

“(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

“(B) TRANSFER OF CREDIT.—

“(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

“(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is assigned once and not reassigned by such other person.

“(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

“(C) CREDIT NOT INCOME.—Any transfer under subparagraph (B) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

“(D) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.”.

(2) CREDITS NOT REDUCED BY TAX-EXEMPT BONDS OR CERTAIN OTHER SUBSIDIES.—Section 45(b)(3) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(A) by striking clause (ii),

(B) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(C) by inserting “(other than any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Renewable Energy Incentives Act, or proceeds of an issue of State or local government obligations the interest on which is exempt from tax under section 103)” after “project” in clause (ii) (as so redesignated), and

(D) by striking “**TAX-EXEMPT BONDS,**” in the heading and inserting “**CERTAIN**”.

(3) CREDIT ALLOWABLE AGAINST MINIMUM TAX WITHOUT LIMITATION.—Clause (ii) of section 38(c)(4)(B) (defining specified credits) is amended to read as follows:

“(i) the credit determined under section 45 to the extent that such credit is attributable to electricity or refined coal produced at a facility which is originally placed in service after October 22, 2004.”.

(4) TREATMENT OF QUALIFIED FACILITIES NOT IN COMPLIANCE WITH POLLUTION LAWS.—Section 45(d) (relating to qualified facilities), as amended by subsection (d)(3), is amended by adding at the end the following:

“(11) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a facility which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified facility during such period.”.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity and other energy produced and sold after the date of the enactment of this Act, in taxable years ending after such date.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 168—EX-PRESSING GRATITUDE AND SINCERE RESPECT FOR JESSE R. NICHOLS

Mr. FRIST (for himself, Mr. GRASSLEY, and Mr. BAUCUS) submitted the following resolution; which was considered and agreed to:

S. RES. 168

Whereas Jesse R. Nichols, Sr., faithfully served the United States Senate and the Committee on Finance as the Government Documents Clerk and Librarian from nineteen hundred thirty-seven through nineteen hundred seventy-one;

Whereas Jesse R. Nichols, Sr., was born on June 14, 1909, in Clarksdale, Mississippi, and was the first African American Clerk employed by the United States Senate;

Whereas he carried out his duties in exemplary fashion, bringing credit to the Committee and to Congress;

Whereas Jesse Nichols worked effectively under the guidance of Democratic and Republican Chairmen, including Pat Harrison of Mississippi, Walter F. George of Georgia, Harry Flood Byrd of Virginia, and Russell B. Long of Louisiana from the 75th Congress through the 91st Congress; and

Whereas the Committee on Finance will long remember the commitment, service, and leadership of Jesse R. Nichols, Sr., as documented in an oral history posted on the Senate Historian's website: Now, therefore, be it

Resolved, That the United States Senate expresses its deep gratitude and sincere respect for Jesse R. Nichols for his unflinching service and his dedication to the United States Senate. The Senate hereby expresses condolences to the family due to the death of Jesse R. Nichols, Sr., on February 18, 2005.

SENATE RESOLUTION 169—EX-PRESSING THE SENSE OF THE SENATE WITH RESPECT TO FREE TRADE NEGOTIATIONS THAT COULD ADVERSELY IMPACT CONSUMERS OF SUGAR IN THE UNITED STATES AS WELL AS UNITED STATES AGRICULTURE AND THE BROADER ECONOMY OF THE UNITED STATES

Mr. SANTORUM (for himself and Mr. ENSIGN) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 169

Whereas the President concluded negotiations with Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic to form the Dominican Republic-Central America-United States Free Trade Agreement (“CAFTA-DR”);

Whereas the CAFTA-DR only provides the 5 Central American countries and the Dominican Republic with modest additional access to the United States sugar market that will have no impact on United States sugar producers;

Whereas United States farmers and ranchers need access to new markets to expand the agricultural sector of the United States economy;

Whereas the United States manufacturing and service sectors need access to new markets to expand the broader economy of the United States;

Whereas new market access for United States products is only possible through comprehensive free trade agreements that include all products and services;

Whereas the CAFTA-DR will help build democracy, security, and the rule of law, in addition to helping integrate the economies of the United States and countries in the region;

Whereas sugar growers are already one of the most highly protected special interests in the United States;

Whereas the provisions of the CAFTA-DR offer protection to United States sugar growers, in addition to the numerous existing mechanisms that have been designed to shield sugar growers from any competition;

Whereas the United States sugar program has caused the loss of thousands of jobs in the United States in the sugar product manufacturing and cane refining sector;

Whereas every effort has been taken by the administration and Congress to accommodate the United States sugar growers, but they continue to oppose the CAFTA-DR and any free trade agreement containing new market access for sugar; and

Whereas the United States sugar growers' intransigence in wanting to exclude sugar from all future trade agreements threatens to undermine trade opportunities for United States agriculture and the rest of the United States economy: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should negotiate and sign free trade agreements that are comprehensive in scope in order to ensure that the entire United States economy can benefit from new market opportunities provided by such agreements

SENATE RESOLUTION 170—RELATIVE TO THE DEATH OF J. JAMES EXON, FORMER UNITED STATES SENATOR FOR THE STATE OF NEBRASKA

Mr. FRIST (for himself, Mr. REID, Mr. HAGEL, Mr. NELSON of Nebraska, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEMINT, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUE, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS,

Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 170

Whereas J. James Exon served in the United States Army Signal Corps from 1942-1945 and in the United States Army Reserve from 1945-1949;

Whereas J. James Exon served as Governor of the State of Nebraska from 1971-1979;

Whereas J. James Exon served the people of Nebraska with distinction for 18 years in the United States Senate where he was a proponent of a strong national defense and knowledgeable source on geopolitical matters;

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable J. James Exon, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable J. James Exon.

AMENDMENTS SUBMITTED AND PROPOSED

SA 770. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 6, Reserved; which was ordered to lie on the table.

SA 771. Mr. JEFFORDS (for himself and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 6, supra; which was ordered to lie on the table.

SA 772. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 6, supra; which was ordered to lie on the table.

SA 773. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 6, supra; which was ordered to lie on the table.

SA 774. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 6, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 770. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill H.R. 6, Reserved; which was ordered to lie on the table; as follows:

On page 131, line 20, after "landfill gas," insert the following: "livestock methane,"

SA 771. Mr. JEFFORDS (for himself, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 6, Reserved; which was ordered to lie on the table; as follows:

On page 159, after line 23, add the following:

SEC. 211. RENEWABLE PORTFOLIO STANDARD.

Title VI of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.) is amended by adding at the end the following: "**SEC. 609. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

"(a) DEFINITIONS.—In this section:

"(1) BIOMASS.—

"(A) IN GENERAL.—The term 'biomass' means—

"(i) organic material from a plant that is planted for the purpose of being used to produce energy;

"(ii) nonhazardous, cellulosic or agricultural waste material that is segregated from other waste materials and is derived from—

"(I) a forest-related resource, including—

"(aa) mill and harvesting residue;

"(bb) precommercial thinnings;

"(cc) slash; and

"(dd) brush;

"(II) agricultural resources, including—

"(aa) orchard tree crops;

"(bb) vineyards;

"(cc) grains;

"(dd) legumes;

"(ee) sugar; and

"(ff) other crop by-products or residues; or

"(III) miscellaneous waste such as—

"(aa) waste pallet;

"(bb) crate; and

"(cc) landscape or right-of-way tree trimmings;

"(iii) animal waste that is converted to a fuel rather than directly combusted, the residue of which is converted to a biological fertilizer, oil, or activated carbon; and

"(iv) livestock methane.

"(B) EXCLUSIONS.—The term 'biomass' shall not include—

"(i) municipal solid waste that is incinerated;

"(ii) recyclable post-consumer waste paper;

"(iii) painted, treated, or pressurized wood;

"(iv) wood contaminated with plastics or metals; or

"(v) tires.

"(2) DISTRIBUTED GENERATION.—The term 'distributed generation' means reduced electricity consumption from the electric grid due to use by a customer of renewable energy generated at a customer site.

"(3) INCREMENTAL HYDROPOWER.—The term 'incremental hydropower' means additional generation achieved from increased efficiency after January 1, 2003, at a hydroelectric dam that was placed in service before January 1, 2003.

"(4) LANDFILL GAS.—The term 'landfill gas' means gas generated from the decomposition of household solid waste, commercial solid waste, and industrial solid waste disposed of in a municipal solid waste landfill unit (as those terms are defined in regulations promulgated under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.)).

"(5) RENEWABLE ENERGY.—The term 'renewable energy' means electricity generated from

"(A) a renewable energy source; or

"(B) hydrogen that is produced from a renewable energy source.

"(6) RENEWABLE ENERGY SOURCE.—The term 'renewable energy source' means—

"(A) wind;

"(B) ocean waves;

"(C) biomass;

"(D) solar;

"(E) landfill gas;

"(F) incremental hydropower; or

"(G) geothermal.

"(7) RETAIL ELECTRIC SUPPLIER.—The term 'retail electric supplier' means a person or entity that sells retail electricity to consumers, and which sold not less than 500,000 megawatt-hours of electric energy to consumers for purposes other than resale during the preceding calendar year.

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

"(b) RENEWABLE ENERGY REQUIREMENTS.—

"(1) IN GENERAL.—For each calendar year beginning in Calendar year 2006, each retail electric supplier shall submit to the Secretary, not later than April 30 of each year, renewable energy credits in an amount equal to the required annual percentage of the retail electric supplier's total amount of kilowatt-hours of non-hydropower (excluding incremental hydropower) electricity sold to retail consumers during the previous calendar year.

"(2) CARRYOVER.—A renewable energy credit for any year that is not used to satisfy the minimum requirement for that year may be

carried over for use within the next two years.

"(c) REQUIRED ANNUAL PERCENTAGE.—Of the total amount of non-hydropower (excluding incremental hydropower) electricity sold by each retail electric supplier during a calendar year, the amount generated by renewable energy sources shall be not less than the percentage specified below:

	Percentage of Renewable energy
"Calendar years:	Each year:
2006-2009	5
2010-2014	10
2015-2019	15
2020 and subsequent years	20

"(d) SUBMISSION OF RENEWABLE ENERGY CREDITS.—

"(1) IN GENERAL.—To meet the requirements under subsection (b), a retail electric supplier shall submit to the Secretary either—

"(A) renewable energy credits issued to the retail electric supplier under subsection (f);

"(B) renewable energy credits obtained by purchase or exchange under subsection (g);

"(C) renewable energy credits purchased from the United States under subsection (h); or

"(D) any combination of credits under subsections (f), (g) or (h).

"(2) PROHIBITION ON DOUBLE COUNTING.—A credit may be counted toward compliance with subsection (b) only once.

"(e) RENEWABLE ENERGY CREDIT PROGRAM.—The Secretary shall establish, not later than 1 year after the date of enactment of this section, a program to issue, monitor the sale or exchange of, and track, renewable energy credits.

"(f) ISSUANCE OF RENEWABLE ENERGY CREDITS.—

"(1) IN GENERAL.—Under the program established in subsection (e), an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits.

"(2) APPLICATION.—An application for the issuance of renewable energy credits shall indicate—

"(A) the type of renewable energy resource used to produce the electric energy;

"(B) the State in which the electric energy was produced; and

"(C) any other information the Secretary determines appropriate.

"(3) CREDIT VALUE.—Except as provided in subparagraph (4), the Secretary shall issue to an entity applying under this subsection renewable energy credit for each kilowatt-hour of renewable energy generated in any State from the date of enactment of this section and in each subsequent calendar year.

"(4) CREDIT VALUE FOR DISTRIBUTED GENERATION.—The Secretary shall issue 3 renewable energy credits for each kilowatt-hour of distributed generation.

"(5) VESTING.—A renewable energy credit will vest with the owner of the system or facility that generates the renewable energy unless such owner explicitly transfers the credit.

"(6) CREDIT ELIGIBILITY.—To be eligible for a renewable energy credit, the unit of electricity generated through the use of a renewable energy resource shall be sold for retail consumption or used by the generator. If both a renewable energy resource and a non-renewable energy resource are used to generate the electric energy, the Secretary shall issue renewable energy credits based on the proportion of the renewable energy resource used.

"(7) IDENTIFYING CREDITS.—The Secretary shall identify renewable energy credits by the type and date of generation.