

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 3372. Mr. GRAHAM (for himself and Mr. FEINGOLD) submitted 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 3373. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) supra; which was ordered to lie on the table.

SA 3374. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3344 submitted by Mrs. LINCOLN 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 3375. Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 3336 submitted by Mr. GRAMM 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.

#### REPRINT OF AMENDMENT NO. 3325 SUBMITTED ON TUESDAY, APRIL 23, 2002

**SA 3325.** Mr. SHELBY (for himself, Mr. AKAKA, Mr. SCHUMER, and Mrs. CLINTON) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 205, between lines 8 and 9, insert the following:

( ) ESTABLISHMENT OF A PROGRAM FOR THE PRODUCTION OF FUEL ETHANOL FROM MUNICIPAL SOLID WASTE.—

(1) 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).

(2) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a program that promotes expedited construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol to supplement fossil fuels.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out programs that promote expedited construction of commercially viable facilities for the processing and conversion of municipal solid waste to fuel ethanol to supplement fossil fuels including, but not limited to, loan guarantees to private institutions.

(4) REQUIREMENTS.—The Secretary may provide a loan guarantee under paragraph (2) to an applicant if—

(A) 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 paragraph (2);

(B) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assur-

ance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(C) 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.

(5) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—

(A) meet all applicable Federal and State permitting requirements;

(B) are most likely to be successful; and

(C) are located in local markets that have the greatest need for the facility because of—

(i) the limited availability of land for waste disposal; or

(ii) a high level of demand for fuel ethanol or other commercial byproducts of the facility.

(6) MATURITY.—A loan guaranteed under paragraph (2) shall have a maturity of not more than 20 years.

(7) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under paragraph (2) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.

(8) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under paragraph (2) 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.

(9) GUARANTEE FEE.—The recipient of a loan guarantee under paragraph (2) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.

(10) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.

(11) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress an report on the activities of the Secretary under this section.

(12) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a loan guarantee under paragraph (2) terminates on the date that is 10 years after the date of enactment of this Act.

#### TEXT OF AMENDMENTS

**SA 3332.** Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 4, line 8, strike “subparagraphs (A) and” and insert “Subparagraph”.

**SA 3333.** Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 17, line 9, strike all through page 55, line 7.

**SA 3334.** Mr. KYL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 17, line 9, strike all through page 55, line 7, and insert the following:

#### SEC. 2001. PERMANENT EXTENSION OF ABOVE-THE-LINE DEDUCTION FOR TEACHER CLASSROOM EXPENSES.

Section 62(a)(2)(D) is amended by striking “In the case of taxable years beginning during 2002 or 2003, the” and inserting “The”.

**SA 3335.** Mr. SESSIONS (for himself, Mr. SHELBY, Mr. SPECTER, and Mr. SANTORUM) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 202, between lines 22 and 23, insert the following:

(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting “(January 1, 2005, in the case of any coke or coke gas produced in a facility described in paragraph (1)(B))” after “January 1, 2003”.

**SA 3336.** Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

#### SEC. . TREATMENT OF DAIRY PROPERTY.

(a) QUALIFIED DISPOSITION OF DAIRY PROPERTY TREATED AS INVOLUNTARY CONVERSION.—

(1) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by designating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

“(k) QUALIFIED DISPOSITION TO IMPLEMENT BOVINE TUBERCULOSIS ERADICATION PROGRAM.—

“(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualified disposition:

“(A) TREATMENT AS INVOLUNTARY CONVERSION.—Such disposition shall be treated as an involuntary conversion to which this section applies.

“(B) MODIFICATION OF SIMILAR PROPERTY REQUIREMENT.—Property to be held by the taxpayer either for productive use in a trade or business or for investment shall be treated as property similar or related in service or use to the property disposed of.

“(C) EXTENSION OF PERIOD FOR REPLACING PROPERTY.—Subsection (a)(2)(B)(i) shall be applied by substituting ‘4 years’ for ‘2 years’.

“(D) WAIVER OF UNRELATED PERSON REQUIREMENT.—Subsection (i) (relating to replacement property must be acquired from unrelated person in certain cases) shall not apply.

“(E) EXPANDED CAPITAL GAIN FOR CATTLE AND HORSES.—Section 1231(b)(3)(A) shall be applied by substituting ‘1 month’ for ‘24 months’.

“(2) QUALIFIED DISPOSITION.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘qualified disposition’ means the disposition of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, as implemented pursuant to the Declaration of Emergency Because of Bovine Tuberculosis (65 Federal Register 63,227 (2000)).

“(B) PAYMENTS RECEIVED IN CONNECTION WITH THE BOVINE TUBERCULOSIS ERADICATION PROGRAM.—For purposes of this subsection, any amount received by a taxpayer in connection with an agreement under such bovine tuberculosis eradication program shall be treated as received in a qualified disposition.

“(C) TRANSMITTAL OF CERTIFICATIONS.—The Secretary of Agriculture shall transmit copies of certifications under this paragraph to the Secretary.

“(3) ALLOWANCE OF THE ADJUSTED BASIS OF CERTIFIED DAIRY PROPERTY AS A DEPRECIATION DEDUCTION.—The adjusted basis of any property certified under paragraph (2)(A) shall be allowed as a depreciation deduction under section 167 for the taxable year which includes the date of the certification described in paragraph (2)(A).

“(4) DAIRY PROPERTY.—For purposes of this subsection, the term ‘dairy property’ means all tangible or intangible property used in connection with a dairy business or a dairy processing plant.

“(5) SPECIAL RULES FOR CERTAIN BUSINESS ORGANIZATIONS.—

“(A) S CORPORATIONS.—In the case of an S corporation, gain on a qualified disposition shall not be treated as recognized for the purposes of section 1374 (relating to tax imposed on certain built-in gains).

“(B) PARTNERSHIPS.—In the case of a partnership which dissolves in anticipation of a qualified disposition (including in anticipation of receiving the amount described in paragraph (2)(B)), the dairy property owned by the partners of such partnership at the time of such disposition shall be treated, for the purposes of this section and notwithstanding any regulation or rule of law, as owned by such partners at the time of such disposition.

“(6) TERMINATION.—This subsection shall not apply to dispositions made after December 31, 2006.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to dispositions made and amounts received in taxable years ending after May 22, 2001.

(b) DEDUCTION OF QUALIFIED RECLAMATION EXPENDITURES.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by adding at the end the following new section:

**“SEC. 199B. EXPENSING OF DAIRY PROPERTY RECLAMATION COSTS.**

“(a) IN GENERAL.—Notwithstanding section 280B (relating to demolition of structures), a taxpayer may elect to treat any qualified reclamation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.

“(b) QUALIFIED RECLAMATION EXPENDITURE.—

“(1) IN GENERAL.—For purposes of this subparagraph, the term ‘qualified reclamation expenditure’ means amounts otherwise chargeable to capital account and paid or incurred to convert any real property certified under section 1033(k)(2) (relating to qualified disposition) into unimproved land.

“(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—A rule similar to the rule of section 198(b)(2) (relating to special rule for expenditures for depreciable property) shall apply for purposes of paragraph (1).

“(c) DEDUCTION RECAPTURED AS ORDINARY INCOME.—Rules similar to the rules of section 198(e) (relating to deduction recaptured as ordinary income on sale, etc.) shall apply with respect to any qualified reclamation expenditure.

“(d) TERMINATION.—This section shall not apply to expenditures paid or incurred after December 31, 2006.”.

(2) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 199B. Expensing of dairy property reclamation costs.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred in taxable years ending after May 22, 2001.

**SA 3337.** Mr. WELLSTONE submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

**SEC. \_\_\_\_ FOREIGN CORPORATIONS CREATED THROUGH INVERSION TRANSACTIONS TAXED AS DOMESTIC CORPORATIONS.**

(a) IN GENERAL.—Paragraph (4) of section 7701(a) (defining domestic) is amended to read as follows:

“(4) DOMESTIC.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘domestic’ when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

“(B) INVERSION TRANSACTIONS DISREGARDED.—

“(1) IN GENERAL.—A corporation which would (but for this subparagraph) be treated as a foreign corporation shall be treated as a

domestic corporation if such corporation is an inverted domestic corporation.

“(ii) INVERTED DOMESTIC CORPORATION.—For purposes of clause (i), a foreign corporation is an inverted domestic corporation if, immediately after a transaction in which—

“(I) property is directly or indirectly transferred by a domestic corporation to such foreign corporation, or

“(II) stock in a domestic corporation is transferred directly or indirectly by its shareholders to such foreign corporation,

more than 50 percent of the stock (by vote or value) of such foreign corporation is held by former shareholders of the domestic corporation by reason of holding stock in such domestic corporation.

“(iii) REGULATIONS RELATING TO INVERTED DOMESTIC CORPORATIONS.—The Secretary may by regulations provide that clause (i) shall not apply to a foreign corporation which is an inverted domestic corporation if, immediately before the transaction described in clause (ii), such foreign corporation was engaged in the active conduct of 1 or more trades or businesses which are substantial in relation to the trades or businesses which the domestic corporation described in clause (ii) was engaged in the active conduct of at such time.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of any inverted domestic corporation beginning after December 31, 2002, without regard to whether the corporation became an inverted domestic corporation before, on, or after such date.

**SA 3338.** Mr. REID submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 123, after line 25, add the following:

“(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term ‘combined heat and power system property’ includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (iii) and (iv) thereof.

**SA 3339.** Mr. DURBIN (for himself and Mr. HARKIN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in Division H, insert the following:

**SEC. \_\_\_\_ ENERGY CREDIT FOR WIND ENERGY PROPERTY.**

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property), as amended by this Act, is amended by striking “or” at the end of clause (iii), by adding “or”

at the end of clause (iv), and by inserting after clause (iv) the following new clause:

“(v) qualified wind energy property.”

(b) QUALIFIED WIND ENERGY PROPERTY.—Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively, and by inserting after paragraph (5) the following new paragraph:

“(6) QUALIFIED WIND ENERGY PROPERTY.—For purposes of this subsection—

“(A) QUALIFIED WIND ENERGY PROPERTY.—The term ‘qualified wind energy property’ means a qualifying wind turbine if the property carries at least a 5-year limited warranty covering defects in design, material, or workmanship, and, for property that is not installed by the taxpayer, at least a 5-year limited warranty covering defects in installation.

“(B) QUALIFYING WIND TURBINE.—The term ‘qualifying wind turbine’ means a wind turbine of 75 kilowatts of rated capacity or less which meets the latest performance rating standards published by the American Wind Energy Association or the International Electrotechnical Commission and which is used to generate electricity.”

(c) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

“(20) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(6) may be carried back to a taxable year ending before January 1, 2003.”

(d) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking “section 48(a)(6)(C)” and inserting “section 48(a)(7)(C)”.

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking “section 48(a)(6)(C)” and inserting “section 48(a)(7)(C)”.

(C) Section 48(a)(3)(C) is amended by inserting “(other than property described in subparagraph (A)(v)),” before “with respect”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service or installed after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SA 3340.** Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 94, lines 18 and 19, strike “for use in such a dwelling unit”.

**SA 3341.** Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 91, strike lines 7 and 8.

**SA 3342.** Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; as follows:

In Division H, on page 98, line 16, strike “If” and insert “Except in the case of qualified wind energy property expenditures, if”.

**SA 3343.** Mrs. LINCOLN (for herself, Mr. HAGEL, Mr. BOND, Mr. KERRY, Mrs. CARNAHAN, Mr. NELSON of Nebraska, and Mr. MILLER) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 202, between lines 17 and 18, insert the following:

“(5) FACILITIES PRODUCING FUELS FROM AGRICULTURAL AND ANIMAL WASTE.—

“(A) IN GENERAL.—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such facility not later than the close of the 3-year period beginning on the date such facility is placed in service.

“(B) QUALIFIED AGRICULTURAL AND ANIMAL WASTE.—For purposes of this paragraph, the term ‘qualified agricultural and animal waste’ means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes, including wood shavings, straw, rice hulls, and other bedding for the disposition of manure.

**SA 3344.** Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

**SEC. \_\_\_\_ CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.**

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

“(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A)

of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.”

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

“For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.”

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

“(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

“(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

“(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after December 31, 2001, and before January 1, 2003.

**SA 3345.** 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:

(a) EXTENSION TO SMALL SYSTEMS.—On page 121, strike lines 12 through 16 and insert the following:

“(ii) which has an electrical capacity of no more than 15 megawatts or a mechanical energy capacity of no more than 2,000 horsepower or an equivalent combination of electrical and mechanical energy capacities,”

(b) DEPRECIATION SCHEDULE.—

(1) On page 122, line 2, strike “(70 percent)” and all that follows through “capacities)” on page 122, line 8; and

(2) On page 124, strike lines 1 through 8.

**SA 3346.** Mr. KOHL submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 17, between lines 8 and 9, insert the following:

**SEC. \_\_\_\_ CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL BIOSOLIDS AND RECYCLED SLUDGE.**

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking “and” at the end of subparagraph (G), by striking the period at the end of subparagraph (H), and by adding at the end the following new subparagraphs:

“(I) municipal biosolids, and  
“(J) recycled sludge.”.

(b) QUALIFIED FACILITIES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

“(H) MUNICIPAL BIOSOLIDS FACILITY.—In the case of a facility using municipal biosolids to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2007.

“(I) RECYCLED SLUDGE FACILITY.—

“(i) IN GENERAL.—In the case of a facility using recycled sludge to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

“(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (i), the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.”.

(c) DEFINITIONS.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (9) as paragraph (11) and by inserting after paragraph (8) the following new paragraphs:

“(9) MUNICIPAL BIOSOLIDS.—The term ‘municipal biosolids’ means the residue or solids removed by a municipal wastewater treatment facility.

“(10) RECYCLED SLUDGE.—

“(A) IN GENERAL.—The term ‘recycled sludge’ means the recycled residue byproduct created in the treatment of commercial, industrial, municipal, or navigational wastewater.

“(B) RECYCLED.—The term ‘recycled’ means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.”.

(d) EXEMPTION FROM CREDIT REDUCTION.—The last sentence of section 45(b)(3), as added by this Act, is amended by inserting “, (c)(3)(H), or (c)(3)(I)” after “(c)(3)(B)(i)(II)”.

(e) 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.

**SA 3347.** Mr. INOUE (for himself and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

**SEC. \_\_\_\_ TREATMENT OF FACILITIES USING BAGASSE TO PRODUCE ENERGY AS SOLID WASTE DISPOSAL FACILITIES ELIGIBLE FOR TAX-EXEMPT FINANCING.**

(a) IN GENERAL.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following:

“(1) SOLID WASTE DISPOSAL FACILITIES.—For purposes of subsection (a)(6), the term ‘solid waste disposal facilities’ includes property located in Hawaii and used for the disposal of bagasse.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

**SA 3348.** Mr. INOUE (for himself and Mr. AKAKA) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

**SEC. \_\_\_\_ TREATMENT OF FACILITIES USING BAGASSE TO PRODUCE ENERGY AS SOLID WASTE DISPOSAL FACILITIES ELIGIBLE FOR TAX-EXEMPT FINANCING.**

(a) IN GENERAL.—Section 142 (relating to exempt facility bond) is amended by adding at the end the following:

“(1) SOLID WASTE DISPOSAL FACILITIES.—For purposes of subsection (a)(6), the term ‘solid waste disposal facilities’ includes property located in Hawaii and used for the disposal of bagasse which has been used in the manufacture of ethanol.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after the date of the enactment of this Act.

**SA 3349.** 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:

In Division H, on page 199, lines 5 through 7, strike “at least 20 percent of the emissions of sulfur dioxide and nitrogen oxide” and insert “at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury”.

**SA 3350.** 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:

In Division H, on page 17, between lines 8 and 9, insert the following:

**SEC. 1905. CREDIT FOR ELECTRICITY PRODUCED FROM SMALL IRRIGATION POWER.**

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by

this Act, is amended by striking “and” at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting “, and”, and by adding at the end the following new subparagraph:

“(H) small irrigation power.”.

(b) QUALIFIED FACILITY.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

“(G) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term ‘qualified facility’ means any facility owned by the taxpayer which is originally placed in service after date of the enactment of this subparagraph and before January 1, 2007.”.

(c) DEFINITION.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

“(8) SMALL IRRIGATION POWER.—The term ‘small irrigation power’ means power—

“(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

“(B) the installed capacity of which is less than 5 megawatts.”.

(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.

**SA 3351.** 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:

In Division H, beginning on page 91, line 15, strike all through page 95, line 17, and insert the following:

“(iii) \$250 for each advanced natural gas furnace,

“(iv) \$250 for each central air conditioner,

“(v) \$75 for each natural gas water heater, and

“(vi) \$250 for each geothermal heat pump.

(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—

“(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

“(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

“(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

“(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

“(ii) in the case of the energy efficiency ratio (EER)—

“(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

“(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

“(iii) are in effect at the time of the acquisition of the property.

“(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

“(d) DEFINITIONS.—For purposes of this section—

“(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term ‘qualified solar water heating property expenditure’ means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

“(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term ‘qualified photovoltaic property expenditure’ means an expenditure for property that uses solar energy to generate electricity for use in such a dwelling unit.

“(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

“(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term ‘qualified fuel cell property expenditure’ means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.

“(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term ‘qualified wind energy property expenditure’ means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.

“(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—

“(A) IN GENERAL.—The term ‘qualified Tier 2 energy efficient building property expenditure’ means an expenditure for any Tier 2 energy efficient building property.

“(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term ‘Tier 2 energy efficient building property’ means—

“(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

“(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

“(iii) an advanced natural gas furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE).”.

**SA 3352.** Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 64, line 1, strike all through page 73, line 2, and insert the following:

#### SEC. 2008. INCENTIVES FOR BIODIESEL.

(a) CREDIT FOR BIODIESEL USED AS A FUEL.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

##### “SEC. 40B. BIODIESEL USED AS FUEL.

“(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

“(b) DEFINITION OF BIODIESEL MIXTURE CREDIT.—For purposes of this section—

“(1) BIODIESEL MIXTURE CREDIT.—

“(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

“(B) BIODIESEL MIXTURE RATE.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be—

“(i) in the case of a mixture with only biodiesel V, 1 cent for each whole percentage point (not exceeding 20 percentage points) of biodiesel V in such mixture, and

“(ii) in the case of a mixture with biodiesel NV, or a combination of biodiesel V and biodiesel NV, 0.5 cent for each whole percentage point (not exceeding 20 percentage points) of such biodiesel in such mixture.

“(2) QUALIFIED BIODIESEL MIXTURE.—

“(A) IN GENERAL.—The term ‘qualified biodiesel mixture’ means a mixture of diesel and biodiesel V or biodiesel NV which—

“(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

“(ii) is used as a fuel by the taxpayer producing such mixture.

“(B) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—

“(i) IN GENERAL.—Biodiesel V or biodiesel NV used in the production of a qualified biodiesel mixture shall be taken into account—

“(I) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

“(II) for the taxable year in which such sale or use occurs.

“(ii) CERTIFICATION FOR BIODIESEL V.—Biodiesel V used in the production of a qualified biodiesel mixture shall be taken into account only if the taxpayer described in subparagraph (A) obtains a certification from the producer of the biodiesel V which identifies the product produced.

“(C) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

“(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel V shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel V solely by reason of the application of section 4041(n) or section 4081(f).

“(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) BIODIESEL V DEFINED.—The term ‘biodiesel V’ means the monoalkyl esters of long chain fatty acids derived solely from virgin vegetable oils for use in compression-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds.

“(2) BIODIESEL NV DEFINED.—The term ‘biodiesel nv’ means the monoalkyl esters of

long chain fatty acids derived from non-virgin vegetable oils or animal fats for use in compression-ignition (diesel) engines.

“(3) REGISTRATION REQUIREMENTS.—The terms ‘biodiesel V’ and ‘biodiesel NV’ shall only include a biodiesel which meets—

“(i) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

“(ii) the requirements of the American Society of Testing and Materials D6751.

“(2) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

“(A) IMPOSITION OF TAX.—If—

“(i) any credit was determined under this section with respect to biodiesel V or biodiesel NV used in the production of any qualified biodiesel mixture, and

“(ii) any person—

“(I) separates such biodiesel from the mixture, or

“(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

“(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

“(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

“(e) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

“(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

“(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

“(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.”.

“(f) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2005.”.

(2) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting “, plus”, and by adding at the end the following new paragraph:

“(17) the biodiesel fuels credit determined under section 40B(a).”.

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

“(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year beginning before January 1, 2003.”.

(B) Section 196(c) is amended by striking “and” at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

“(11) the biodiesel fuels credit determined under section 40B(a).”.

(C) Section 6501(m), as amended by this Act, is amended by inserting "40B(e)," after "40(f)."

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

"Sec. 40B. Biodiesel used as fuel."

(4) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) **REDUCTION OF MOTOR FUEL EXCISE TAXES ON BIODIESEL V MIXTURES.**—

(1) **IN GENERAL.**—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

"(f) **BIODIESEL V MIXTURES.**—Under regulations prescribed by the Secretary—

"(1) **IN GENERAL.**—In the case of the removal or entry of a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

"(2) **TAX PRIOR TO MIXING.**—

"(A) **IN GENERAL.**—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the rate determined under subparagraph (B).

"(B) **DETERMINATION OF RATE.**—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel V which will be in the mixture.

"(3) **DEFINITIONS.**—For purposes of this subsection, any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

"(4) **CERTAIN RULES TO APPLY.**—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection."

(2) **CONFORMING AMENDMENTS.**—

(A) Section 4041 is amended by adding at the end the following new subsection:

"(n) **BIODIESEL V 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)) with biodiesel V, the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B))."

(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) **BIODIESEL V 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)) with biodiesel V which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)) with respect to such fuel."

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to any fuel sold after December 31, 2002, and before January 1, 2006.

(c) **HIGHWAY TRUST FUND HELD HARMLESS.**—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts determined by the Secretary of the Treasury to be

equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by reason of the amendments made by this section.

**SA 3353.** Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. BINGAMAN, and 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:

In Division H, on page 215, between lines 10 and 11, insert the following:

**SEC. 2404. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.**

(a) **IN GENERAL.**—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

"(i) **SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.**—

"(1) **IN GENERAL.**—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

"(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

"(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year,

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

"(2) **QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.**—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2007, of—

"(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

"(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

"(3) **INDEPENDENT TRANSMISSION COMPANY.**—For purposes of this subsection, the term 'independent transmission company' means—

"(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

"(B) a person—

"(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

"(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than the close of the period applicable under paragraph (1), or

"(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

"(4) **ELECTION.**—An election under paragraph (1), once made, shall be irrevocable.

"(5) **NONAPPLICATION OF INSTALLMENT SALES TREATMENT.**—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

**SA 3354.** Mr. CONRAD (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 202, between lines 23 and 24, insert the following:

(b) **EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.**—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting "(January 1, 2008, in the case of qualified fuel described in subsection (c)(1)(C))" after "January 1, 2003".

**SA 3355.** Mr. CONRAD (for himself, Mr. SMITH of New Hampshire, and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 103, line 1, strike all through page 105, line 12, and insert the following:

**SEC. 2104. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.**

(a) **IN GENERAL.**—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking "or" at the end of clause (i), by adding "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) qualified fuel cell property or qualified microturbine property."

(b) **QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.**—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) **QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.**—For purposes of this subsection—

"(A) **QUALIFIED FUEL CELL PROPERTY.**—

"(i) **IN GENERAL.**—The term 'qualified fuel cell property' means a fuel cell power plant that—

"(I) generates at least 1 kilowatt of electricity using an electrochemical process, and

"(II) has an electricity-only generation efficiency greater than 30 percent.



“(ii) **LIMITATION.**—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

“(I) 30 percent of the basis of such property, or

“(II) \$1,000 for each kilowatt of capacity of such property.

“(iii) **FUEL CELL POWER PLANT.**—The term ‘fuel cell power plant’ means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.

“(iv) **TERMINATION.**—Such term shall not include any property placed in service after December 31, 2007.

“(B) **QUALIFIED MICROTURBINE PROPERTY.**—

“(i) **IN GENERAL.**—The term ‘qualified microturbine property’ means a stationary microturbine power plant which has an electricity-only generation efficiency not less than 26 percent at International Standard Organization conditions.

“(ii) **LIMITATION.**—In the case of qualified microturbine property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

“(I) 10 percent of the basis of such property, or

“(II) \$200 for each kilowatt of capacity of such property.

“(iii) **STATIONARY MICROTURBINE POWER PLANT.**—The term ‘stationary microturbine power plant’ means a system comprising of a rotary engine which is actuated by the aerodynamic reaction or impulse or both on radial or axial curved full-circumferential-admission airfoils on a central axial rotating spindle. Such system—

“(I) commonly includes an air compressor, combustor, gas pathways which lead compressed air to the combustor and which lead hot combusted gases from the combustor to 1 or more rotating turbine spools, which in turn drive the compressor and power output shaft,

“(II) includes a fuel compressor, recuperator/regenerator, generator or alternator, integrated combined cycle equipment, cooling-heating-and-power equipment, sound attenuation apparatus, and power conditioning equipment, and

“(III) includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

“(iv) **TERMINATION.**—Such term shall not include any property placed in service after December 31, 2006.”

(c) **LIMITATION.**—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

“(A) **IN GENERAL.**—The energy percentage is—

“(i) in the case of qualified fuel cell property, 30 percent, and

“(ii) in the case of any other energy property, 10 percent.”

(d) **CONFORMING AMENDMENTS.**—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking “section 48(a)(4)(C)” and inserting “section 48(a)(5)(C)”.

(B) Section 48(a)(1) is amended by inserting “except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4),” before “the energy”.

(e) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to property placed in service after December 31, 2002, under rules similar to the rules of sec-

tion 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SA 3356.** Mr. HOLLINGS submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 215, between lines 10 and 11, insert the following:

**SEC. 2405. APPLICATION OF TEMPORARY REGULATIONS TO CERTAIN OUTPUT CONTRACTS.**

In the application of section 1-141-7(c)(4) of the Treasury Temporary Regulations to output contracts entered into after February 22, 1998, with respect to an issuer participating in open access with respect to the issuer's transmission facilities, an output contract in existence on or before such date that is amended after such date shall be treated as a contract entered into after such date only if the amendment increases the amount of output sold under such contract by extending the term of the contract or increasing the amount of output sold, but such treatment as a contract entered into after such date shall begin on the effective date of the amendment and shall apply only with respect to the increased output to be provided under such contract.

**SA 3357.** Mr. ROCKEFELLER (for himself, Mrs. CARNAHAN, and Mr. BOND) 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. \_\_\_\_ . CREDIT FOR ENERGY EFFICIENT VENDING MACHINES.**

(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. 45K. ENERGY EFFICIENT VENDING MACHINE CREDIT.**

“(a) **GENERAL RULE.**—For purposes of section 38, the energy efficient vending machine credit determined under this section for the taxable year is an amount equal to \$75, multiplied by the number of qualified energy efficient vending machines purchased by the taxpayer during the calendar year ending with or within the taxable year.

“(b) **QUALIFIED ENERGY EFFICIENT VENDING MACHINE.**—For purposes of this section, the term ‘qualified energy efficient vending machine’ means a refrigerated bottled or canned beverage vending machine which—

“(1) has a capacity of at least 500 bottles or cans, and

“(2) consumes not more than 8.66 kWh per day of electricity based on ASHRAE Standard 32.1-1997.

“(c) **VERIFICATION.**—The taxpayer shall submit such information or certification as the Secretary determines necessary to claim the credit amount under subsection (a).

“(d) **TERMINATION.**—This section shall not apply with respect to vending machines pur-

chased in calendar years beginning after December 31, 2005.”

(b) **LIMITATION ON CARRYBACK.**—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:

“(20) **NO CARRYBACK OF ENERGY EFFICIENT VENDING MACHINE CREDIT BEFORE EFFECTIVE DATE.**—No portion of the unused business credit for any taxable year which is attributable to the energy efficient vending machine credit determined under section 45K may be carried to a taxable year ending before January 1, 2003.”

(c) **CONFORMING AMENDMENT.**—Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking “plus” at the end of paragraph (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 energy efficient vending machine credit determined under section 45K(a).”

(d) **CLERICAL AMENDMENT.**—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 45K. Energy efficient vending machine credit.”

(e) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

**SA 3358.** Mr. ROCKEFELLER (for himself, Mr. ALLEN, Mr. SPECTER, and Mr. WARNER) 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. \_\_\_\_ . CREDIT FOR RECYCLING CERTAIN COAL COMBUSTION WASTE MATERIALS.**

(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. 45K. CREDIT FOR RECYCLING CERTAIN COAL COMBUSTION WASTE MATERIALS.**

“(a) **ALLOWANCE OF CREDIT.**—For purposes of section 38, the credit for recycling certain coal combustion waste materials used by the taxpayer in qualifying production under this section for any taxable year is equal to the sum of—

“(1) \$6.00 for each wet ton of—

“(A) wet flue gas desulfurization sludge cake, and

“(B) any other wet waste material identified by the Secretary of Energy, plus

“(2) \$4.00 for each dry ton of—

“(A) dry flue gas desulfurization and fluidized bed combustion waste material, and

“(B) any other dry waste material identified by the Secretary of Energy.

“(b) **CERTAIN COAL COMBUSTION WASTE MATERIALS DEFINED.**—For purposes of this section, the term ‘certain coal combustion waste materials’ means any solid waste material generated using a sulfur dioxide emission control system and derived from the combustion of coal in connection with the generation of electricity or steam, including—

“(1) wet flue gas desulfurization sludge cake,

“(2) dry flue gas desulfurization and fluidized bed combustion waste material, and

“(3) any other coal combustion waste material identified by the Secretary of Energy as wet waste or dry waste material attributable to the use of a sulfur dioxide emission control system.

“(c) QUALIFYING PRODUCTION.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualifying production’ means the use of certain coal combustion waste materials by the taxpayer as substantial raw materials in the manufacture of commercially saleable products which are—

“(A) manufactured in a qualifying facility,

“(B) sold by the taxpayer, and

“(C) not used in a landfill application.

“(2) SUBSTANTIAL USE AND MANUFACTURING REQUIREMENT.—Certain coal combustion waste materials shall not be deemed to constitute substantial raw materials used in the manufacture of commercially saleable products unless such waste materials—

“(A) constitute at least 35 percent of the weight of the commercially saleable manufactured products, determined on a dry weight basis, and

“(B) undergo a physical and chemical change in the course of the manufacturing process.

“(3) UNRELATED PERSON SALE OR USE REQUIREMENT.—The taxpayer shall not be deemed to have engaged in qualifying production with respect to certain coal combustion waste materials used in manufacturing a product until—

“(A) the taxable year in which the taxpayer sells such product to an unrelated person, or

“(B) if such product is sold to a related person, the taxable year in which the related person—

“(i) resells such product to an unrelated person, or

“(ii) consumes or provides such product in the performance of services to an unrelated person.

“(4) QUALIFYING FACILITY.—

“(A) IN GENERAL.—The term ‘qualifying facility’ means a manufacturing facility which—

“(i) is located within the United States (within the meaning of section 638(1)) or within a possession of the United States (within the meaning of section 638(2)), and

“(ii) is placed in service after December 31, 2001.

“(B) 10 YEAR LIMIT.—A facility shall cease to be a qualifying facility on the date which is the tenth anniversary of the date on which the facility was placed in service.

“(5) DRY WEIGHT MEASUREMENT.—For purposes of paragraph (2)(A), dry weight shall be determined by excluding the weight of all water in the materials used in the manufacture of the products.

“(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) WET TON.—The term ‘wet ton’ shall mean the weight of the desulfurization sludge cake (and any other wet waste material) after adjusting the water content of the cake (and other wet waste material) to not greater than 50 percent of the total weight.

“(2) DRY TON.—The term ‘dry ton’ shall mean the weight of the dry flue gas desulfurization and fluidized bed combustion waste material (and any other dry waste material) after adjusting the water content of the material (and other dry waste material) to not greater than 2 percent of the total weight.

“(3) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b).

“(4) PASS-THROUGH IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.”.

(b) CREDIT TREATED AS A BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking “plus” at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting “, plus”, and by adding at the end the following new paragraph:

“(24) the credit for recycling certain coal combustion waste materials determined under section 45K(a).”.

(c) TRANSITIONAL RULE.—Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

“(20) NO CARRYBACK OF SECTION 45K CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit for recycling certain coal combustion waste materials determined under section 45K may be carried back to a taxable year ending before January 1, 2002.”.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end of the following new item:

“Sec. 45K. Credit for recycling certain coal combustion waste materials.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

**SA 3359.** 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; as follows:

In Division H, on page 74, line 16, strike “Code” and insert “Code, or a qualifying new home which is a manufactured home which meets the applicable standards of the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy”.

**SA 3360.** 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:

In Division H, on page 137, between lines 7 and 8, insert the following:

**SEC. \_\_\_\_ ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179D the following new section:

**“SEC. 179E. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.**

“(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an eligible resupplier, there shall be allowed as a deduction an amount equal to the cost of each qualified water submetering device placed in service during the taxable year.

“(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified water submetering device shall not exceed \$30.

“(c) ELIGIBLE RESUPPLIER.—For purposes of this section, the term ‘eligible resupplier’ means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.

“(d) QUALIFIED WATER SUBMETERING DEVICE.—The term ‘qualified water submetering device’ means any tangible property to which section 168 applies if such property is a submetering device (including ancillary equipment)—

“(1) which is purchased and installed by the taxpayer to enable consumers to manage their purchase or use of water in response to water price and usage signals, and

“(2) which permits reading of water price and usage signals on at least a daily basis.

“(e) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

“(f) BASIS REDUCTION.—

“(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

“(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

“(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2007.”.

(b) CONFORMING AMENDMENTS.—

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

“(L) expenditures for which a deduction is allowed under section 179E.”.

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking “or 179D” each place it appears in the heading and text and inserting “, 179D, or 179E”.

(3) Section 1016(a), as amended by this Act, is amended by striking “and” at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting “, and”, and by adding at the end the following new paragraph:

“(36) to the extent provided in section 179E(f)(1).”.

(4) Section 1245(a), as amended by this Act, is amended by inserting “179E,” after “179D,” both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179D the following new item:

“Sec. 179E. Deduction for qualified new or retrofitted water submetering devices.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified water submetering devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. \_\_\_\_ THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.**

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of



property) is amended by striking “and” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, and”, and by adding at the end the following new clause:

“(v) any qualified water submetering device.”.

(b) **DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.**—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

“(16) **QUALIFIED WATER SUBMETERING DEVICE.**—The term ‘qualified water submetering device’ means any qualified water submetering device (as defined in section 179E(d)) which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier (as defined in section 179E(c)).”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

**SA 3361.** Mr. KERRY (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, beginning on page 91, line 9, strike all through page 96, line 3, and insert the following:

“(E) for property described in subsection (d)(6)—

“(i) \$150 for each electric heat pump water heater,

“(ii) \$250 for each electric heat pump,

“(iii) \$125 for each natural gas or propane furnace,

“(iv) \$250 for each central air conditioner,

“(v) \$150 for each advanced natural gas water heater,

“(vi) \$250 for each geothermal heat pump,

“(vii) \$50 for each main air circulating fan in a natural gas, propane, or oil-fired furnace,

“(viii) \$50 for each natural gas water heater,

“(ix) \$150 for each advanced combination space and water heating system, and

“(x) \$50 for each combination space and water heating system.

“(2) **SAFETY CERTIFICATIONS.**—No credit shall be allowed under this section for an item of property unless—

“(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,

“(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and

“(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—

“(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),

“(ii) in the case of the energy efficiency ratio (EER)—

“(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and

“(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and

“(iii) are in effect at the time of the acquisition of the property.

“(c) **CARRYFORWARD OF UNUSED CREDIT.**—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

“(d) **DEFINITIONS.**—For purposes of this section—

“(1) **QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.**—The term ‘qualified solar water heating property expenditure’ means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.

“(2) **QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.**—The term ‘qualified photovoltaic property expenditure’ means an expenditure for property that uses solar energy to generate electricity for use in such a dwelling unit.

“(3) **SOLAR PANELS.**—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.

“(4) **QUALIFIED FUEL CELL PROPERTY EXPENDITURE.**—The term ‘qualified fuel cell property expenditure’ means an expenditure for qualified fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.

“(5) **QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.**—The term ‘qualified wind energy property expenditure’ means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.

“(6) **QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.**—

“(A) **IN GENERAL.**—The term ‘qualified Tier 2 energy efficient building property expenditure’ means an expenditure for any Tier 2 energy efficient building property.

“(B) **TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.**—The term ‘Tier 2 energy efficient building property’ means—

“(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,

“(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,

“(iii) a natural gas or propane furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE),

“(iv) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 12.5,

“(v) an advanced natural gas water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure,

“(vi) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21,

“(vii) a main air circulating fan in a natural gas, propane, or oil-fired furnace using a brushless permanent motor, or another type

of motor which achieves similar or greater efficiency at half and full speed, as determined by the Secretary,

“(viii) a natural gas water heater which is not described in clause (v) and which has an energy factor of at least 0.65 in the standard Department of Energy test procedure,

“(ix) an advanced combination space and water heating system which has a combined energy factor of at least .80 in the standard Department of Energy test procedure, and

“(x) a combination space and water heating system which is not described in clause (ix) and which has a combined energy factor of at least .65 in the standard Department of Energy test procedure and achieves at least 78 percent combined annual fuel utilization efficiency (AFUE).”.

**SA 3362.** Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

#### **SEC. . MODIFICATION OF RURAL AIRPORT DEFINITION.**

(a) **IN GENERAL.**—Clause (ii) of section 4261(e)(1)(B) (defining rural airport) is amended by striking the period at the end of subclause (II) and inserting “, or” and by adding at the end the following new subclause:

“(III) is not connected by paved roads to another airport”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to calendar years beginning after 2002.

**SA 3363.** Mr. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

#### **SEC. . EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEA PLANES.**

(a) The taxes imposed by sections 4261 and 4271 shall not apply to transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to calendar years beginning after 2002.

**SA 3364.** 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:

In Division H, on page 215, between lines 10 and 11, insert the following:

# SEC. \_\_\_\_ TREATMENT OF CERTAIN DEVELOPMENT INCOME OF COOPERATIVES.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12), as amended by this Act, is amended by striking “or” at the end of clause (iv), by striking the period at the end of clause (v) and insert “, or”, and by adding at the end the following new clause:

“(vi) from the receipt before January 1, 2007, of any money, property, capital, or any other contribution in aid of construction or connection charge intended to facilitate the provision of electric service for the purpose of developing qualified fuels from non-conventional sources (within the meaning of section 29).”.

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

**SA 3365.** Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 202, between lines 17 and 18, insert the following:

“(5) FACILITIES PRODUCING OIL OR GAS ON INDIAN LANDS, INCLUDING LANDS OWNED AND HELD BY ALASKA NATIVE VILLAGE CORPORATIONS AND REGIONAL CORPORATIONS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.—

“(A) IN GENERAL.—In the case of facility for producing Indian oil or gas which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to Indian oil or gas produced at such facility not later than the close of the 5-year period beginning on the date such facility is placed in service.

“(B) INDIAN OIL OR GAS.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘Indian oil or gas’ means oil or gas which is produced from Indian lands.

“(ii) INDIAN LANDS.—The term ‘Indian lands’ means—

“(I) land held in trust by, or restricted against alienation by, the United States for the benefit of an individual Indian or an Indian tribe, or

“(II) land owned and held by any Alaska Native Village Corporation or Regional Corporation organized under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

“(iii) INDIVIDUAL INDIAN.—The term ‘individual Indian’ means any individual member of an Indian tribe.

“(iv) INDIAN TRIBE.—The term ‘Indian tribe’ means any Indian tribe as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), including any Native village (as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)), whether organized traditionally or pursuant to the Act of June 18, 1934 (commonly known as the Indian Reorganization Act (25 U.S.C. 461 et seq.)).

“(C) APPLICATION OF PARAGRAPH.—This paragraph shall not apply with respect to any Indian oil or gas for which a credit is allowed under any other provision of this section.”

**SA 3366.** 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:

In Division H, on page 73, between lines 2 and 3, insert the following:

## SEC. \_\_\_\_ MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.

(a) MODIFICATION TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—The table in section 30B(c)(2)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking “5 percent” and inserting “4 percent”.

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

“(f) TERMINATION.—This section shall not apply to any property placed in service—

“(1) in the case of property relating to hydrogen, after December 31, 2011, and

“(2) in the case of any other property, after December 31, 2007.”.

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Workforce Assistance Act of 2002, is amended—

(A) by striking “calendar year 2004” in clause (i) and inserting “calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen)”,

(B) by striking “2005” in clause (ii) and inserting “2006 (calendar year 2010 in the case of property relating to hydrogen)”, and

(C) by striking “2006” in clause (iii) and inserting “2007 (calendar year 2011 in the case of property relating to hydrogen)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(c) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

“(l) TERMINATION.—This section shall not apply to any property placed in service—

“(1) in the case of property relating to hydrogen, after December 31, 2011, and

“(2) in the case of any other property, after December 31, 2007.”.

(d) EFFECTIVE DATE.—Except as provided in subsection (b)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

**SA 3367.** Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 517, to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of Division H, insert the following:

## SEC. \_\_\_\_ PERMANENT TAX CREDIT FOR RESEARCH AND DEVELOPMENT REGARDING GREENHOUSE GAS EMISSIONS REDUCTION, AVOIDANCE, OR SEQUESTRATION.

Section 41(h) (relating to termination) is amended by adding at the end the following:

“(3) EXCEPTION FOR CERTAIN RESEARCH.—Paragraph (1)(B) shall not apply in the case of any qualified research expenses if the research—

“(A) has as one of its purposes the reducing, avoiding, or sequestering of greenhouse gas emissions, and

“(B) has been reported to the Department of Energy under section 1605(b) of the Energy Policy Act of 1992 or under the national greenhouse gas emissions register established in Division I of this Act.”.

## SEC. \_\_\_\_ TAX CREDIT FOR GREENHOUSE GAS EMISSIONS FACILITIES.

(a) ALLOWANCE OF GREENHOUSE GAS EMISSIONS FACILITIES CREDIT.—Section 46 (relating to amount of 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 greenhouse gas emissions facilities credit.”.

(b) AMOUNT OF CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit), as amended by this Act, is amended by inserting after section 48A the following:

## “SEC. 48B. CREDIT FOR GREENHOUSE GAS EMISSIONS FACILITIES.

“(a) IN GENERAL.—For purposes of section 46, the greenhouse gas emissions facilities credit for any taxable year is the applicable percentage of the qualified investment in a greenhouse gas emissions facility for such taxable year.

“(b) GREENHOUSE GAS EMISSIONS FACILITY.—For purposes of subsection (a), the term ‘greenhouse gas emissions facility’ means a facility of the taxpayer—

“(1)(A) the construction, reconstruction, or erection of which is completed by the taxpayer, or

“(B) which is acquired by the taxpayer if the original use of such facility commences with the taxpayer,

“(2) the operation of which—

“(A) replaces the operation of a facility of the taxpayer,

“(B) reduces, avoids, or sequesters greenhouse gas emissions on a per unit of output basis as compared to such emissions of the replaced facility, and

“(C) uses the same type of fuel (or combination of the same type of fuel and biomass fuel) as was used in the replaced facility,

“(3) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

“(4) which meets the performance and quality standards (if any) which—

“(A) have been jointly prescribed by the Secretary and the Secretary of Energy by regulations,

“(B) are consistent with regulations prescribed under section 1605(b) of the Energy Policy Act of 1992, and

“(C) are in effect at the time of the acquisition of the facility.

“(c) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage is one-half of the percentage reduction, avoidance, or sequestration of greenhouse gas emissions described in subsection (b)(2) and reported and certified under section 1605(b) of the Energy Policy Act of 1992.

“(d) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term ‘qualified investment’ means, with respect to any taxable year, the basis of a greenhouse gas emissions facility placed in service by the taxpayer during such taxable year, but only with respect to that portion of the investment attributable to providing production capacity not greater than the production capacity of the facility being replaced.

“(e) QUALIFIED PROGRESS EXPENDITURES.—

“(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (d) without regard to this subsection)

shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

“(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term ‘progress expenditure property’ means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a greenhouse gas emissions facility which is being constructed by or for the taxpayer when it is placed in service.

“(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

“(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term ‘qualified progress expenditures’ means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

“(B) NON-SELF-CONSTRUCTED PROPERTY.—In the case of non-self-constructed property, the term ‘qualified progress expenditures’ means the amount paid during the taxable year to another person for the construction of such property.

“(4) OTHER DEFINITIONS.—For purposes of this subsection—

“(A) SELF-CONSTRUCTED PROPERTY.—The term ‘self-constructed property’ means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

“(B) NON-SELF-CONSTRUCTED PROPERTY.—The term ‘non-self-constructed property’ means property which is not self-constructed property.

“(C) CONSTRUCTION, ETC.—The term ‘construction’ includes reconstruction and erection, and the term ‘constructed’ includes reconstructed and erected.

“(D) ONLY CONSTRUCTION OF GREENHOUSE GAS EMISSIONS FACILITY TO BE TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.

“(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.”

(c) RECAPTURE.—Section 50(a) (relating to other special rules), as amended by this Act, is amended by adding at the end the following:

“(7) SPECIAL RULES RELATING TO GREENHOUSE GAS EMISSIONS FACILITY.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48B, the following shall apply:

“(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a greenhouse gas emissions facility (as defined by section 48B(b)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the greenhouse gas emissions facility disposed of, and whose denominator is the total number of years over which such facility would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the greenhouse gas emissions facility property shall be treated as a year of remaining depreciation.

“(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to

the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a greenhouse gas emissions facility under section 48B, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted in lieu of the amount described in such paragraph (2).

“(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a greenhouse gas emissions facility.”

(d) TECHNICAL AMENDMENTS.—

(1) Section 49(a)(1)(C), as amended by this Act, is amended by striking “and” at the end of clause (iii), by striking the period at the end of clause (iv) and inserting “, and”, and by adding at the end the following:

“(v) the portion of the basis of any greenhouse gas emissions facility attributable to any qualified investment (as defined by section 48B(d)).”

(2) Section 50(a)(4), as amended by this Act, is amended by striking “and (6)” and inserting “, (6), and (7)”.

(3) 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. Credit for greenhouse gas emissions facilities.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(f) STUDY OF ADDITIONAL INCENTIVES FOR VOLUNTARY REDUCTION, AVOIDANCE, OR SEQUESTRATION OF GREENHOUSE GAS EMISSIONS.—

(1) IN GENERAL.—The Secretary of the Treasury and the Secretary of Energy shall jointly study possible additional incentives for, and removal of barriers to, voluntary, non recoupable expenditures for the reduction, avoidance, or sequestration of greenhouse gas emissions. For purposes of this subsection, an expenditure shall be considered voluntary and non recoupable if the expenditure is not recoupable—

(A) from revenues generated from the investment, determined under generally accepted accounting standards (or under the applicable rate-of-return regulation, in the case of a taxpayer subject to such regulation), or

(B) from any tax or other financial incentive program established under Federal, State, or local law.

(2) REPORT.—Within 6 months of the date of enactment of this Act, the Secretary of the Treasury and the Secretary of Energy shall jointly report to Congress on the results of the study described in paragraph (1), along with any recommendations for legislative action.

(g) SCOPE AND IMPACT.—

(1) POLICY.—In order to achieve the broadest response for reduction, avoidance, or sequestration of greenhouse gas emissions and to ensure that the incentives established by or pursuant to this Act do not advantage one segment of an industry to the disadvantage of another, it is the sense of Congress that such incentives should be available for individuals, organizations, and entities, including both for-profit and non-profit institutions.

(2) LEVEL PLAYING FIELD STUDY AND REPORT.—

(A) IN GENERAL.—The Secretary of the Treasury and the Secretary of Energy shall jointly study possible additional measures

that would provide non-profit entities (such as municipal utilities and energy cooperatives) with economic incentives for greenhouse gas emissions facilities comparable to those incentives provided to taxpayers under the amendments made to the Internal Revenue Code of 1986 by this Act.

(B) REPORT.—Within 6 months after the date of enactment of this Act, the Secretary of the Treasury and the Secretary of Energy shall jointly report to Congress on the results of the study described in subparagraph (A), along with any recommendations for legislative action.

## DIVISION I—CLIMATE CHANGE MITIGATION

### TITLE —NATIONAL GREENHOUSE GAS REGISTRY

#### SECTION. . SHORT TITLE.

This title may be cited as the “National Climate Registry Initiative of 2002”.

#### SEC. . PURPOSE.

The purpose of this title is to establish a new national greenhouse gas registry—

(1) to further encourage voluntary efforts, by persons and entities conducting business and other operations in the United States, to implement actions, projects and measures that reduce greenhouse gas emissions;

(2) to encourage such persons and entities to monitor and voluntarily report greenhouse gas emissions, direct or indirect, from their facilities, and to the extent practicable, from other types of sources;

(3) to adopt a procedure and uniform format for such persons and entities to establish and report voluntarily greenhouse gas emission baselines in connection with, and furtherance of, such reductions;

(4) to provide verification mechanisms to ensure for participants and the public a high level of confidence in accuracy and verifiability of reports made to the national registry;

(5) to encourage persons and entities, through voluntary agreement with the Secretary, to report annually greenhouse gas emissions from their facilities;

(6) to provide to persons or entities that engage in such voluntary agreements and reduce their emissions transferable credits which, inter alia, shall be available for use by such persons or entities for any incentive, market-based, or regulatory programs determined by the Congress in a future enactment to be necessary and feasible to reduce the risk of climate change and its impacts; and

(7) to provide for the registration, transfer and tracking of the ownership or holding of such credits for purposes of facilitating voluntary trading among persons and entities

#### SEC. . DEFINITIONS.

In this title—

(1) “person” means an individual, corporation, association, joint venture, cooperative, or partnership;

(2) “entity” means a public person, a Federal, interstate, State, or local governmental agency, department, corporation, or other publicly owned organization;

(3) “facility” means those buildings, structures, installations, or plants (including units thereof) that are on contiguous or adjacent land, are under common control of the same person or entity and are a source of emissions of greenhouse gases in excess for emission purposes of a threshold as recognized by the guidelines issued under this title;

(4) “reductions” means actions, projects or measures taken, whether in the United States or internationally, by a person or entity to reduce, avoid or sequester, directly or indirectly, emissions of one or more greenhouse gases;

(5) “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 reemits infrared radiation and influences climate; and

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

(6) "Secretary" means the Secretary of Energy;

(7) "Administrator" means the Administrator of the Energy Information Administration; and

(8) "Interagency Task Force" means the Interagency Task Force established under title X of this Act.

#### SEC. . ESTABLISHMENT.

(a) IN GENERAL.—Not later than 1 year after the enactment of this title, the President shall, in consultation with the Interagency Task Force, establish a National Greenhouse Gas Registry to be administered by the Secretary through the Administrator in accordance with the applicable provisions of this title, section 205 of the Department of Energy Act (42 U.S.C. 7135) and other applicable provisions of that Act (42 U.S.C. 7101, et seq.).

(b) DESIGNATION.—Upon establishment of the registry and issuance of the guidelines pursuant to this title, such registry shall thereafter be the depository for the United States of data on greenhouse gas emissions and emissions reductions collected from and reported by persons or entities with facilities or operations in the United States, pursuant to the guidelines issued under this title.

(c) PARTICIPATION.—Any person or entity conducting business or activities in the United States may, in accordance with the guidelines established pursuant to this title, voluntarily report its total emissions levels and register its certified emissions reductions with such registry, provided that such reports—

(1) represent a complete and accurate inventory of emissions from facilities and operations within the United States and any domestic or international reduction activities; and

(2) have been verified as accurate by an independent person certified pursuant to guidelines developed pursuant to this title, or other means.

(d) CONFIDENTIALITY OF REPORTS.—Trade secret and commercial or financial information that is privileged and confidential submitted pursuant to activities under this title shall be protected as provided in section 552(b)(4) of title 5, United States Code.

#### SEC. . IMPLEMENTATION.

(a) GUIDELINES.—Not later than 1 year after the date of establishment of the registry pursuant to this title, the Secretary shall, in consultation with the Interagency Task Force, issue guidelines establishing procedures for the administration of the national registry. Such guidelines shall include—

(1) means and methods for persons or entities to determine, quantify, and report by appropriate and credible means their baseline emissions levels on an annual basis, taking into consideration any reports made by such participants under past Federal programs;

(2) procedures for the use of an independent third-party or other effective verification process for reports on emissions levels and emissions reductions, using the authorities available to the Secretary under this and other provisions of law and taking into account, to the extent possible, costs, risks, the voluntary nature of the registry, and other relevant factors;

(3) a range of reference cases for reporting of project-based reductions in various sectors, and the inclusion of benchmark and default methodologies and practices for use as reference cases for eligible projects;

(4) safeguards to prevent and address reporting, inadvertently or otherwise, of some or all of the same greenhouse gas emissions or reductions by more than one reporting person or entity and to make corrections and adjustments in data where necessary;

(5) procedures and criteria for the review and registration of ownership or holding of all or part of any reported and independently verified emission reduction projects, actions and measures relative to such reported baseline emissions level;

(6) measures or a process for providing to such persons or entities transferable credits with unique serial numbers for such verified emissions reductions; and

(7) accounting provisions needed to allow for changes in registration and transfer of ownership of such credits resulting from a voluntary private transaction between persons or entities, provided that the Secretary is notified of any such transfer within 30 days of the transfer having been effected either by private contract or market mechanism.

(b) CONSIDERATION.—In developing such guidelines, the Secretary shall take into consideration—

(1) the existing guidelines for voluntary emissions reporting issued under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)), experience in apply such guidelines, and any revisions thereof initiated by the Secretary pursuant to direction of the President issued prior to the enactment of this title;

(2) protocols and guidelines developed under any Federal, State, local, or private voluntary greenhouse gas emissions reporting or reduction programs;

(3) the various differences and potential uniqueness of the facilities, operations and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry;

(4) issues, such as comparability, that are associated with the reporting of both emissions baselines and reductions from activities and projects; and

(5) the appropriate level or threshold emissions applicable to a facility or activity of a person or entity that may be reasonably and cost effectively identified, measured and reported voluntarily taking into consideration different types of facilities and activities and the de minimis nature of some emissions and their sources; and

(6) any other consideration the Secretary may deem appropriate.

(c) EXPERTS AND CONSULTANTS.—The Secretary, and any member of the Interagency Task Force, may secure the services of experts and consultants in the private and non-profit sectors in accordance with the provisions of section 3109 of title 5, United States Code, in the areas of greenhouse gas measurement, certification, and emissions trading. In securing such services, any grant, contract, cooperative agreement, or other arrangement authorized by law and already available to the Secretary or the member of the Interagency Task Force securing such services may be used.

(d) TRANSFERABILITY OF PRIOR REPORTS.—Emissions reports and reductions that have been made by a person or entity pursuant to section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)) or under other Federal or State voluntary greenhouse gas reduction programs may be independently verified and registered with the registry using the same guidelines developed by the Secretary pursuant to this section.

(e) PUBLIC COMMENT.—The Secretary shall make such guidelines available in draft form for public notice and opportunity for comment for a period of at least 90 days, and thereafter shall adopt them for use in implementation of the registry established pursuant to this title.

(f) REVIEW AND REVISION.—The Secretary, through the Interagency Task Force, shall periodically thereafter review the guidelines and, as needed, revise them in the same manner as provided for in this section.

#### SEC. . VOLUNTARY AGREEMENTS.

(a) IN GENERAL.—In furtherance of the purposes of this title, any person or entity, and the Secretary, may voluntarily enter into an agreement to provide that—

(1) such person or entity (and successors thereto) shall report annually to the registry on emissions and sources of greenhouse gases from applicable facilities and operations which generate net emissions above any de minimis thresholds specified in the guidelines issued by the Secretary pursuant to this title;

(2) such person or entity (and successors thereto) shall commit to report and participate in the registry for a period of at least 5 calendar years, provided that such agreements may be renewed by mutual consent;

(3) for purposes of measuring performance under the agreement, such person or entity (and successors thereto) shall determine, by mutual agreement with the Secretary—

(A) pursuant to the guidelines issued under this title, a baseline emissions level for a representative period preceding the effective date of the agreement; and

(B) emissions reduction goals, taking into consideration the baseline emissions level determined under subparagraph (A) and any relevant economic and operational factors that may affect such baseline emissions level over the duration of the agreement; and

(4) for certified emissions reductions made relative to the baseline emissions level, the Secretary shall provide, at the request of the person or entity, transferable credits (with unique assigned serial numbers) to the person or entity (and successors thereto) which, inter alia,—

(A) can be used by such person or entity towards meeting emissions reductions goals set forth under the agreement;

(B) can be transferred to other persons or entities through a voluntary private transaction between persons or entities; or

(C) shall be applicable towards any incentive, market-based, or regulatory programs determined by the Congress in a future enactment to be necessary and feasible to reduce the risk of climate change and its impacts.

(b) PUBLIC NOTICE AND COMMENT.—At least 30 days before any agreement is final, the Secretary shall give notice thereof in the Federal Register and provide an opportunity for public written comment. After reviewing such comments, the Secretary may withdraw the agreement or the parties thereto may mutually agree to revise it or finalize it without substantive change. Such agreement shall be retained in the national registry and be available to the public.

(c) EMISSIONS IN EXCESS.—In the event that a person or entity fails to certify that emissions from applicable facilities and operations are less than the emissions reduction goals contained in the agreement, such person or entity shall take actions as necessary to reduce such excess emissions, including—

(1) redemption of transferable credits acquired in previous years if owned by the person or entity;

(2) acquisition of transferable credits from other persons or entities participating in the registry through their own agreements; or

(3) the undertaking of additional emissions reductions activities in subsequent years as may be determined by agreement with the Secretary.

(d) NO NEW AUTHORITY.—This section shall not be construed as providing any regulatory or mandate authority regarding reporting of such emissions or reductions.

#### SEC. . MEASUREMENT AND VERIFICATION.

(a) IN GENERAL.—The Secretary of Commerce, through the National Institute of Standards and Technology and in consultation with the Secretary of Energy, shall develop and propose standards and practices for accurate measurement and verification of greenhouse gas emissions and emissions reductions. Such standards and best practices shall address the need for—

(1) standardized measurement and verification practices for reports made by all persons or entities participating in the registry, taking into account—

(A) existing protocols and standards already in use by persons or entities desiring to participate in the registry;

(B) boundary issues such as leakage and shifted utilization;

(C) avoidance of double-counting of greenhouse gas emissions and emissions reductions; and

(D) such other factors as the panel determines to be appropriate;

(2) measurement and verification of actions taken to reduce, avoid or sequester greenhouse gas emissions;

(3) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon recapture technologies, including—

(A) organic soil carbon sequestration practices;

(B) forest preservation and re-forestation activities which adequately address the issues of permanence, leakage and verification; and

(4) such other measurement and certification standards as the Secretary of Commerce, the Secretary of Agriculture, and the Secretary of Energy shall determine to be appropriate.

(b) PUBLIC COMMENT.—The Secretary of Commerce shall make such standards and practices available in draft form for public notice and opportunity for comment for a period of at least 90 days, and thereafter shall adopt them, in coordination with the Secretary of Energy, for use in the guidelines for implementation of the registry as issued pursuant to this title.

#### SEC. . CERTIFIED INDEPENDENT THIRD PARTIES.

(a) CERTIFICATION.—The Secretary of Commerce shall, through the Director of the National Institute of Standards and Technology and the Administrator, develop standards for certification of independent persons to act as certified parties to be employed in verifying the accuracy and reliability of reports made under this title, including standards that—

(1) prohibit a certified party from themselves participating in the registry through the ownership or transaction of transferable credits recorded in the registry;

(2) prohibit the receipt by a certified party of compensation in the form of a commission where such party receives payment based on the amount of emissions reductions verified; and

(3) authorize such certified parties to enter into agreements with persons engaged in trading of transferable credits recorded in the registry.

(b) LIST OF CERTIFIED PARTIES.—The Secretary shall maintain and make available to persons or entities making reports under this title and to the public upon request a list of such certified parties and their clients making reports under the title.

#### SEC. . REPORTS TO CONGRESS.

Not later than 1 year after guidelines are issued for the registry pursuant to this title, and biennially thereafter, the President, through the Interagency Task Force, shall report to the Congress on the status of the registry established by this title. The report shall include—

(a) an assessment of the level of participation in the registry (both by sector and in terms of total national emissions represented);

(b) effectiveness of voluntary reporting agreements in enhancing participation in the registry;

(c) use of the registry for emissions trading and other purposes;

(d) assessment of progress towards individual and national emissions reduction goals; and

(e) an inventory of administrative actions taken or planned to improve the national registry or the guidelines, or both, and such recommendations for legislative changes to this title or section 1605 of the Energy Policy Act of 1992 (42 U.S.C. 13385) as the President believes necessary to better carry out the purposes of this title.

#### SEC. . REVIEW OF PARTICIPATION.

(a) IN GENERAL.—Not later than 5 years after the date of enactment of this title, the Director of the Office of National Climate Change Policy shall determine whether the reports submitted to the registry represent less than 60 percent of the national aggregate greenhouse gas emissions as inventoried in the official U.S. Inventory of Greenhouse Gas Emissions and Sinks published by the Environmental Protection Agency for the previous calendar year.

(b) MANDATORY REPORTING.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of such aggregate greenhouse gas emissions are being reported to the registry—

(1) all persons or entities, regardless of their participation in the registry, shall submit to the Secretary a report that describes, for the preceding calendar year, a complete inventory of greenhouse gas emissions (as reported at the facility level), including—

(A) the total quantity of each greenhouse gas emitted by such person or entity, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;

(B) an estimate of the emissions from products manufactured and sold by such person or entity in the previous calendar year, determined over the average lifetime of those products; and

(C) such other categories of emissions as the Secretary determines by regulation to be practicable and useful for the purposes of this title, such as—

(i) direct emissions from stationary sources;

(ii) indirect emissions from imported electricity, heat, and steam;

(iii) process and fugitive emissions; and

(iv) production or importation of greenhouse gases; and

(2) each person or entity shall submit a report described in this section—

(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) EXEMPTIONS FROM REPORTING.—

(1) IN GENERAL.—A person or entity shall be required to submit reports under sub-

section (b) only if, in any calendar year after the date of enactment of this title—

(A) the total greenhouse gas emissions of at least 1 facility owned by the person or entity exceeds 10,000 metric tons of carbon dioxide equivalent greenhouse gas (or such greater quantity as may be established by a designated agency by regulation);

(B) the total quantity of greenhouse gas produced, distributed, or imported by the person or entity exceeds 10,000 metric tons of carbon dioxide equivalent greenhouse gas (or such greater quantity as may be established by a designated agency by regulation); or

(C) the person or entity is not a feedlot or other farming operation (as defined in section 101 of title 11, United States Code).

(2) ENTITIES ALREADY REPORTING.—A person or entity that, as of the date of enactment of this title, is required to report carbon dioxide emissions data to a Federal agency shall not be required to report that data again for the purposes of this title. Such emissions data shall be considered to be reported by the entity to the registry for the purpose of this title and included in the determination of the Director of the Office of National Climate Change Policy made under subsection (a).

(d) ENFORCEMENT.—If a person or entity that is required to report greenhouse gas emissions under this section fails to comply with that requirement, the Attorney General may, at the request of the Secretary, bring a civil action in United States district court against the person or entity to impose on the person or entity a civil penalty of not more than \$25,000 for each day for which the entity fails to comply with that requirement.

(e) RESOLUTION OF DISAPPROVAL.—If made, the determination of the Director of the Office of National Climate Change Policy made under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.

#### SEC. . NATIONAL ACADEMY REVIEW.

Not later than 1 year after guidelines are issued for the registry pursuant to this title, the Secretary, in consultation with the Interagency Task Force, shall enter into an agreement with the National Academy of Sciences to review the scientific and technological methods, assumptions, and standards used by the Secretary and the Secretary of Commerce for such guidelines and report to the President and the Congress on the results of that review, together with such recommendations as may be appropriate, within 6 months after the effective date of that agreement.

#### SEC. . INAPPLICABILITY OF TITLE XI OF THIS ACT.

Title XI of this Act shall be null and void.

**SA 3368.** Mr. CARPER 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:

In Division H, on page 17, line 23, strike “and” and all that follows through line 25, and insert the following:

“(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d), and

“(4) the new qualified advanced lean burn technology motor vehicle credit determined under subsection (aa).

“(aa) ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.—

“(1) IN GENERAL.—For purposes of subsection (a), the advanced lean burn technology motor vehicle credit determined under this subsection with respect to a new qualified advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

“(2) CREDIT AMOUNT.—

“(A) INCREASE FOR FUEL EFFICIENCY.—The credit amount determined under this paragraph shall be—

“(i) \$750, if such vehicle achieves at least 125 percent but less than 150 percent of the 2000 model year city fuel economy,

“(ii) \$1,250, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

“(iii) \$1,750, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

“(iv) \$2,250, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

“(v) \$2,750, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy, and

“(vi) \$3,250, if such vehicle achieves at least 250 percent of the 2000 model year city fuel economy.

“(B) INCREASE FOR LOW EMISSIONS.—The credit amount determined under subparagraph (A) shall be increased by—

“(i) \$250, if such vehicle achieves the emission standards equivalent to TIER 2, bin 6,

“(ii) \$500, if such vehicle achieves the emission standards equivalent to TIER 2, bin 5,

“(iii) \$750, if such vehicle achieves the emission standards equivalent to TIER 2, bin 4,

“(iv) \$1,000, if such vehicle achieves the emission standards equivalent to TIER 2, bin 3 or lower.”

**SA 3369.** Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H (relating to energy tax incentives), strike section 2307.

**SA 3370.** Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H (relating to energy tax incentives), strike section 2308.

**SA 3371.** Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H (relating to energy tax incentives), strike section 2311.

**SA 3372.** Mr. GRAHAM (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

**SEC. . . LIMITATION ON EFFECTIVE DATES.**

Notwithstanding any other provision of this division, no provision of nor any amendment made by this division shall take effect until the date of the enactment of legislation which raises Federal revenues or reduces Federal spending sufficient to offset the Federal budgetary cost of such provisions and amendments for the 10-fiscal year period beginning on October 1, 2002.

**SA 3373.** Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 2917 proposed by Mr. DASCHLE (for himself and Mr. BINGAMAN) to the bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes; which was ordered to lie on the table; as follows:

In Division H, on page 216, after line 21, add the following:

**SEC. . . LIMITATION ON EFFECTIVE DATES.**

Notwithstanding any other provision of this division, no provision of nor any amendment made by this division shall take effect until the date of the enactment of legislation which raises Federal revenues sufficient to offset the Federal budgetary cost of such provisions and amendments for the 10-fiscal year period beginning on October 1, 2002.

**SA 3374.** Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 3344 submitted by Mrs. LINCOLN 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. . . CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.**

(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:

“(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.”

(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section

6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:

“For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.”

(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:

“(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—

“(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or

“(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after the date of enactment, and before January 1, 2004.

**SA 3375.** Mr. GRAMM submitted an amendment intended to be proposed to amendment SA 3336 submitted by Mr. GRAMM 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:

Strike all after the enacting clause and insert the following:

In Division H, on page 216, after line 21, add the following:

**SEC. . . TREATMENT OF DAIRY PROPERTY.**

(a) QUALIFIED DISPOSITION OF DAIRY PROPERTY TREATED AS INVOLUNTARY CONVERSION.—

(1) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by designating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

“(k) QUALIFIED DISPOSITION TO IMPLEMENT BOVINE TUBERCULOSIS ERADICATION PROGRAM.—

“(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualified disposition:

“(A) TREATMENT AS INVOLUNTARY CONVERSION.—Such disposition shall be treated as an involuntary conversion to which this section applies.

“(B) MODIFICATION OF SIMILAR PROPERTY REQUIREMENT.—Property to be held by the taxpayer either for productive use in a trade or business or for investment shall be treated as property similar or related in service or use to the property disposed of.

“(C) EXTENSION OF PERIOD FOR REPLACING PROPERTY.—Subsection (a)(2)(B)(i) shall be applied by substituting ‘4 years’ for ‘2 years’.



“(D) WAIVER OF UNRELATED PERSON REQUIREMENT.—Subsection (i) (relating to replacement property must be acquired from unrelated person in certain cases) shall not apply.

“(E) EXPANDED CAPITAL GAIN FOR CATTLE AND HORSES.—Section 1231(b)(3)(A) shall be applied by substituting ‘1 month’ for ‘24 months’.

“(2) QUALIFIED DISPOSITION.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘qualified disposition’ means the disposition of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, as implemented pursuant to the Declaration of Emergency Because of Bovine Tuberculosis (65 Federal Register 63,227 (2000)).

“(B) PAYMENTS RECEIVED IN CONNECTION WITH THE BOVINE TUBERCULOSIS ERADICATION PROGRAM.—For purposes of this subsection, any amount received by a taxpayer in connection with an agreement under such bovine tuberculosis eradication program shall be treated as received in a qualified disposition.

“(C) TRANSMITTAL OF CERTIFICATIONS.—The Secretary of Agriculture shall transmit copies of certifications under this paragraph to the Secretary.

“(3) ALLOWANCE OF THE ADJUSTED BASIS OF CERTIFIED DAIRY PROPERTY AS A DEPRECIATION DEDUCTION.—The adjusted basis of any property certified under paragraph (2)(A) shall be allowed as a depreciation deduction under section 167 for the taxable year which includes the date of the certification described in paragraph (2)(A).

“(4) DAIRY PROPERTY.—For purposes of this subsection, the term ‘dairy property’ means all tangible or intangible property used in connection with a dairy business or a dairy processing plant.

“(5) SPECIAL RULES FOR CERTAIN BUSINESS ORGANIZATIONS.—

“(A) S CORPORATIONS.—In the case of an S corporation, gain on a qualified disposition shall not be treated as recognized for the purposes of section 1374 (relating to tax imposed on certain built-in gains).

“(B) PARTNERSHIPS.—In the case of a partnership which dissolves in anticipation of a qualified disposition (including in anticipation of receiving the amount described in paragraph (2)(B)), the dairy property owned by the partners of such partnership at the time of such disposition shall be treated, for the purposes of this section and notwithstanding any regulation or rule of law, as owned by such partners at the time of such disposition.

“(6) TERMINATION.—This subsection shall not apply to dispositions made after December 31, 2006.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to dispositions made and amounts received in taxable years ending after the date of enactment of this Act.

(b) DEDUCTION OF QUALIFIED RECLAMATION EXPENDITURES.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by adding at the end the following new section:

**“SEC. 199B. EXPENSING OF DAIRY PROPERTY RECLAMATION COSTS.**

“(a) IN GENERAL.—Notwithstanding section 280B (relating to demolition of structures), a taxpayer may elect to treat any qualified reclamation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be al-

lowed as a deduction for the taxable year in which it is paid or incurred.

“(b) QUALIFIED RECLAMATION EXPENDITURE.—

“(1) IN GENERAL.—For purposes of this subparagraph, the term ‘qualified reclamation expenditure’ means amounts otherwise chargeable to capital account and paid or incurred to convert any real property certified under section 1033(k)(2) (relating to qualified disposition) into unimproved land.

“(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—A rule similar to the rule of section 198(b)(2) (relating to special rule for expenditures for depreciable property) shall apply for purposes of paragraph (1).

“(c) DEDUCTION RECAPTURED AS ORDINARY INCOME.—Rules similar to the rules of section 198(e) (relating to deduction recaptured as ordinary income on sale, etc.) shall apply with respect to any qualified reclamation expenditure.

“(d) TERMINATION.—This section shall not apply to expenditures paid or incurred after December 31, 2006.”.

(2) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

“Sec. 199B. Expensing of dairy property reclamation costs.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred in taxable years ending after the date of enactment of this Act.

**AUTHORITY FOR COMMITTEES TO MEET**

COMMITTEE ON ENERGY AND NATURAL RESOURCES

COMMITTEE ON INDIAN AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources and the Committee on Indian Affairs be authorized to hold a joint hearing during the session of the Senate on Wednesday, April 24th, 2002, at 2:30 p.m. in SD-366.

The purpose of this hearing is to receive testimony on S. 2018, to establish the T'uf 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, and for other purposes.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 24, 2002 at 9:30 a.m. to hold a hearing on U.S.-Columbia Foreign Policy.

**Agenda**

**Witnesses**

Panel 1: The Honorable Marc Grossman, Under Secretary for Political Affairs, Department of State, Washington, DC; the Honorable Peter W. Rodman, Assistant Secretary for International Security Affairs, Department of Defense, Washington, DC; and Major

General Gary D. Speer, USA, Acting Commander in Chief, U.S. Southern Command Miami, FL.

Panel 2: Mr. Mark Schneider, Senior Vice President, International Crisis Group, Washington, DC; and Mr. Jose Miguel Vivanco, Executive Director, Americas Division, Human Rights Watch, Washington, DC.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, April 24, 2002, at 10 a.m.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, April 24, 2002, at 10 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on S. 2017, a bill to amend the Indian Financing Act of 1974 to improve the effectiveness of the Indian loan guarantee and insurance program.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. BINGAMAN. 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 24, 2002 at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on Wednesday, April 24, 2002, at 2:30 p.m. on Homeland Security and the Technology Sector, S. 2037 and S. 2182.

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

**UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR**

Mr. REID. Madam President, as in executive session, I ask unanimous consent that immediately following the Pledge of Allegiance tomorrow morning, the Senate proceed to executive session to consider the following nominations: Calendar Nos. 776 and 781; that the Senate vote immediately on the nominations; that the motions to reconsider be laid upon the table; the President be immediately notified of the Senate's action; that any statements therein be printed in the RECORD; and the Senate return to legislative session, with the preceding occurring without any intervening action or debate.