after the date on which the Secretary determines that such facility is a facility, and ending with the date which is 1 year after the date on which such facility no longer qualifies as a facility under part D of subpart D of part IV of subchapter B of chapter 1, sections 2306 and 2307, as amended by this section, and ending with the date which is 1 year after the date of the enactment of this section and ending with the date which is 1 year after the date on which the Secretary determines that such facility is no longer a facility.

"(3) REVIEW PERIOD.—Any application shall be reviewed and notice of certification, if applicable, shall be made by this section, and ending with the date which is 1 year after the date on which the Secretary determines that such facility is no longer a facility or the date on which the Secretary determines that such facility is not a facility, whichever is earlier.

"(d) CERTIFICATION.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the credit determined under subsection (a) shall be included in the amount determined for the first taxable year of each patron ending on or after the last day of the payment period for such facility. In the case of a cooperative organization, the amount determined for the first taxable year of each patron ending on or after the last day of the payment period ending within the period described in paragraph (4) of subparagraph (A) of section 38(d), as applied by this Act, shall be included in the amount determined for the first taxable year of such refiner ending on or after the last day of the payment period for such facility, and the amount determined for the first taxable year of each patron ending on or after the last day of the payment period for such facility, shall be included in the amount determined for the first taxable year of such refiner ending on or after the last day of the payment period for such facility.

"(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 of such refiner ending on or after the last day of the payment period for such facility, and the amount determined for the first taxable year of each patron ending on or after the last day of the payment period for such facility, shall be included in the amount determined for the first taxable year of such refiner ending on or after the last day of the payment period for such facility.

"(3) APPLICABLE PERIOD.—The term ‘applicable period’ means, with respect to any facility, the period beginning on the day after the date which is 1 year after the date on which the Secretary determines that such facility is a facility, and ending with the date which is 1 year after the date on which such facility no longer qualifies as a facility under part D of subpart D of part IV of subchapter B of chapter 1, sections 2306 and 2307, as amended by this section, and ending with the date which is 1 year after the date of the enactment of this section and ending with the date which is 1 year after the date on which the Secretary determines that such facility is no longer a facility or the date on which the Secretary determines that such facility is not a facility, whichever is earlier.

"(4) CERTAIN REFINERS EXCLUDED.—If the Secretary determines that such facility is a facility, and ending with the date which is 1 year after the date on which the Secretary determines that such facility is no longer a facility or the date on which the Secretary determines that such facility is not a facility, whichever is earlier.

"(e) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ‘‘plus’’ at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting ‘‘plus’’, and by adding at the end the following new paragraph:

"(23) in the case of a small business refiner, the environmental tax credit determined under section 65(a).

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ‘‘plus’’ at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting ‘‘plus’’, and by adding at the end the following new paragraph:

"(21) in the case of a small business refiner, the environmental tax credit determined under section 65(a).

(c) DETERMINATION OF SMALL REFINDER EXCEPTION TO OIL DEPLETION DE-

"(a) IN GENERAL.—Section 613A(d)(4) of section 613A(d) (relating to certain refiners excluding) is amended to read as follows:

"(4) CERTAIN REFINERS EXCLUDED.—If the taxpay—

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after such date.

SEC. 2305. DETERMINATION OF SMALL REFINDER EXCEPTION TO OIL DEPLETION DE-

"(a) IN GENERAL.—Paragraph (4) of section 613A(d) (relating to certain refiners excluding) is amended to read as follows:

"(4) CERTAIN REFINERS EXCLUDED.—If the taxpay—

"(c) EFFECTIVE DATE.—The amendments made by this section shall be effective for taxable years ending after such date.
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 resources 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 such rate which is attributable 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 as were available for coal bed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coal bed methane that has resulted from the enactment of such section 29, and the cost to the Federal Government, in terms of the average annual wellhead price of incremental coal bed methane produced annually and in the aggregate since such enactment.

SEC. 2101. 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:

"(d) EXTENSION FOR OTHER FACILITIES.—

"(1) OIL AND GAS.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after the date of the enactment of this subsection and before January 1, 2005, notwithstanding subsection (d), this section shall apply with respect to such fuels produced at such well or facility not later than the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.

"(2) FACILITIES PRODUCING REFINED COAL.—

"(A) IN GENERAL.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after the date of the enactment of such section 29 and the cost to the Federal Government, in terms of the average annual wellhead price of incremental coal bed methane produced annually and in the aggregate since such enactment.

SEC. 2102. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.

(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE.

"(a) IN GENERAL.—Subparagraph (E) of section 68A(c)(3) relating to classification of certain property is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and by inserting "., and" and by adding at the end the following new clause:

"(iv) any qualified distribution line.

(b) ALTERNATIVE SYSTEM.—The table contained in section 68B(c)(3)(B), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:

"(E)(iv) .......... 20".

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

TITLE XXIV—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

SEC. 2401. ONGOING STUDY AND REPORTS REGARDING TAX ISSUES RESULTING FROM FUTURE RESTRUCTURING DECISIONS.

(a) ONGOING STUDY.—The Secretary of the Treasury, after consulting the Federal Energy Regulatory Commission, shall undertake an ongoing study of Federal tax issues resulting from non-tax decisions on the restructuring of the electric industry. In particular, the study shall focus on the effect on tax-exempt bonding authority of public power entities and on corporate restructuring which results from the restructuring of the electric industry.

(b) REGULATORY RELIEF.—In connection with the study described in subsection (a), the Secretary of the Treasury shall exercise the Secretary’s authority, as appropriate, to modify or suspend regulations that may impede an electric utility company’s ability to reorganize its capital stock structure to respond to a competitive marketplace.

SEC. 2402. MODIFICATIONS TO SPECIAL RULES FOR FUTURE RESTRUCTURING COSTS.

(a) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.

(b) TREATMENT OF FUND TRANSFERS.—Subsection (e) of section 68B(c)(3) is amended by adding at the end the following new paragraph:

"(B) TREATMENT OF FUND TRANSFERS.—If, in connection with the transfer of the tax-exempt property to the taxpayer under section 68B, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—

"(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and

"(B) no amount shall be treated as distributed from such Fund, or be includable in gross income, by reason of such transfer.

SEC. 2403. MODIFICATIONS TO SPECIAL RULES FOR FUTURE RESTRUCTURING COSTS WHEN PAID.—Paragraph (2) of section 68B(c)(3) is amended to read as follows:
“(II) at the election of the electric company, the second or third calendar years preceding the start-up year.

“(VI) For purposes of this subparagraph, the start-up year is the calendar year beginning with the second or third calendar years beginning with the start-up year.

“(VII) For purposes of this subparagraph, the start-up year is the calendar year which begins with the start-up year of this subparagraph or, if later, at the election of the mutual or cooperative electric company.

“(I) the first year that such electric company offers nondiscriminatory open access, or

“(II) the first year in which at least 10 percent of such electric company’s load loss transactions are proprietary and not to members of such electric company.

“(v) For purposes of this subparagraph, transactions of organizations described in section 501(c)(12), shall be excluded income which is treated as member income under subparagraph (H) thereof.”

“(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

“2503. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.

“(a) INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—

“(I) the term ‘nuclear decommissioning costs’ means nuclear decommissioning costs paid or incurred by the electric company during any taxable year which total in any amount, constitute ordinary and necessary expenses in carrying on a trade or business under section 162,”

“(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

“2504. TREATMENT OF INCOME FROM CERTAIN RURAL UTILITIES SERVICE ACQUISITIONS.

“(a) IN GENERAL.—The provisions of section 501(a)(12) are amended by striking “or indirectly from a member,” and inserting “or directly or indirectly from a member,”

“(c) EXCEPTION FROM UNRELATED BUSINESS TAX.—Subsection (d) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

“(f) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from producers for the sole purpose of meeting losses and expenses.”

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

“Title XXV—Additional Provisions


“(a) IN GENERAL.—The Indian Employment Credit, as defined in section 512(c), is amended by adding after subparagraph (G) the following new subparagraph:

“(H) the first year in which at least 10 percent of such electric company’s load loss transactions are proprietary and not to members of such electric company.

“(b) TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Paragraph (12) of section 501(c), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:

“(H) In the case of a mutual or cooperative electric company, the amount which is treated as member income under subparagraph (G) of such section includes property which is used, or to be used, for—

“(e) TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS OF ORGANIZATIONS DESCRIBED IN SUBSECTION (a)(2)(C), see section 501(c)(12)(H).”

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

“Title XXV—Additional Provisions

“2502. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GENERAL SERVICES ADMINISTRATION.

“(a) STUDY.—The General Services Administration shall undertake an ongoing analysis of—

“(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

“(b) INDIAN EMPLOYMENT CREDIT.—Section 45A(f) (relating to termination), as amended by section 613(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking “2004” and inserting “2005”.

“(b) INDIAN EMPLOYMENT CREDIT.—Section 45A(f) (relating to termination), as amended by section 613(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking “2004” and inserting “2005”.

“2502. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GENERAL SERVICES ADMINISTRATION.

“(a) STUDY.—The General Services Administration shall undertake an ongoing analysis of—

“(1) the effectiveness of the alternate motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

“2502. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GENERAL SERVICES ADMINISTRATION.

“(a) STUDY.—The General Services Administration shall undertake an ongoing analysis of—

“(1) the effectiveness of the alternate motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

“(2) the recipients of the tax benefits contained in such provisions, including the identification of such recipients by income and other appropriate measurements.

“Such analysis shall contain an examination of the effectiveness of such provisions by examining and comparing the Federal Government’s forgone revenue to the aggregate amount of energy historically conserved and tangible environmental benefits gained as a result of such provisions.
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) 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. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 532, between lines 7 and 8, insert the following:

SEC. 1385. AIR QUALITY FORECASTS AND WARNINGS BY NOAA.

(a) REQUIREMENT FOR FORECASTS AND WARNINGS.—The Secretary of Commerce shall authorize the Administrator of the Na­tional Oceanic and Atmospheric Administra­tion to issue air quality forecasts and air quality warnings as a mission of that agen­cy.

(b) REGIONAL WARNINGS.—In carrying out subsection (a), the Secretary of Commerce shall establish within the National Oceanic and Atmospheric Administration a program to provide region-oriented forecasts and warnings regarding air quality for each of the following regions of the United States:


(2) The Southeast, composed of Virginia, North Carolina, South Carolina, Georgia, Alabama, and Florida.

(3) The South, composed of Tennessee, Mis­sissippi, Louisiana, Arkansas, Oklahoma, and Texas.

(4) The Midwest, composed of Minnesota, Wisconsin, Iowa, Missouri, Illinois, Ken­tucky, Indiana, Ohio, Michigan, and Indiana.

(5) The High Plains, composed of North Da­kota, South Dakota, Nebraska, and Kansas.


(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 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. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 510, between lines 4 and 5, insert the following:

SEC. 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 transcontinental air flow on the quality of the air in and around the New England re­gion;

(2) determine and assess the effects of naturally occurring emissions on the quality of the air in the New England region, including the quality of the air in selected localities within the region; and

(3) determine, analyze, and quantify the production of ozone and fine particulate pol­lution through chemical reactions in the at­mosphere within the New England region.

(c) 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 317 proposed by Mr. 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. 514. CLARIFICATION OF CERTAIN REGU­LATORY AUTHORITY REGARDING URANIUM LEND LEASE AGREEMENTS.

The Atomic Energy Act of 1954 (42 U.S.C. 1 et seq.) is amended by inserting before the period at the end of section 276(a): "nor shall any such provision be construed to pro­hibit or otherwise restrict the authority of any state to regulate, on the basis of radio­logical hazard, uranium or thorium mill tailings, regardless of origin, that the Com­mission has determined are outside the stat­utory authority of the Commission or that the Commission has exempted from regula­tion by rule;"

SA 3291. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 144, line 11, strike "in subparagra­phs (B)(i)(II) and (C)," and insert "in subparagra­phs (B)(i)(II) and (C)."

On page 146, between lines 9 and 10, insert the following:

(’C) EXEMPTION FOR CERTAIN PADDS.—Dur­ing calendar years 2003 through 2005, sub­paragraphs (A) and (B) shall not apply to any refiner, blender, or importer located in Petroleum Administration for Defense District I or Petroleum Administration for Defense District V."

SA 3292. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 146, between lines 9 and 10, insert the following:

(’C) EXEMPTION FOR CERTAIN PADDS.—Dur­ing calendar years 2003 through 2005, sub­paragraphs (A) and (B) shall not apply to any refiner, blender, or importer located in Petroleum Administration for Defense District I or Petroleum Administration for Defense District V."

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," be passed with the following amendments:

(1) Page 2, line 4, strike out [30011] and insert:

``Sec. 203 Commission on interoperable data sharing.''

(2) Page 2, in the table of contents, strike out the item which reads

``Sec. 204. Personnel management authorities for positions involved in the development and implementation of the interoperable electronic data system ("Chimera system"),''

and insert:

``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 [TITL] and 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").''
PAGE 27, line 22, strike out [202(a)(3)(B)] and insert: 202(a)(4)(B)
(22) Page 28, line 2, strike out [October 26, 2003] and insert: October 26, 2004
(23) Page 28, line 9, strike out all after “biometric” down to and including “identifiers” in line 10 and insert: and document authentication identifiers that comply with applicable biometric and document
(24) Page 28, line 16, strike out [October 26, 2003] and insert: October 26, 2004
(25) Page 28, line 17, after “program” insert: under section 217 of the Immigration and Nationality Act
(26) Page 29, line 4, after “mission” insert: to a foreign country
(27) Page 29, line 23, strike out [The committee] and insert: Each committee established under subsection (a)
(28) Page 30, line 1, strike out [PERIODIC REPORTS TO THE SECRETARY OF STATE] and insert: PERIODIC REPORTS TO THE SECRETARY OF STATE
(29) Page 30, line 1, strike out [The committee] and insert: Each committee established under subsection (a)
(30) Page 30, line 2, strike out [quarterly] and insert: monthly
(31) Page 30, line 5, strike out [quarter] and insert: month
(32) Page 30, after line 5, insert:
(33) Page 30, line 8, strike out [(f)] and insert: (g)
(34) Page 32, strike out all after line 22 over
and insert: (a) REPORTING PASSPORT THEFTS.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—
(1) by adding at the end of subsection (c)(2) the following new subparagraph:
“(D) REPORTING PASSPORT THEFTS.—The government of the country certifies that it reports to the United States Government on a timely basis the theft of blank passports issued by that country;” and
(2) in subsection (c)(5)(A)(i), by striking “5 years” and inserting “2 years”; and
(3) by adding at the end of subsection (f) the following new paragraph:
“(5) FAILURE TO REPORT PASSPORT THEFTS.—If the Attorney General and the Secretary of State jointly determine that the program country is not reporting the theft of blank passports, as required by subsection (c)(2)(D), the Attorney General shall terminate the designation of the country as a program country.”
(35) Page 35, strike out lines 1 and 2 and insert:
TITLE IV—INSPECTION AND ADMISSION OF ALIENS
(36) Page 35, line 10, strike out all after “the” down to and including “(a)” in line 11 and insert:
President
(37) Page 37, line 2, strike out [(i)] and insert: (j)
(38) Page 37, strike out lines 3 and 4 and insert:
(39) by striking “Secretary” and inserting the following:
“SEC. 231. (a) ARRIVAL MANIFESTS.—For
(40) Page 37, lines 9 and 10, strike out [an immigration officer] and insert: any United States border officer (as defined in subsection (i))
(41) Page 37, line 19, strike out [an immigration officer] and insert: any United States border officer (as defined in subsection (i))
(42) Page 39, line 9, strike out [that] and insert:
that;
(43) Page 39, lines 9 and 10, strike out [air
(44) Page 39, line 25, strike out [S3000] and insert: $1,000
EXECUTIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 774, 775, and 762 through 787; that the proceedings be recorded; that the motions to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; that any statements relating to the nominations be printed in the Record; that the Senate return to legislative session, without any intervening action or debate.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF JUSTICE

Debra W. Yang, of California, to be United States Attorney for the Central District of California for a term of four years.

Frank DeArmon Whitney, of North Carolina, to be United States Attorney for the Eastern District of North Carolina for a term of four years.

EXECUTIVE OFFICE OF THE PRESIDENT

Barry D. Crane, of Virginia, to be Deputy Director for Science and Technology, Office of National Drug Control Policy.

Mary Ann Solberg, of Michigan, to be Deputy Director of National Drug Control Policy.

COAST GUARD

The following named officer for appointment as Chief of Staff of the United States Coast Guard under Title 14, U.S.C., Section 50a:

To be chief of staff
Vice Adm. Thad W. Allen, 0000

The following named officer for appointment as Vice Commandant of the United States Coast Guard and to the grade indicated under Title 14, U.S.C., Section 47:

To be vice admiral
Rear Adm. Thomas J. Barrett, 0000

The following named officer for appointment as Commander, Atlantic Area of the United States Coast Guard and to the grade indicated under Title 14, U.S.C., Section 50:

To be vice admiral
Rear Adm. James D. Hail, 0000

The following named officer for appointment as Commander, Pacific Area of the United States Coast Guard and to the grade indicated under Title 14, U.S.C., Section 50:

To be vice admiral
Rear Adm. Terry M. Cross, 0000

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR TUESDAY, APRIL 23, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until tomorrow at 10:30 a.m., Tuesday, April 23, that immediately following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, and that the two leaders be reserved for their use later in the day, and there be a period for morning business until 11:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the time equally divided between the two leaders or their designees; that at 11:30 a.m. the Senate resume consideration of the energy reform bill and vote on cloture on the Daschle-Bingaman substitute amendment; further, that the Senators have until 11 a.m. on Tuesday to file second-degree amendments to the energy reform bill; and that the Senate recess from 12:30 to 2:15 p.m. tomorrow for their weekly party conferences.

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

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

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

There being no objection, the Senate, at 4:56 p.m., adjourned until Tuesday, April 23, 2002, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 22, 2002:

DEPARTMENT OF DEFENSE

Thomas Forrest Hall, of Oklahoma, to be an Assistant Secretary of Defense, Vice Deborah Howell, resigned.

NATIONAL INSTITUTE FOR LITERACY

Mark G. Yudof, of Minnesota, to be a Member of the National Institute for Literacy Advisory Board for a term of two years. (New Position)

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Michael P. Duffy, of the District of Columbia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2008, Vice James Charles Riley, resigned.

DEPARTMENT OF JUSTICE

G. Wayne Fire, of Virginia, to be United States Marshal for the Western District of Virginia for the term of four years. Vice Larry Reed Mattux, term expired.

THE JUDICIARY

James Knoll Gardner, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania, Vice Jan E. Dubos, retired.

THE COAST GUARD

The following named officers for appointment in the United States Coast Guard to the grade indicated under Title 14, U.S.C., Section 21.
To be rear admiral

REAR ADM. (LH) VIVIEN S. CREA, 0000
REAR ADM. (LH) ROBERT F. DUNCAN, 0000
REAR ADM. (LH) KEVIN J. ELDRIDGE, 0000
REAR ADM. (LH) THOMAS J. GILMOUR, 0000
REAR ADM. (LH) JEFFREY J. HATHAWAY, 0000
REAR ADM. (LH) CHARLES D. WURSTER, 0000

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 1228:

To be major general

BRIGADIER GENERAL THOMAS P. MAGUIRE JR., 0000

To be brigadier general

COLONEL LARITA A. ARAGON, 0000
COLONEL ROBERT B. BAILEY, 0000
COLONEL TOD M. BUNTING, 0000
COLONEL LAWRENCE J. CERFOGLIO, 0000
COLONEL EUGENE R. CHOJNACKI, 0000
COLONEL THORNE A. DAVIS, 0000
COLONEL ALLEN R. DEHNERT, 0000
COLONEL DANA B. DEMAND, 0000
COLONEL R. ANTHONY HAYNES, 0000
COLONEL STANLEY J. JAWORSKI JR., 0000
COLONEL DOUGLAS M. PIERCE, 0000
COLONEL RILEY P. PORTER, 0000
COLONEL RICHARD L. RAYBURN, 0000
COLONEL TIMOTHY R. RUSH, 0000
COLONEL JOHN M. WHITE, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. MICHAEL A. DUNN, 0000
COL. ERIC B. SCHOOMAKER, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES E. CARTWRIGHT, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 801:

To be admiral

VICE ADM. WALTER F. DORAN, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate April 22, 2002:

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF STAFF OF THE UNITED STATES COAST GUARD UNDER TITLE 10, U.S.C., SECTION 42a:

To be chief of staff

VICE ADM. THAD W. ALLEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE COMMANDANT OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 47:

To be vice admiral

REAR ADM. THOMAS J. BARRATT

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, ATLANTIC AREA OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 46:

To be vice admiral

REAR ADM. JAMES D. HULL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, PACIFIC AREA OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 46:

To be vice admiral

REAR ADM. TERRY M. CROSS

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES’ COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

DEBRA W. YANG, OF CALIFORNIA, TO BE UNITED STATES ATTORNEY FOR THE CENTRAL DISTRICT OF CALIFORNIA FOR A TERM OF FOUR YEARS.

FRANK DEARMON WHITNEY, OF NORTH CAROLINA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF NORTH CAROLINA FOR A TERM OF FOUR YEARS.

EXECUTIVE OFFICE OF THE PRESIDENT

BARRY D. CRANE, OF VIRGINIA, TO BE DEPUTY DIRECTOR FOR SUPPLY REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY.

MARY ANN SOLBERG, OF MICHIGAN, TO BE DEPUTY DIRECTOR OF NATIONAL DRUG CONTROL POLICY.
PERSONAL EXPLANATION

HON. BOB CLEMENT
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Monday, April 22, 2002

Mr. CLEMENT. Mr. Speaker, on rollcall No. 103, had I been present, I would have voted "yea."
PALESTINIANS DESERVE BETTER LEADERS

HON. TOM LANTOS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Monday, April 22, 2002

Mr. LANTOS. Mr. Speaker, today, Israel is engaged in a struggle against violence and terror. Suicide bombings promoted and abetted by Yasser Arafat and his Palestinian Authority have ravaged Israeli cities and placed killing scores of innocent Israeli men, women and children. Arafat’s refusal to denounce—persistently, convincingly and in Arabic—these atrocious suicide bombings is indicative of a man who has no interest in a cease-fire, much less a lasting peace agreement. Palestinians are sadly ill-served by irresponsible leaders who advocate violence and homicide instead of peace.

I would like to call to your attention an article that appeared in the Wall Street Journal on April 11, 2002 by Tarek E. Masoud, a graduate student at Yale University. His points are accurate and relevant to the current crisis.

Mr. Speaker, I urge my colleagues to read Tarek E. Masoud’s thought-provoking article, and I ask that the text be placed in the Record.

[From the Wall Street Journal, April 11, 2001]

PALESTINIANS DESERVE BETTER LEADERS

(By Tarek E. Masoud)

Those of us who watched Palestinian kids throw stones at Israeli soldiers and tanks during the intifada of the late 1980s find it hard to reconcile these images of bravery and daring with the current wave of atrocities carried out in the name of Palestine. The stone-throwing youths of the first intifada are now engaged in a struggle against violence and terrorism.

What disturbs me is the degree to which many supporters of Palestinian statehood do not even attempt it. They issue pro forma denunciations of suicide bombing, and then go on to offer justifications. The Palestinians, they tell us, are frustrated by their lack of freedom, by the erosion of the dignity of an Israeli that places settlers on their land and soldiers outside their homes. They are a people with their backs against the wall. After 50 years of occupation, we are told, the Palestinians have thrown their hands in the air and declared, quite literally, Give me liberty or give me death.

But of course, as Thomas Friedman and others have pointed out, the choice before the Palestinians is not between liberty and death. Israel’s leaders long ago accepted the logic of a Palestinian state: they put forward proposals for what that state would look like, and they haggled with the Palestinians over these proposals. Whatever one wants to say about the quality of Israeli proposals or the personal commitment of Ariel Sharon to a Palestinian state—and I happen to think both are less than robust—surely the Palestinians were not in a hopeless situation, the kind of situation which, we are told, causes sane men and women to fall into murder and suicide.

And, even if the situation were hopeless, if all the options were exhausted, is there ever a justification for the murder of innocent civilians? The philosopher Michael Walzer recently argued that those who claim to have tried everything before resorting to terror are lying to us about themselves. He asks, “What exactly did they try when they were trying everything?” There’s always something else you’re willing to do.

But many of the most vocal supporters of the Palestinian cause would rather not address these moral issues. Instead they want only to criticize Ariel Sharon. Even if you cringe, as I do, at reports of mass arrests and the bulldozing of Palestinian homes, Mr. Sharon is right about one thing: There is no difference between the sides perpetrating in the name of Palestinian statehood and Osama bin Laden’s attacks on American civilians. Yasser Arafat and his Palestinian groups in this country have done, denounce the latter and justify the former. Those who do invite us to question either the sincerity of their denunciations of Sept. 11 or their capacity for moral consistency.

I’m not sure where any of this leaves us. Even if the supporters of the Palestinian cause denounced suicide bombing just as vehemently as they do Mr. Sharon, we might still stop the steady stream of volunteers for the grim work of Hamas and the al Qaeda Martyrs Brigade.

This is why I think President Bush has the right idea when he demands that Arafat condemn suicide bombing, and in Arabic. There may be little the isolated Palestinian strongman can do now to control the groups that carry out acts of terrorism. But he can tell his people that the path of murder is the path of doom, that it has only brought shame to the people of Palestine and done nothing to further their cause. Of course, we may be indulging in some wishful thinking. Yasser Arafat, who was called him-himself recently on CNN, is not likely to become a moral force. If he had any inclination to do the right thing, he would have relented in the terrorists long before Mr. Sharon was even elected.

It is by now the received wisdom that Palestinians deserve better leaders. What they need by the esteemed British historian Richard J. Evans is an example of the kind of leadership that he need by the esteemed British historian Richard J. Evans. There may be little the isolated Palestinian strongman can do now to control the groups that carry out acts of terrorism. But he can tell his people that the path of murder is the path of doom. It has only brought shame.

As a result of the Administration’s dilatory and simplistic approach, millions of workers will suffer preventable injuries and disabilities, and costly lawsuits will be used to resolve individual cases of injury. The Bush Administration’s serious failure to protect our neighbors and friends who live with the pain of preventable ergonomic injuries has been the subject of extensive and justified criticism. I want to share the views of the Contra Costa Times (April 12, 2002) on the need for a sound ergonomics standard, and the failure of the Bush Administration to address the hazards that injure nearly 2 million Americans every year.

The Bush Administration has let the working person down by allowing workplace rules such as those regarding ergonomics, to become voluntary. It would be going too far for the government to mandate the brand of...
pens, the type of chairs, the make of computer a company must provide. That’s not what safe-workplace laws are about. However, enforceable rules that protect employees and make the working environment safer are not too much to ask, and that should be law, not choice.

And that’s what the administration pulled back from last week. For 10 years the nation’s been improving regulations to help prevent muscular and skeletal disorders brought on or intensified by working conditions. In fact, attention to such matters as ergonomics can actually prevent much more serious injuries and maladies that can cause substantial absenteeism.

So why stop now? Why reverse a positive and still-necessary thing? The government estimates 1.8 million U.S. workers per year suffer ergonomic injuries; yet that’s an improvement.

The Labor Department will develop new guidelines for safe and healthy work environments. Companies will be able to use or ignore these and the present regulations at their discretion.

It is, of course, in companies’ best interest to make the job a place where the workers can work comfortably. It’s expensive when employees have to draw on their health benefits, disability and workers’ compensation. In the long run it is more costly to have employees suffering from carpal tunnel syndrome, repetitive strain injury, herniated discs and other work-related illnesses than to create a worker-friendly environment.

But many companies, especially those in highly competitive industries, will choose to watch today’s bottom line rather than worry about long-term expense. Those people running publicly traded companies may well feel additional pressure to cut ergonomic costs so as to offer short-term profits to the stockholders.

IN HONOR OF THE GIRL SCOUTS OF THE USA

HON. GEORGE W. GEKAS
OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

April 22, 2002

Mr. GEKAS. Mr. Speaker, I am very pleased to recognize and congratulate the Girl Scouts of the USA. Today, they celebrate Girl Scouts National Leaders Day—an important day for Girl Scouts in which they honor their role models and volunteers who so selflessly devote themselves to educating and mentoring the young girls of America.

On March 12, the Girl Scouts celebrated another important day—the 90th anniversary of the Girl Scouts. For ninety years, the Girl Scouts of the USA has been dedicated to building character and developing real-world skills for girls in America. Few other organizations are as committed to the strong values and social conscience held by the Girl Scouts.

In 1912, Juliette Gordon Low formed the first Girl Scout Troop in Savannah, Georgia with just 18 girls. By 1915 the organization was incorporated and holding national conventions. One of the Girl Scouts’ best-known campaigns to the public started in 1937 when Girl Scout Cookies were first sold. In 1950, the United States Congress officially chartered the Girl Scouts of the USA.

Today, there are over 3.5 million Girl Scouts in America and 10 million Girl Scouts in 140 countries around the world. Juliette Gordon Low’s vision of an organization that would bring girls out of their homes and serve their communities has developed into the single largest organization for girls worldwide.

Through Juliette Low’s strong influence and enthusiasm for the Girl Scout movement, Girl Scouting has given many talented and educated girls and women the opportunity to develop physically, mentally, and spiritually to their fullest potential. They learn about science, technology, finance, sports, health, the arts, current events, community service, and much more. It is an organization of which we can truly be proud.

I am especially proud of Hemlock Girl Scout Council, the Council contained within my Congressional District. Hemlock Girl Scout Council was formed in 1963 with the merger of ten independent Central Pennsylvania councils. However, Girl Scouts have had active troops in Central Pennsylvania since 1917.

Hemlock Girl Scout Council is a very successful council boasting 14,000 Girl Scouts in 1,200 troops. This number represents one in six girls between the ages of five and seventeen in Central Pennsylvania. The council owns and operates four separate program centers throughout Central Pennsylvania. These centers provide a wide range of educational, athletic, and community activities and programs exclusively for Girl Scouts year-round.

Again, I’d like to offer my sincere congratulations to the Girl Scouts of the USA—and particularly to all the current and former Girl Scouts and leaders in the Hemlock Council—on their 90th anniversary. This remarkable organization has made a lasting contribution to millions of girls and has produced generation after generation of strong and capable women. They deserve our genuine thanks.
SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, April 23, 2002 may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED

APRIL 24

9:30 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings to examine reformation efforts of the District of Columbia Family Court.
SD-116

Foreign Relations
Western Hemisphere, Peace Corps and Narcotics Affairs Subcommittee
To hold hearings to examine future relations between the United States and Colombia.
SD-419

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Neighborhood Reinvestment Corporation and Community Development Financial Institutions Fund.
SD-138

10 a.m.
Indian Affairs
To hold hearings on S.217, to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program.
SR-485

Health, Education, Labor, and Pensions
Business meeting to consider S.1284, to prohibit employment discrimination on the basis of sexual orientation, and the nominations of Evelyn Dee Potter Rose, of Texas, to be a Member of the National Council on the Arts, James R. Stigall, Jr., of Louisiana, to be a Member of the National Council on the Humanities, and Kathleen M. Harrington, of the District of Columbia, to be an Assistant Secretary of Labor.
SD-430

2 p.m.
Appropriations
Interior Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Forest Service, Department of Agriculture.
SD-192

Foreign Operations Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Department of State.
SD-628

1:30 p.m.
Appropriations
Treasury and General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 2003 for the Office of National Drug Control Policy.
SD-192

2:30 p.m.
Intelligence
To hold closed hearings on pending intelligence matters.
SH-219

Indian Affairs
Energy and Natural Resources
To hold joint hearings on S.218, to establish the T’u F’u Shur Bien Preservation Trust Area within the Cibola National Forest in the State of New Mexico to resolve a land claim involving the Sandia Mountain Wilderness.
SD-366

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S.2357, to mobilize technology and science experts to respond quickly to the threats posed by terrorist attacks and other emergencies, by providing for the establishment of a national emergency technology guard, a technology reliability advisory board, and a center for evaluating antiterrorism and disaster response technology within the National Institute of Standards and Technology; and S.2362, to authorize funding for computer and network security research and development and research fellowship programs.
SR-253

APRIL 25

9:30 a.m.
Veterans’ Affairs
To hold hearings to examine the Department of Veterans’ Affairs’ preparedness regarding options to nursing homes.
SR-418

Commerce, Science, and Transportation
To hold hearings on proposed legislation concerning online privacy and protection.
SR-253

Environment and Public Works
Business meeting to consider pending calendar business.
SD-406

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine the implementation of the Individuals With Disabilities Education Act, focusing on behavioral support in schools.
SD-106

Judiciary
Business meeting to consider pending calendar business.
SD-226

10 a.m.
Health, Education, Labor, and Pensions
Children and Families Subcommittee
To hold hearings to examine families and funeral practices issues.
SD-430

APRIL 26

9:30 a.m.
Governmental Affairs
Investigations Subcommittee
To hold hearings to examine how gasoline prices are set and why they have become so volatile.
SD-342

Small Business and Entrepreneurship
To hold hearings to examine small business development in Native American communities.
SR-428A
MAY 2
9:30 a.m.
Veterans' Affairs
To hold hearings to examine pending legislation.
SR–418

Governmental Affairs
Investigations Subcommittee
To resume hearings to examine how gasoline prices are set and why they have become so volatile.
SD–342

2:30 p.m.
Judiciary
To hold hearings to examine restructuring issues within the Immigration and Naturalization Service, Department of Justice.
SD–226

MAY 10
10:30 a.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine non-proliferation programs, focusing on U.S. cruise missile threat.
SD–342

POSTPONEMENTS
APRIL 26
10 a.m.
Governmental Affairs
International Security, Proliferation and Federal Services Subcommittee
To hold hearings to examine difficulties and solutions concerning nonproliferation disputes between Russia and China.
SD–342
Chamber Action

Routine Proceedings, pages S2993–S3109

Measures Introduced: Six bills and one resolution were introduced, as follows: S. 2216–2221, and S. Res. 247.

Energy Policy Act: Senate resumed consideration of S. 517, to authorize funding for the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, taking action on the following amendments proposed thereto:

Pending:

Daschle/Bingaman Further Modified Amendment No. 2917, in the nature of a substitute.

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

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

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

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

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

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

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

A unanimous-consent agreement was reached providing for further consideration of the bill at 11:30 a.m., on Tuesday, April 23, 2002, with a vote to occur on the motion to close further debate on Daschle/Bingaman Further Modified Amendment No. 2917 (listed above). Further, that Senators have until 11 a.m. to file second degree amendments.

Veterans’ Memorial Preservation and Recognition Act Referral—Agreement: A unanimous-consent agreement was reached providing that S. 1644, to further the protection and recognition of veterans’ memorials, was discharged from the Committee on Veterans’ Affairs, and the measure was then referred to the Committee on the Judiciary.

Nominations Confirmed: Senate confirmed the following nominations:

Barry D. Crane, of Virginia, to be Deputy Director for Supply Reduction, Office of National Drug Control Policy.

Mary Ann Solberg, of Michigan, to be Deputy Director of National Drug Control Policy. (New Position)

Debra W. Yang, of California, to be United States Attorney for the Central District of California for a term of four years.

Frank DeArmon Whitney, of North Carolina, to be United States Attorney for the Eastern District of North Carolina for a term of four years.

4 Coast Guard nominations in the rank of admiral.

Nominations Received: Senate received the following nominations:

Thomas Forrest Hall, of Oklahoma, to be an Assistant Secretary of Defense.

Mark G. Yudof, of Minnesota, to be a Member of the National Institute for Literacy Advisory Board for a term of two years. (New Position)

Carol C. Gambill, of Tennessee, to be a Member of the National Institute for Literacy Advisory Board for a term of three years. (New Position)

Michael F. Duffy, of the District of Columbia, to be a Member of the Federal Mine Safety and Health

G. Wayne Pike, of Virginia, to be United States Marshal for the Western District of Virginia for the term of four years.

James Knoll Gardner, of Pennsylvania, to be United States District Judge for the Eastern District of Pennsylvania.

17 Air Force nominations in the rank of general.
2 Army nominations in the rank of general.
6 Coast Guard nominations in the rank of admiral.
1 Marine Corps nomination in the rank of general.
1 Navy nomination in the rank of admiral.

Measures Referred:

Executive Reports of Committees:

Additional Cosponsors:

Statements on Introduced Bills/Resolutions:

Additional Statements:

Amendments Submitted:

Privilege of the Floor:

Text of H.R. 3525, as Previously Passed:

Adjournment: Senate met at 1 p.m., and adjourned at 4:56 p.m., until 10:30 a.m., on Tuesday, April 23, 2002.

Committee Meetings

U.S.-CANADIAN WHEAT TRADE

Committee on Commerce, Science, and Transportation: On Friday, April 19, Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism concluded hearings to examine U.S. government action related to wheat trade with Canada, focusing on the Canadian Wheat 301 decision, which addressed the North Dakota Wheat Commission's petition regarding Canada's wheat trading system and how it disadvantages American wheat farmers and affects the integrity of the trading system, after receiving testimony from Allen F. Johnson, Chief Agriculture Negotiator, Office of the United States Trade Representative; Ellen Terpstra, Administrator, Foreign Agricultural Service, Department of Agriculture; Robert A. Rogowsky, Director of Operations, United States International Trade Commission; Gary Broyles, Rapelje, Montana, on behalf of the National Association of Wheat Growers, Wheat Export Trade Education Committee, and U.S. Wheat Associates; Neal Fisher, Kidder County, North Dakota, and Charles A. Hunnicurt, Robins, Kaplan, Miller and Ciresi, Washington, D.C., both on behalf of the North Dakota Wheat Commission; and John C. Miller, Miller Milling Company, Minneapolis, Minnesota, on behalf of the North American Millers' Association.

House of Representatives

Chamber Action

Measures Introduced: 1 public bill, H.R. 4544, was introduced.

Reports Filed: Reports were filed as follows:

Filed on April 19, H.R. 3231, to replace the Immigration and Naturalization Service with the Agency for Immigration Affairs, amended (H. Rept. 107–413);

H.R. 3763, to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, amended (H. Rept. 107–414); and


Speaker Pro Tempore: Read a letter from the Speaker wherein he appointed Representative Aderholt to act as Speaker pro tempore for today.

Congressional Recognition for Excellence in Arts Education Awards Board: Read a letter from the Minority Leader wherein he announced his appointment of Representatives Hinchey and McCollum to the Congressional Recognition for Excellence in Arts Education Awards Board.

Senate Messages: Message received from the Senate appears on page H1487.

Referrals: S. Con. Res. 66 and S. 1981 were referred to the Committee on the Judiciary and S. Con. Res. 75 was held at the desk.
Quorum Calls—Votes: No quorum calls or recorded votes developed during the proceedings of the House today.

Adjournment: The House met at 2 p.m. and adjourned at 2:03 p.m.

Committee Meetings
No committee meetings were held.

NEW PUBLIC LAWS
(For last listing of Public Laws, see Daily Digest of April 8, 2002, p. D291)

H.R. 1432, to designate the facility of the United States Postal Service located at 3698 Inner Perimeter Road in Valdosta, Georgia, as the “Major Lyn McIntosh Post Office Building”. Signed on April 18, 2002. (Public Law 107–160)

H.R. 1748, to designate the facility of the United States Postal Service located at 805 Glen Burnie Road in Richmond, Virginia, as the “Tom Bliley Post Office Building”. Signed on April 18, 2002. (Public Law 107–161)

H.R. 1749, to designate the facility of the United States Postal Service located at 685 Turnberry Road in Newport News, Virginia, as the “Bob Davis Post Office Building”. Signed on April 18, 2002. (Public Law 107–162)

H.R. 2577, to designate the facility of the United States Postal Service located at 310 South State Street in St. Ignace, Michigan, as the “Francis Bardanouve United States Post Office Building”. Signed on April 18, 2002. (Public Law 107–163)

H.R. 2876, to designate the facility of the United States Postal Service located in Harlem, Montana, as the “Norman Sisi- sky Post Office Building”. Signed on April 18, 2002. (Public Law 107–165)

H.R. 2910, to designate the facility of the United States Postal Service located at 3131 South Crater Road in Petersburg, Virginia, as the “Herbert H. Bateman Post Office Building”. Signed on April 18, 2002. (Public Law 107–166)

H.R. 3072, to designate the facility of the United States Postal Service located at 125 Main Street in Forest City, North Carolina, as the “Vernon Tarlton Post Office Building”. Signed on April 18, 2002. (Public Law 107–167)

H.R. 3379, to designate the facility of the United States Postal Service located at 375 Carlls Path in Deer Park, New York, as the “Raymond M. Downey Post Office Building”. Signed on April 18, 2002. (Public Law 107–167)

COMMITTEE MEETINGS FOR TUESDAY, APRIL 23, 2002
(Committee meetings are open unless otherwise indicated)

Senate
Committee on Banking, Housing, and Urban Affairs: to hold oversight hearings to examine the Federal Deposit Insurance System, focusing on recommendations for reform, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: to hold hearings to examine generic pharmaceuticals, focusing on marketplace access and consumer issues, 9:30 a.m., SR–253.

Committee on Foreign Relations: to hold hearings to examine United States nonproliferation efforts in the former Soviet Union, 10:15 a.m., SD–419.

Committee on Governmental Affairs: Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia, to hold hearings to examine the implications of the human capital crisis, focusing on how the federal government is recruiting, selecting, retaining, and training individuals to oversee trade policies and regulate financial industries, 10 a.m., SD–342.

Committee on Health, Education, Labor, and Pensions: Subcommittee on Public Health, to hold hearings to examine current safeguards concerning the protection of human subjects in research, 10 a.m., SD–430.

House
Committee on Appropriations, Subcommittee on Labor, Health and Human Services, and Education, on Public Witnesses, 2 p.m., 2358 Rayburn.

Committee on Energy and Commerce, Subcommittee on Energy and Air Quality, to mark up H.J. Res. 87, approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Policy Act of 1982, 4:30 p.m., 2123 Rayburn.

Subcommittee on Health, hearing on Welfare Reform: A Review of Abstinence Education and Transitional Medical Assistance, 3 p.m., 2322 Rayburn.

Committee on Financial Services, Subcommittee on Housing and Community Opportunity to continue hearings on H.R. 3995, Housing Affordability for American Act of 2002, 2 p.m., 2128 Rayburn.


Subcommittee on Energy Policy, Natural Resources and Regulatory Affairs, hearing entitled “Fuel Markets-Unstable at Any Price?” 2 p.m., 2154 Rayburn.

Committee on Rules, to consider H.R. 3763, Corporate and Auditing Accountability, Responsibility and Transparency Act of 2002, 5 p.m., H–313 Capitol.

Committee on Science, Subcommittee on Environment, Technology, and Standards, hearing on Science and Technology Programs at the Environmental Protection Agency: the Fiscal Year 2003 Budget Request, 2:30 p.m., 2318 Rayburn.

Permanent Select Committee on Intelligence, executive, hearing on Budget for NFIP programs within the FBI and the Departments of Defense, Energy, Treasury, and State, 3:30 p.m., H–405 Capitol.

Joint Meetings

Conference: meeting of conferees on H.R. 333, to amend title 11, United States Code, 3 p.m., HC–5 Capitol.
Next Meeting of the SENATE
10:30 a.m., Tuesday, April 23

Senate Chamber

Program for Tuesday: After the transaction of any morning business (not to extend beyond 11:30 a.m.), Senate will continue consideration of S. 517, Energy Policy Act, with a vote to occur on the motion to close further debate on Daschle/Bingaman Further Modified Amendment No. 2917.

(Senate will recess from 12:30 p.m. until 2:15 p.m., for their respective party conferences.)

Next Meeting of the HOUSE OF REPRESENTATIVES
12:30 p.m., Tuesday, April 23

House Chamber

Program for Tuesday: Consideration of Suspensions:

(1) H. Res. 384, commending the U.S. Secret Service New York Field Office for actions in response to the September 11 Terrorist Attacks;
(2) H. Res. 385, commending the U.S. Customs Service, 6 World Trade Center Offices for actions in response to the September 11 Terrorist Attacks;
(3) H. Res. 261, recognizing the historic significance of the Aquia sandstone quarries of Stafford County, Virginia in the construction of the new Capital of the United States;
(4) H.R. 3421, Yosemite National Park Educational Facilities Improvement;
(5) H.R. 2109, Study of Virginia Key Beach, Florida, for possible inclusion in the National Park System;
(6) H.R. 3839, Keeping Children and Families Safe Act; and
(7) H. Con. Res. 378, commending the D.C. National Guard, National Guard Bureau, and all of DOD for assistance provided to the Capitol Police and the Congressional community in response to the terrorist and anthrax attacks.

Extensions of Remarks, as inserted in this issue

HOUSE
Camp, Dave, Mich., E593
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