Our resolution would bring the anonymous hold out of the shadows of the Senate.

Senator GRASSLEY and I have championed this idea in a bipartisan manner for six years now. In 1997 and again in 1998, the United States Senate voted unanimously in favor of our amendments to require that a notice of intent to object be published in the CONGRESSIONAL RECORD within 48 hours. The amendments, however, never survived conference.

So we took our case directly to the leadership, and to their credit, TOM DASCHLE and TRENT LOTT agreed it was time to make a change. They recognized the significant need for more openness in the way the United States Senate conducts its business so TOM DASCHLE and TRENT LOTT sent a joint letter in February 1999 to all Senators setting forth a policy requiring ''all Senators wishing to place a hold on any legislation or executive calender business [to] notify the sponsor of the legislation and the committee of jurisdiction of their concerns.'' The letter said that ''written notification should be provided to the respective Leader stating their intentions regarding the bill or nomination,'' and that ''holds placed on items by a member of a personal or committee staff will not be honored unless accompanied by a written notification from the objecting Senator by the end of the following business day.''

At first, this action by the Leaders seemed to make a real difference. Many Senators were more open about their holds, and staff could no longer slap a hold on a bill with a quick phone call. But after six to eight months, the Senate began to slip back towards the old ways. Abuses of the ''holds'' policy began to proliferate, staff-initiated holds-by-phone began anew, and it wasn't too long before legislative gridlock set in and the Senate seemed to have forgotten what Senators DASCHLE and LOTT had tried to do.

My own assessment of the situation now, which is not based on any scientific evidence, GAO investigation or CRS study, is that a significant number of our colleagues in the Senate have gotten the message sent by the Leaders, and have refrained from the use of secret holds. They inform sponsors about their objections, and do not allow their staff to place a hold without their approval. My sense is that the legislative gridlock generated by secret holds may be attributed to a relatively small number of abusers. The resolution we are submitting today will not be disruptive for a solid number of Senators, but it will up the ante on those who may be ''chronic abusers'' of the Leaders' policy on holds.

Our bipartisan resolution would amend the Standing Rules of the Senate to require that a Senator who notifies his or her leadership of an intent to object shall disclose that objection in the CONGRESSIONAL RECORD not later than two session days after the date of the notice. The resolution would assure that the awesome power possessed by an individual Senator to stop legislation or a nomination should be accompanied by public accountability.

The requirement for public notice of a hold two days after the intent has been conveyed to the leadership may prove to be an inconvenience but not a hardship. No Senator will ever be thrown in jail for failing to give public notice of a hold. Senators routinely place statements in the CONGRESSIONAL RECORD recognizing the achievements of a local Boys and Girls Club, or congratulating a local sports team on a State championship. Surely the intent of a Senator to block the progress of legislation or a nomination should be considered of equal importance.

I have adhered to a policy of publicly announcing my intent to object to a measure or matter. This practice has not been a burden or inconvenience. On the contrary, my experience with the public disclosure of holds is that my objections are usually dealt with in an expeditious manner, thereby enabling the Senate to proceed with its business.

Although the Senate is still several months away from the high season of secret holds, a number of important pieces of legislation have already become bogged down in the swamp of secret holds this year. The day is not far off when any given Senator may be forced to place holds on numerous other pieces of legislation or nominees just to try to ''smoke out'' the anonymous objector. The practice of anonymous multiple or rolling holds is more akin to legislative guerilla warfare than to the way the Senate should conduct its business.

It is time to drain the swamp of secret holds. The resolution we submit today will be referred to the Senate Committee on Rules. It is my hope that the Committee will take this resolution seriously, hold public hearings on it and give it a thorough vetting. This is one of the most awesome powers held by anyone in American government. It has been used countless times to stall and strangle legislation. It is time to bring accountability to the procedure and to the American people.●

## AMENDMENTS SUBMITTED AND PROPOSED

SA 3135. Mr. CARPER (for himself, Ms. COLLINS, Mr. LEVIN, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table.

SA 3136. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 3103 submitted by Mr. KENNEDY (for himself and Mr. SMITH of Oregon) and intended to be proposed to the amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3137. Mr. CAMPBELL submitted 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 3138. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3139. Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3140. Mr. NELSON, of Nebraska submitted 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 3141. Mr. DORGAN (for himself, Ms. CANTWELL, and Mr. BAYH) submitted 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 3135.** Mr. CARPER (for himself, Ms. COLLINS, Mr. LEVIN, and Ms. LANDRIEU) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 47, strike line 23 and all that follows through page 48, line 4, and insert the following:

''(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

''(1) OBLIGATION TO PURCHASE.— After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has access to an independently administered, auction-based day ahead and real time wholesale market for the sale of electric energy.

''(2) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if competing retail electric suppliers are able to provide electric energy to the qualifying cogeneration facility or qualifying small power production facility.

''(3) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect on the date of enactment of this subsection, to purchase electric energy or capacity from or

to sell electric energy or capacity to a facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

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**SA 3136.** Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 3103 submitted by Mr. KENNEDY (for himself and Mr. SMITH of Oregon) and intended to be proposed 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:

In lieu of the matter proposed to be inserted, insert the following:

**SEC. ___. BROADBAND INTERNET ACCESS TAX CREDIT.**

(a) IN GENERAL.—Subpart E of part IV of chapter 1 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48 the following:

**"SEC. 48B. BROADBAND CREDIT.**

''(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

''(1) the current generation broadband credit, plus

''(2) the next generation broadband credit.

''(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

''(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit for any taxable year is equal to 10 percent of the qualified expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—Qualified expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

''(A) current generation broadband services are provided through such equipment to qualified subscribers, or

''(B) next generation broadband services are provided through such equipment to qualified subscribers.

''(2) LIMITATION.—

''(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

''(i) the original use of which commences with the taxpayer, and

''(ii) which is placed in service,

after December 31, 2002.

''(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

''(i) is originally placed in service after December 31, 2002, by a person, and

''(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

''(d) SPECIAL ALLOCATION RULES.—

''(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the current generation broadband credit under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

''(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the next generation broadband credit under subsection (a)(2) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of—

''(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

''(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

''(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

''(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber and at least 5,000,000 bits per second from the subscriber.

''(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means a person who purchases broadband services which are delivered to the permanent place of business of such person.

''(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the wireless transmission of energy through radio or light waves.

''(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

''(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment—

''(A) a cable operator,

''(B) a commercial mobile service carrier,

''(C) an open video system operator,

''(D) a satellite carrier,

''(E) a telecommunications carrier, or

''(F) any other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

''(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to a subscriber if—

''(A) a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

''(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such subscribers without making more than an insignificant investment with respect to any such subscriber,

''(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

''(D) such services have been purchased by one or more such subscribers, and

''(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

''(13) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

''(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building,

dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

''(14) QUALIFIED EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified expenditure' means any amount—

''(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

''(ii) incurred after December 31, 2002, and before January 1, 2004.

''(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any expenditure with respect to the launching of any satellite equipment.

''(15) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

''(A) with respect to the provision of current generation broadband services—

''(i) a nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) a residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

''(B) with respect to the provision of next generation broadband services—

''(i) a nonresidential subscriber maintaining a permanent place of business in a rural area or underserved area, or

''(ii) a residential subscriber.

''(16) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means an individual who purchases broadband services which are delivered to such individual's dwelling.

''(17) RURAL AREA.—The term 'rural area' means any census tract which—

''(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(18) RURAL SUBSCRIBER.—The term 'rural subscriber' means a residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(19) SATELLITE CARRIER.—The term 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such distribution.

''(20) SATURATED MARKET.—The term 'saturated market' means any census tract in which, as of the date of the enactment of this section—

''(A) current generation broadband services have been provided by one or more providers to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

''(B) such services can be utilized—

''(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(21) SUBSCRIBER.—The term 'subscriber' means a person who purchases current generation broadband services or next generation broadband services.

''(22) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include a commercial mobile service carrier.

''(23) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

''(24) UNDERSERVED AREA.—The term 'underserved area' means any census tract which is located in—

''(A) an empowerment zone or enterprise community designated under section 1391,

''(B) the District of Columbia Enterprise Zone established under section 1400,

''(C) a renewal community designated under section 1400E, or

''(D) a low-income community designated under section 45D.

''(25) UNDERSERVED SUBSCRIBER.—The term 'underserved subscriber' means a residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.

''(f) DESIGNATION OF CENSUS TRACTS.—The Secretary shall, not later than 90 days after the date of the enactment of this section, designate and publish those census tracts meeting the criteria described in paragraphs (17), (20), and (24) of subsection (e). In making such designations, the Secretary shall consult with such other departments and agencies as the Secretary determines appropriate.''.

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 (relating to the amount of investment credit), as amended by this Act, is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by adding at the end the following:

''(5) the broadband credit.''

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following:

''(v) from the sale of property subject to a lease described in section 48B(c)(2)(B), but only to the extent such income does not in any year exceed an amount equal to the credit for qualified expenditures which would be determined under section 48B for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.''.

(d) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 48A the following:

''Sec. 48B. Broadband credit.''.

(e) REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or instrumentality shall adopt regulations or ratemaking procedures that would have the effect of confiscating any credit or portion thereof allowed under section 48B of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the broadband credit under section 48B of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 48B of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified expenditures satisfies the requirements of section 48B of such Code to provide broadband services, and

(B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 48B of such Code.

Until the Secretary prescribes such regulations, taxpayers may base such determinations on any reasonable method that is consistent with the purposes of section 48B of such Code.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2002, and before January 1, 2004.

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**SA 3137.** Mr. CAMPBELL submitted 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 92, between lines 17 and 18, insert the following:

**Subtitle A—Energy Programs**

On page 94, line 5, insert ''and nonrenewable'' after ''renewable''.

On page 109, line 5, strike ''renewable'' and insert ''tribal''.

On page 109, line 12, insert ''and nonrenewable'' after ''renewable''.

On page 109, line 14, insert ''and nonrenewable'' after ''renewable''.

On page 115, between lines 3 and 4, insert the following:

**Subtitle B—Energy Development**

**SEC. 411. DEFINITIONS.**

In this subtitle:

(1) FUND.—The term ''Fund'' means the Joint Energy Development Feasibility Fund established under section 412(g).

(2) INDIAN LAND.—

(A) IN GENERAL.—The term ''Indian land'' means any land within the limits of—

(i) any Indian reservation, pueblo, or rancheria; or

(ii) a former reservation in Oklahoma;

which is held in trust by the United States or subject to Federal restriction upon alienation.

(B) LANDS IN ALASKA.—Land in Alaska owned by an Indian tribe, as that term is defined in this subsection (3), shall be considered to be Indian land.

(3) INDIAN TRIBE.—

(A) IN GENERAL.—The term ''Indian tribe'' means any Indian tribe, band, nation or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) (43 U.S.C. 1601 et seq.) which is eligible to receive services provided by the United States because of their status as Indians.

(B) TRIBAL CONSORTIA.—For purposes of this Act only, the term ''Indian tribe'' includes a consortium of Indian entities described in subparagraph (A).

(4) SECRETARY.—The term ''Secretary'' means Secretary of the Interior.

**SEC. 412. INDIAN ENERGY DEVELOPMENT DEMONSTRATION PROJECT.**

(a) PURPOSE.—The purpose of this section is to authorize the Secretary of the Interior to establish an Indian energy development demonstration project to—

(1) promote the energy self-sufficiency of the United States by encouraging the development of energy resources on Indian land;

(2) enable and encourage Indian tribes to take advantage of energy opportunities by expediting the procedures for entering into energy development agreements with respect to Indian land;

(3) meet the energy needs of members of Indian tribes by encouraging the development of energy resources on Indian land; and

(4) protect the environmental and economic interests of Indian tribes and communities located adjacent to Indian land.

(b) DEFINITIONS.—In this section:

(1) DEMONSTRATION PROJECT.—The term ''demonstration project'' means the demonstration project carried out by the Secretary under subsection (c)(1).

(2) DEVELOPMENT PLAN.—The term ''development plan'' means a comprehensive Indian energy development plan described in subsection (d)(1).

(3) ENERGY RESOURCE.—The term ''energy resource'' means a renewable or nonrenewable source of energy.

(c) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall carry out a demonstration project to provide for the development of energy sources on Indian land.

(2) SELECTION OF PARTICIPATING TRIBES.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, in accordance with such application and review procedures as the Secretary, in consultation with interested Indian tribes, shall establish, the Secretary may select not more than 25 Indian tribes to participate in the demonstration project.

(B) ADDITIONAL TRIBES.—In addition to the Indian tribes selected under subparagraph (A), the Secretary may select an additional 5 Indian tribes for each fiscal year after the date of expiration of the 1-year period referred to in subparagraph (A).

(C) APPLICATION.—An Indian tribe that seeks to participate in the demonstration project shall submit to the Secretary an application that includes—

(i) certification by the governing body of the Indian tribe that the Indian tribe has requested to participate in the demonstration project; and

(ii) a description of the reasons why the Indian tribe seeks to participate in the demonstration project, including an overview of the types of energy development projects and activities that the Indian tribe anticipates will be carried out on the Indian land of the Indian tribe under the demonstration project.

(d) COMPREHENSIVE INDIAN ENERGY DEVELOPMENT PLANS.—

(1) IN GENERAL.—The Secretary shall require each Indian tribe that participates in the demonstration project to submit to the Secretary for approval a comprehensive Indian energy development plan that—

(A) describes the manner in which the Indian tribe intends to govern activities of the Indian tribe with respect to energy sources on the Indian land of the Indian tribe;

(B) includes information relating to—

(i) the siting of energy facilities on the Indian land of the Indian tribe; and

(ii) the granting of rights-of-way for any energy-related purposes;

(C) describes how the Indian tribe will protect the environment on its land in conjunction with the development of its energy sources; and

(D) describes any proposed actions by the Indian tribe that would require approval under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

(2) PLAN APPROVAL.—

(A) GUIDELINES.—The Secretary, taking into consideration the purposes of this section, shall develop guidelines for the approval of development plans.

(B) ACTION BY THE SECRETARY.—

(i) IN GENERAL.—The Secretary shall approve or disapprove a development plan not later than 120 days after the Secretary receives the development plan.

(ii) FAILURE TO ACT.—If the Secretary fails to approve or disapprove a development plan within time period specified in clause (i), the development plan shall be considered to be approved.

(C) AGREEMENTS.—Notwithstanding any other provision of law, after approval by the Secretary of a development plan of an Indian tribe, the Indian tribe, without further approval by the Secretary, may enter into 1 or more agreements for the development of energy sources in accordance with the development plan.

(e) FEDERAL LIABILITY.—The Secretary shall not be liable for any action taken, or any failure to act, by any Indian tribe or other person in accordance with a development plan under paragraph (2), unless the Secretary, in approving the plan, has violated the trust responsibility to that Indian tribe.

(f) REPORT TO CONGRESS.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate, a report that—

(1) describes the implementation and effectiveness of the demonstration project; and

(2) includes any recommendations of the Secretary relating to administrative, statutory, or other changes that are considered by the Secretary to be necessary to achieve the purposes specified in subsection (a).

(g) JOINT ENERGY DEVELOPMENT FEASIBILITY FUND.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the ''Joint Energy Development Feasibility Fund''.

(2) USE OF FUND.—The Secretary may use amounts in the Fund to—

(A) provide loans to Indian tribes to assist in—

(i) identifying energy development opportunities on Indian land;

(ii) preparing and implementing comprehensive Indian energy development plans; and

(iii) carrying out other activities consistent with the purposes of this subtitle; and

(B) make grants to Indian tribes to assist in the establishment of multi-tribal energy consulting and energy development corporations to assist Indian tribes in preparing or implementing comprehensive Indian energy development plans.

(3) INDIAN ENERGY DEVELOPMENT REGISTRY.—In consultation with the Indian tribes, the Secretary shall compile an Indian Energy Development Registry to serve as an electronic database identifying energy sources on Indian land. Prior to any related information being included in the Registry, the Secretary shall seek and secure the approval of the appropriate Indian tribe.

(4) REPAYMENT OF LOANS.—Under terms and conditions approved by the Secretary, an Indian tribe that receives a loan from the Fund shall repay the loan from the proceeds of an energy development project facilitated by the loan.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

**SEC. 413. LAND ACQUISITIONS FOR PURPOSES OF ENERGY DEVELOPMENT.**

(a) APPLICATION.—

(1) IN GENERAL.—On submission, in accordance with section 5 of the Act of June 18, 1934 (25 U.S.C. 465), by an Indian tribe to the Secretary of an application to take land into trust for the purpose of energy development, the Secretary shall approve the application if the application meets the requirements described in paragraph (2).

(2) REQUIREMENTS.—The requirements referred to in paragraph (1) are that—

(A) the land that is proposed to be taken into trust under the application is located within the exterior boundaries of the Indian land of an Indian tribe;

(B) the land is proposed to be taken into trust only for purposes consistent with this section; and

(C) the application contains provisions that waive any rights of the Indian tribe that submitted the application, or any other Indian tribe, to conduct gaming activities on the land in accordance with the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

(b) APPROVAL.—If the Secretary does not approve or disapprove an application submitted by an Indian tribe under subsection (a) within the 120-day period beginning on the date of submission of the application, the

application shall be considered to be approved.

**SEC. 414. ENERGY ASSET PRODUCTIVITY ENHANCEMENT.**

(a) FEDERAL WATER AND POWER PROJECTS INVENTORY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall complete, publish in the Federal Register, and submit in accordance with paragraph (2) a report on, an inventory of all federally-owned water projects and power projects that are—

(A) under the jurisdiction of the Secretary; and

(B) located on Indian land.

(2) REPORT.—The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate a report that—

(A) describes the results of the inventory completed under paragraph (1);

(B) identifies potentially transferable water projects and power projects contained in the inventory completed under paragraph (1); and

(C) includes options recommended by the Secretary for the eventual ownership, management, operation, and maintenance of those projects by Indian tribes (including ownership, management, operation, and maintenance in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)).

(b) FEDERAL TRANSFERS.—

(1) IN GENERAL.—After publication of the inventory under subsection (a)(1), and on the request of an Indian tribe, the Secretary shall transfer the ownership of any water project or power project to the Indian tribe if—

(A) the project is—

(i)(I) owned by the United States; and

(II) under the administrative jurisdiction of the Secretary; and

(ii) located on the Indian land of the Indian tribe;

(B) the Indian tribe agrees to hold the United States harmless for any liability relating to ownership, management, operation, and maintenance of the project by the Indian tribe; and

(C) the Secretary determines that the transfer—

(i) is in the best interests of the United States and the Indian tribe; and

(ii) would not be detrimental to local communities.

(2) NO CHANGE IN PURPOSE OR OPERATION.—No transfer of a water project or power project under paragraph (1) shall authorize any change in the purpose or operation of the project.

**SEC. 415. REVIEW OF PROVISIONS RELATING TO ENERGY ON INDIAN LAND.**

(a) FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT REVIEW.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete, and submit to Congress in accordance with paragraph (2) a report on, a review of the royalty system for oil and gas development on Indian land—

(A) under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.); and

(B) in accordance with leases of Indian land that involve the development of oil or gas resources on that land.

(2) REPORT.—The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate a report that describes—

(A) the findings made by the Secretary as a result of the review under paragraph (1);

(B) an analysis of—

(i) the barriers to the development of energy sources on Indian land; and

(ii) the best means of removing those barriers; and

(C) recommendations of the Secretary with respect to measures to—

(i) increase energy production on Indian land;

(ii) maximize revenues to Indian tribes and members of Indian tribes from that energy production; and

(iii) ensure the timely payment of revenues from that energy production.

(3) RECOMMENDATIONS.—The Secretary shall implement the recommendations described in paragraph (2)(C) for which the Secretary has implementation authority.

(4) IMPACTS ON INDIAN LAND.—Notwithstanding the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 et seq.), an Indian tribe shall be eligible for assistance to mitigate the effects of exploration, extraction, and removal of oil or gas on Indian land to the same extent as a State is eligible for assistance for exploration, extraction, or removal of oil and gas on State land.

(b) INDIAN MINERAL DEVELOPMENT ACT REVIEW.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall complete, and submit to Congress in accordance with paragraph (2) a report on, a review of all activities that have been conducted on Indian land under the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

(2) REPORT.—The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate a report that describes—

(A) the findings made by the Secretary as a result of the review under paragraph (1);

(B) an analysis of—

(i) the barriers to the development of energy sources on Indian land; and

(ii) the best means of removing those barriers; and

(C) recommendations of the Secretary with respect to measures to—

(i) increase energy production on Indian land; and

(ii) maximize the opportunities to develop those energy sources.

(3) RECOMMENDATIONS.—The Secretary shall implement the recommendations described in paragraph (2)(C) for which the Secretary has implementation authority.

**SEC. 416. ENERGY EFFICIENCY AND CONSERVATION IN INDIAN HOUSING.**

(a) FINDING.—Congress finds that the Secretary of Housing and Urban Development should promote energy conservation in housing located on Indian land that is assisted with Federal resources through—

(1) the use of energy-efficient technologies and innovations (including the procurement of energy-efficient refrigerators and other appliances);

(2) the encouragement of shared savings contracts; and

(3) other similar technologies and innovations considered appropriate by the Secretary of Housing and Urban Development.

(b) ENERGY EFFICIENCY IN ASSISTED HOUSING.—Section 202(2) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(2)) is amended by inserting ''improvement to achieve greater energy efficiency,'' after ''planning,''.

(c) TECHNICAL ASSISTANCE TO NONPROFIT AND COMMUNITY ORGANIZATIONS.—The Secretary of Housing and Urban Development, in cooperation with Indian tribes or tribally-designated housing entities of Indian tribes, may provide, to eligible (as determined by the Secretary of Housing and Urban Development) nonprofit and community organizations, technical assistance to initiate and expand the use of energy-saving technologies in—

(1) new home construction;

(2) housing rehabilitation; and

(3) housing in existence as of the date of enactment of this Act.

(d) REVIEW.—The Secretary of Housing and Urban Development and the Secretary of the Interior, in consultation with Indian tribes or tribally-designated housing entities of Indian tribes, shall—

(1) complete a review of regulations promulgated by the Secretary of Housing and Urban Development and the Secretary of the Interior to determine any necessary and feasible measures that may be taken to promote greater use of energy efficient technologies in housing for which Federal assistance is provided under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.);

(2) develop energy efficiency and conservation measures for use in connection with housing that is—

(A) located on Indian land; and

(B) constructed, repaired, or rehabilitated using assistance provided under any law or program administered by the Secretary of Housing and Urban Development and the Secretary of the Interior, including—

(i) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and

(ii) the Indian Home Improvement Program of the Bureau of Indian Affairs; and

(3) promote the use of the measures described in paragraph (2) in programs administered by the Secretary of Housing and Urban Development and the Secretary of the Interior, as appropriate.

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**SA 3138.** Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 191, strike lines 8 through 11 and insert the following:

''(4) CELLULOSIC BIOMASS ETHANOL.—

''(A) IN GENERAL.—For the purpose of paragraph (2)—

''(i) except as provided in clause (ii), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallons of renewable fuel; and

''(ii) 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.

''(B) CELLULOSIC BIOMASS ETHANOL CONVERSION ASSISTANCE.—

''(i) IN GENERAL.—The Secretary of Energy may make grants to merchant producers of cellulosic biomass ethanol to assist such producers in building eligible facilities for the production of cellulosic biomass ethanol.

''(ii) ELIGIBILE FACILITIES.—A facility shall be eligible to receive a grant under this paragraph if the facility—

''(I) is located in the United States; and

''(II) uses cellulosic biomass ethanol feed stocks derived from agricultural residues.

''(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph such sums as may be necessary for fiscal years 2003, 2004, and 2005.''.

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**SA 3139.** Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 204, strike line 15 and all that follows through page 205, line 8 and insert the following:

''Notwithstanding any other provision of federal or state law, a renewable fuel, as defined by this Act, used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing such renewable fuel, shall be subject to liability standards no less protective of human health, welfare and the environment than any other motor vehicle fuel or fuel additive.''.

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**SA 3140.** Mr. NELSON of Nebraska submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

Strike Title III and insert the following:

**SEC. 301. ALTERNATIVE CONDITIONS AND FISHWAYS.**

(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Powers Act (16 U.S.C. 797) is amended by adding at the end the following:

''(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States under subsection (e), and the Secretary of the department under whose supervision such reservation falls (in this subsection referred to the 'Secretary') shall deem a condition to such license to be necessary under the first proviso of such section, the license applicant may propose an alternative condition.

''(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the license applicant, that the alternative condition—

''(A) provides for the adequate protection and utilization of the reservation; and

''(B) with either—

''(i) cost less to implement, or

''(ii) result in improved operation of the project works for electricity production as compared to the condition initially deemed necessary by the Secretary.

''(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under subsection (e) or alternative condition it accepts under this subsection a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this subsection, including the effects of the condition accepted and alternatives not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

''(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative conditions.''

(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—

(1) inserting ''(a)'' before the first sentence; and

(2) adding at the end the following:

''(b)(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under this section, the license applicant or the licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway.

''(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the licensee, that the alternative—

''(A) will be no less protective of the fishery than the fishway initially prescribed by the Secretary; and

''(B) with either—

''(i) cost less to implement, or

''(ii) result in improved operation of the project works for electricity production as compared to the fishway initially prescribed by the Secretary.

''(3) The Secretary shall submit into the public record of the Commission proceeding with any prescription under subsection (a) or alternative prescription it accepts under this subsection a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this subsection, including the effects of the prescription accepted or alternative not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

''(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative prescriptions.''

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**SA 3141.** Mr. DORGAN (for himself, Ms. CANTWELL, and Mr. BAYH) submitted an amendment intended to be proposed to amendment SA 2917 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 213, after line 10, insert:

**SEC. 824. FUEL CELL VEHICLE PROGRAM.**

Not later than one year from date of enactment of this section, the Secretary shall develop a program with timetables for developing technologies to enable at least 100,000 hydrogen-fueled fuel cell vehicles to be available for sale in the United States by 2010 and at least 2.5 million of such vehicles to be available by 2020 and annually thereafter. The program shall also include timetables for development of technologies to provide 50 million gasoline equivalent gallons of hydrogen for sale in fueling stations in the United States by 2010 and at least 2.5 billion gasoline equivalent gallons by 2020 and annually thereafter. The Secretary shall annually include a review of the progress toward meeting the vehicle sales of Energy budget.''

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## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON INDIAN AFFAIRS

Mr. REID. Mr. President, I seek the unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, April, 17, 2002, at 2 p.m., in room 485 of the Russell Senate Office Building to conduct an oversight hearing on subsistence hunting and fishing issues in the State of Alaska.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, April 17, 2002, at 2:30 p.m., to hold an open hearing on the nomination of John L. Helgerson to be Inspector General of the Central Intelligence Agency.

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

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on ''Should the Office of Homeland Security Have More Power? A Case Study in Information Sharing'' on Wednesday, April 17, 2002, at 9:30 a.m., in Dirksen 226.

*Witness List*

Panel I: Mr. Vance Hitch, Chief Information Officer, Department of Justice, Washington, DC; Mr. Eugene O'Leary, Acting Assistant Director for the Information Resource Division, Federal Bureau of Investigation, Washington, DC; and Mr. Scott Hastings, Deputy Associate Commissioner for Information Resources, Immigration and Naturalization Service, Washington, DC.

Panel II: Mr. Leon Panetta, Director, Panetta Institute, Monterey Bay, California; Mr. George J. Terwilliger III, Partner, White & Case, Washington, DC; Mr. Philip Anderson, Senior Fellow, International Security Program, Center for Strategic and International Studies, Washington, DC; and Mr. Paul C. Light, Vice President and Director, Governmental Studies, Brookings Institute, Washington, DC.

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

SUBCOMMITTEE ON THE CONSTITUTION, FEDERALISM AND PROPERTY RIGHTS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on