dropped so low that it is not feasible. But they want to keep the lease open. So they make payments.

Under the provision in the bill, we say those payments are expensed over 2 years. Frankly, they should be expensed in the year made.

I might note we passed countless amendments that said let us give a tax credit for this. We will reduce taxes substantially; in other words, have the taxpayers subsidize it. In this case, we are not looking for subsidies. If somebody writes a check, we are asking that they be able to expense that check.

Frankly, the provision in the Senate bill is over 2 years. It should be 1 year. When you write the check ''for lease payment,'' you could have an example where somebody has a lease to drill someplace, and a political obstruction has arisen—maybe State, maybe Federal, maybe whatever—and they are not able to commence exploration. But if they don't make payments, they would lose the lease. They should be able to expense those payments in the year made.

The bill before us says they should be able to expense it in 2 years. That is more than defensible.

I urge my colleagues to vote in favor of the motion to table the Graham amendment.

I move to table the Graham amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, as if in executive session, I ask unanimous consent that immediately following the disposition of H.R. 4, the Senate proceed to executive session to consider the following judicial nominations: Calendar Nos. 777 and 780; that the Senate vote immediately on the nominations, the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action; that any statements thereon be printed in the RECORD; and the Senate return to legislative session, with the preceding occurring without any intervening action or debate.

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

Mr. REID. I ask unanimous consent it be in order to ask for the yeas and nays on both nominations with one show of seconds.

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

Mr. REID. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

Mr. REID. Mr. President, I should advise all Members that we are now at the end of the debate time on this piece of legislation. We are now going to start a series of votes. We could have as many as 12 votes. We will try to complete within the time set. Everyone should try to stay as close to the Chamber as possible for this very long and arduous task of completing the bill today.

This will be the end of 6 weeks that the two managers have worked on this bill.

I ask unanimous consent that when the vote sequence commences there be 2 minutes between each vote with the time equally divided and controlled in the usual form; that no other amendments be in order; that no points of order be considered waived by this agreement; and that all votes after the first vote on the Harkin amendment be 10 minutes each.

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

AMENDMENT NO. 3364 TO AMENDMENT NO. 2917

Mr. REID. Mr. President, I ask unanimous consent that the pending amendments be set aside and that it be in order for the Senate to consider amendment No. 3364, that it be set aside, and that it be the last amendment in order on the bill now before the Senate.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to exempt receipts of tax-exempt rural electric cooperatives for the construction of line extensions to encourage development of section 29 qualified fuel sources)

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

SEC. . TREATMENT OF CERTAIN DEVELOPMENT INCOME OR 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 nonconventional 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.

AMENDMENT NO. 3195

Mr. REID. Mr. President, I ask that the Senate now begin voting on the Harkin amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3195.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), is necessarily absent.

The PRESIDING OFFICER (Mr. DURBIN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 89 Leg.]

YEAS—52

Allard	Enzi	Murkowski
Allen	Frist	Nickles
Bayh	Gramm	Roberts
Bennett	Grassley	Rockefeller
Bond	Hagel	Santorum
Breaux	Harkin	Schumer
Brownback	Hollings	Sessions
Bunning	Hutchinson	Shelby
Burns	Hutchison	Smith (OR)
Campbell	Inhofe	Specter
Cleland	Kyl	Stevens
Clinton	Landrieu	Thomas
Cochran	Lincoln	Thompson
Craig	Lott	Thurmond
Crapo	Lugar	Voinovich
DeWine	McCain	Warner
Domenici	McConnell	
Ensign	Miller	

NAYS—47

Akaka	Dorgan	Levin
Baucus	Durbin	Lieberman
Biden	Edwards	Mikulski
Bingaman	Feingold	Murray
Boxer	Feinstein	Nelson (FL)
Byrd	Fitzgerald	Nelson (NE)
Cantwell	Graham	Reed
Carnahan	Gregg	Reid
Carper	Hatch	Sarbanes
Chafee	Inouye	Smith (NH)
Collins	Jeffords	Snowe
Conrad	Johnson	Stabenow
Corzine	Kennedy	Torricelli
Daschle	Kerry	Wellstone
Dayton	Kohl	Wyden
Dodd	Leahy	

NOT VOTING—1

Helms

The amendment (No. 3195) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3198

The PRESIDING OFFICER. There will now be 2 minutes equally divided prior to the vote on the motion to table the amendment by the Senator from Delaware. Who yields time?

Mr. CARPER. I yield 30 seconds to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in my 30 seconds, I emphasize the point that this amendment is a significant step toward freeing the United States from dependence on OPEC oil. The front page of today's New York Times contains a statement by the Crown Prince of Saudi Arabia that, if necessary, to blackmail the United States to change our policy toward Israel, Saudi Arabia is prepared to move to the right of bin Laden. Saudi Arabia gave us bin Laden, and 15 of the 19 terrorists from 9–11. Vote for this amendment.

The PRESIDING OFFICER. Who yields time? Are there any proponents of the motion to table? Who yields time?

Mr. LEVIN. Mr. President, I yield 30 seconds to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 30 seconds.

Mr. BOND. Mr. President, we have dealt with this before. We are going to push for higher standards and fuel efficiency, but only to the extent technologically feasible to require an arbitrary figure pulled out of the air to be substituted for the procedure in the Levin-Bond amendment. It makes no sense.

I urge all our colleagues who voted for the Levin-Bond amendment to support the motion to table for jobs, for safety and for consumer choice.

The PRESIDING OFFICER. Who yields time? The Senator from Delaware.

Mr. CARPER. Mr. President, the Levin-Bond amendment language which is in this bill requires the Secretary of Transportation to promulgate regulations increasing fuel efficiency standards. Our amendment changes nothing in the Levin-Bond amendment.

Our amendment says that in establishing those fuel efficiency standards, we direct the Secretary of Transportation to also consider reducing oil consumption through alternative fuels—ethanol, biodiesel, and energy from coal waste.

The PRESIDING OFFICER. Who yields time? The Senator from Michigan has 34 seconds.

Mr. LEVIN. Mr. President, the amendment before us would fundamentally change the Levin-Bond amendment. What it does is, in effect, prejudge the outcome of the very process that we put in place, a process that we want to use to consider all of the factors that are involved, including safety factors, including the availability of alternative fuels. All of those factors ought to be considered in the regulatory process, not prejudged with an artificial mandate that we have to save 1 million barrels per day.

I hope this will be tabled and that we will then go back to the regulatory process in the Levin-Bond amendment.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the motion to table amendment No. 3198. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mr. JOHNSON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 90 Leg.]

YEAS—57

Allard	Dorgan	Lincoln
Allen	Ensign	Lott
Baucus	Enzi	McConnell
Bayh	Feingold	Mikulski
Bennett	Fitzgerald	Miller
Bond	Frist	Murkowski
Breaux	Gramm	Nelson (NE)
Brownback	Grassley	Nickles
Bunning	Hagel	Roberts
Burns	Hatch	Santorum
Byrd	Hutchinson	Sessions
Campbell	Hutchison	Shelby
Carnahan	Inhofe	Smith (NH)
Cochran	Johnson	Stabenow
Craig	Kennedy	Stevens
Crapo	Kohl	Thomas
Dayton	Kyl	Thurmond
DeWine	Landrieu	Voinovich
Domenici	Levin	Warner

NAYS—42

Akaka	Durbin	Murray
Biden	Edwards	Nelson (FL)
Bingaman	Feinstein	Reed
Boxer	Graham	Reid
Cantwell	Gregg	Rockefeller
Carper	Harkin	Sarbanes
Chafee	Hollings	Schumer
Cleland	Inouye	Smith (OR)
Clinton	Jeffords	Snowe
Collins	Kerry	Specter
Conrad	Leahy	Thompson
Corzine	Lieberman	Torricelli
Daschle	Lugar	Wellstone
Dodd	McCain	Wyden

NOT VOTING—1

Helms

The motion was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3333

The PRESIDING OFFICER. There are 2 minutes equally divided on the amendment of the Senator from Arizona, Mr. KYL.

Mr. BINGAMAN. Mr. President, I made a motion to table the amendment, and the Senator from Utah will use the minute to argue for that position.

Mr. KYL. Mr. President, I will take my 1 minute to speak in favor of my amendment first. Then Senator HATCH will speak in favor of the motion to table.

This amendment strikes the alternative fuels tax credit portion of the bill. The savings would be at least $1 billion, probably closer to about $3 billion. That is not my reason for doing it. Arizona had a somewhat similar program in our State government that would have bankrupted the State and ruin political careers. It was a fiasco and it was finally terminated. It was full of loopholes and problems and costs that were never thought through.

My reason for offering the amendment is, frankly, to send a warning to all of my colleagues that we really should have thought it better through in our own Federal version. To their credit, the staff of the Finance Committee did take the advice of a lot of people at the department of transportation in Arizona and fixed a lot of the problems. My concern is they didn't fix enough and we will rue the day we voted for this provision—at least without the care that I think should have gone into it. My motion strikes the provision from the bill.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in opposition to the amendment of the Senator from Arizona, for three reasons. First, the Finance Committee passed these tax incentive provisions through by a wide margin. Second, we have solved the problems that arose during the Arizona experience. Third, this is probably the most important environmental bill that will go through our Congress this year, and maybe in a long time, because it provides for incentives for alternative fuels, alternative vehicles, and alternative fuel stations.

It is about time we start approaching these problems in an intelligent way that will take us away from being so dependent upon foreign oil. The provisions the Senator from Arizona's amendment would strike will do more toward that end than anything I know and in the end will save us money.

The provisions that this amendment would strike are almost identical to the provisions in the bipartisan CLEAR ACT, which stands for Clean Efficient Automobiles Resulting from Advanced Car Technology, which I introduced last year along with Senators JEFFORDS, ROCKEFELLER, CHAFEE, KERRY, COLLINS, GORDON SMITH, CRAPO, and LIEBERMAN.

The CLEAR ACT is the product of a carefully crafted, delicately balanced, and politically unusual alliance between auto manufacturers, truck engine manufacturers, environmental groups, fuel suppliers, and other stakeholders. I might add that these provisions, which provide strong incentives for energy conservation, are an integral part of the President's energy plan. The CLEAR ACT provisions create a fair and balanced playing field for all the advanced technologies and alternative fuel vehicles that offer the promise of both clean air and less dependency on foreign fuel.

Transportation accounts for about two-thirds of the oil consumption in the United States, and we are 97 percent dependent on oil for our transportation needs. When we consider the role transportation plays in our economy and our way of life, it is hard to believe that we rely on foreign sources for more than one-half of our oil supply. If our Nation is going to have a strategy for energy security, that strategy must begin with transportation fuels. The Kyl amendment would take away our best opportunity to provide a balanced approach to achieve this strategy.

Advances in alternative fuels and new vehicle technologies have been significant in recent years. However, three basic obstacles stand in the way of a broad shift toward their adoption. These are the higher cost of the vehicles, the higher cost of alternative

fuels, and the lack of an infrastructure of alternative fueling stations.

The CLEAR ACT provisions that this amendment would strike would lower the barriers that stand in the way of widespread consumer acceptance of these advanced technology and alternative fuel vehicles by providing tax credits to consumers who purchase hybrid electric, fuel cell, battery electric, and dedicated alternative fuel vehicles. They also would provide incentives for the purchase of alternative fuels and the development of an alternative fuel infrastructure.

Without imposing any new mandates, the CLEAR ACT provisions in this energy bill focus on the very best emerging technologies to help our citizens to enjoy the health benefits of cleaner air sooner, to help our communities to enjoy the economic benefits of attaining clean air standards sooner, and to help us reduce our consumption of foreign oil sooner than would otherwise be possible.

With the clear benefits of these provisions to less dependency on foreign oil and to cleaner air, which I might add come at a very reasonable cost in terms of revenue loss to the Treasury, it is hard to see why anyone in this body would want to strike them. Moreover, the tax credits the CLEAR ACT offers are performance based, which is to say that they are based on the principle that every dollar of tax expenditure should produce substantive air quality and energy security benefits. The greater the benefits a particular vehicle achieves, the larger the tax incentive for purchasing it.

While I do not want to assume I know the motivations of the Senator from Arizona for offering this amendment, part of it might be based on an unfortunate experience in his home State. Not long ago, a well-intentioned program to promote alternative fuel vehicles by the Arizona legislature experienced extreme cost overruns and failed to provide the promised energy and environmental benefits. I want to assure the Members of this body that we have studied the Arizona experience, we have identified the inherent weaknesses of that model, and we have been careful to avoid each one of them in this legislation.

With the CLEAR ACT provisions, until a new advanced vehicle is purchased, until new infrastructure has been installed, or until alternative fuel is placed in the tank of a dedicated alternative fuel vehicle, there will be no cost to the Treasury. And when a cost is incurred, it will be a small cost relative to the resulting environmental benefits and energy savings.

To me it is inconceivable that this Senate would pass an energy policy bill without addressing the issue of how to increase the public's adoption of alternative fuel and advanced technology vehicles. Although gasoline vehicles are 90 percent cleaner today than 30 years ago, the significant increase in the total number of vehicles on the road and the miles traveled per year by each vehicle means that little progress has been made in reducing the contribution of motor vehicle emissions to air pollution.

Similarly, despite improvements in fuel economy compared to 30 years ago, more petroleum than ever is used in motor vehicles and U.S. dependence on imported oil is at a record high and increasing. Alternative fuel vehicles and advanced technology vehicles, such as hybrids and fuel cells, significantly reduce the use of gasoline and diesel and have dramatically reduced emissions. Each dedicated natural gas vehicle displaces 100 percent of the gasoline or diesel that otherwise would be used in that vehicle.

Conventional gasoline and diesel motor vehicle technology has come about as far as it can in terms of fuel economy and emissions. The further gains that are needed to allow the United States to achieve energy security and clean air require nonpetroleum vehicles and hybrid and fuel cell vehicles. The nation simply cannot achieve its goals in these areas with these conventional vehicles. Striking these provisions would be a big mistake, and I urge my colleagues to vote against the Kyl amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 3333. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 8, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—91

Akaka	Domenici	Mikulski
Allard	Dorgan	Miller
Allen	Durbin	Murkowski
Baucus	Edwards	Murray
Bayh	Ensign	Nelson (FL)
Bennett	Enzi	Nelson (NE)
Biden	Feinstein	Reed
Bingaman	Frist	Reid
Bond	Graham	Roberts
Boxer	Grassley	Rockefeller
Breaux	Gregg	Santorum
Brownback	Hagel	Sarbanes
Bunning	Harkin	Schumer
Byrd	Hatch	Sessions
Campbell	Hollings	Shelby
Cantwell	Hutchinson	Smith (NH)
Carnahan	Hutchison	Smith (OR)
Carper	Inhofe	Snowe
Chafee	Inouye	Specter
Cleland	Jeffords	Stabenow
Clinton	Johnson	Stevens
Cochran	Kennedy	Thomas
Collins	Kerry	Thompson
Conrad	Kohl	Thurmond
Corzine	Landrieu	Torricelli
Craig	Leahy	Voinovich
Crapo	Levin	Warner
Daschle	Lieberman	Wellstone
Dayton	Lincoln	Wyden
DeWine	Lugar	
Dodd	McConnell	

NAYS—8

Burns	Gramm	McCain
Feingold	Kyl	Nickles
Fitzgerald	Lott	

NOT VOTING—1

Helms

The motion was agreed to.

Mr. BINGAMAN. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3370

The PRESIDING OFFICER. There will now be 2 minutes evenly divided before a vote on the motion to table the Graham amendment.

The Senator from Florida.

Mr. GRAHAM. Mr. President, this amendment is not about the underlying provision, but I think it is worthwhile for the Members to understand what the underlying provision would do.

The current tax law, consistent with generally accepted accounting procedures, provides that when royalty payments are made by oil and gas producers to the landowner during a period when there is no oil or gas production, during a suspension period, that those costs must be capitalized, and then they can be recovered when there is actual oil and gas production. That is both the accounting and tax law today.

We are about to split the two and say that for tax purposes they can be expensed within a 2-year period. If that sounds a little bit like some of the things that Enron was doing on its books, the answer is it is a lot like what Enron was doing on its books.

But the fundamental issue is, without examination, we are about to ask the Social Security trust fund to pay for the additional cost of this preferential depreciation treatment. I believe, if this is a worthy provision, it is worthy that somebody come up with an offset so that we decide who pays for it, not our children and grandchildren, by depletion of the Social Security trust fund.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, the provision that the Senator from Florida seeks to take out of the bill is part of a very carefully balanced and level tax package that should remain in this bill. We should table this amendment.

Simply stated, the situation is, if you produce oil, you pay a royalty. You can deduct it. But if the price of oil drops, you have to pay delayed rental payments, and you pay the payments to the Government. You should be able to deduct those payments as you can deduct royalty payments when they are paid. That is what the bill says. That provision should be kept in the bill.

Mr. President, I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, this is the only part of the bill that would encourage small drillers to explore. In fact, this is as any other business is treated. The underlying bill

says, if you pay an expense, you get to deduct it in the year in which you make it.

This amendment would take that away and make you amortize it, even though you already paid it. And you may not even find oil. Please table this amendment. It would be unfair not to do so.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the motion to table amendment No. 3370. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 26, as follows:

[Rollcall Vote No. 92 Leg.]

YEAS—73

Allard	Dorgan	McConnell
Allen	Durbin	Miller
Baucus	Ensign	Murkowski
Bayh	Enzi	Murray
Bennett	Feinstein	Nelson (NE)
Biden	Fitzgerald	Nickles
Bingaman	Frist	Reid
Bond	Gramm	Roberts
Breaux	Grassley	Rockefeller
Brownback	Hagel	Santorum
Bunning	Harkin	Sessions
Burns	Hatch	Shelby
Byrd	Hutchinson	Smith (NH)
Campbell	Hutchison	Smith (OR)
Cantwell	Inhofe	Specter
Carper	Jeffords	Stabenow
Chafee	Johnson	Stevens
Cleland	Kohl	Thomas
Cochran	Kyl	Thompson
Conrad	Landrieu	Thurmond
Craig	Levin	Voinovich
Crapo	Lincoln	Warner
Daschle	Lott	Wyden
DeWine	Lugar	
Domenici	McCain	

NAYS—26

Akaka	Feingold	Mikulski
Boxer	Graham	Nelson (FL)
Carnahan	Gregg	Reed
Clinton	Hollings	Sarbanes
Collins	Inouye	Schumer
Corzine	Kennedy	Snowe
Dayton	Kerry	Torricelli
Dodd	Leahy	Wellstone
Edwards	Lieberman	

NOT VOTING—1

Helms

The motion was agreed to.

Mr. REID. Mr. President, this should be the last amendment prior to final passage.

AMENDMENT NO. 3372

The PRESIDING OFFICER. At this time, there are 2 minutes, evenly divided, with respect for amendment No. 3372, offered by Senator GRAHAM of Florida.

The Senator from Florida.

Mr. GRAHAM. Mr. President, I yield my time to the Senator from Wisconsin, Mr. FEINGOLD.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I rise in support of the amendment offered by the senior Senator from Florida. As we all know, our budget position has changed dramatically over the past year, and we are now facing projected deficits for years to come. If we are to climb out of the deficit hole, we absolutely must commit to a path of fiscal responsibility. That means a lot of things. First and foremost, it means paying for the spending and tax cut bills we pass.

As it stands, we have not paid for this legislation. The tax package alone digs our deficit hole another $14 billion deeper. As we approach the retirement of the largest generation in history, the baby boomers, we face enormous fiscal challenges. Obviously, Social Security needs strengthening, Medicare must be modernized, and our long-term care system is in desperate need of reform.

Mr. President, I urge my colleagues to support this amendment and put us back on the path to fiscal responsibility.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, for the information of the sponsors and my colleagues, we could make a point of order that this amendment is not germane because it is not postcloture. I am not going to do that because I was informed they were going to have the same thing offered to the underlying bill. I think it is in the interest of Senators to conclude the bill, and the best way is to table this amendment. This amendment is not germane postcloture.

I happen to be on the Finance Committee. All Democrats and Republicans had chances to offer tax increases, and this amendment says don't let this bill take effect in any of the tax provisions until we have tax increases enacted into law. I think that is ridiculous. It is a good way to kill the provisions that the Senator from Montana and the Senator from Iowa worked to put in the bill.

Mr. President, I move to table this amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, is there time remaining on the amendment?

The PRESIDING OFFICER (Mr. DAYTON). All time has expired.

Mr. REID. Mr. President, I ask unanimous consent that upon disposition of all amendments—the list is already before the Senate—the substitute amendment, as amended, be agreed to; that the bill, as amended, be read a third time; that the Senate then proceed to Calendar No. 145, H.R. 4, the House-passed energy bill; that all after the enacting clause be stricken, and the text of S. 517, as amended, be inserted in lieu thereof; that the bill be advanced to third reading; that the Senate proceed to a vote on passage of the bill; that upon passage, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate; provided further, S. 517 be returned to the calendar; that the conferee ratio be the following: The Energy Committee 6 to 5, and the Finance Committee 3 to 2, with this action occurring with no further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Reserving the right to object, and I will not object, I do object to the statement just made that this amendment provides that we will either come into balance by reducing spending or increasing revenue.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. We do not have a choice to let Social Security pay for it.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? The Chair hears none, and it is so ordered.

The question is on agreeing to the motion to table amendment No. 3372. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 70, nays 29, as follows:

[Rollcall Vote No. 93 Leg.]

YEAS—70

Akaka	Edwards	Murkowski
Allard	Ensign	Nelson (NE)
Allen	Enzi	Nickles
Baucus	Fitzgerald	Reid
Bayh	Frist	Roberts
Bennett	Grassley	Rockefeller
Bingaman	Hagel	Santorum
Bond	Hatch	Schumer
Breaux	Hutchinson	Sessions
Brownback	Hutchison	Shelby
Bunning	Inhofe	Smith (NH)
Burns	Inouye	Smith (OR)
Byrd	Jeffords	Snowe
Campbell	Johnson	Specter
Carnahan	Kohl	Stevens
Cleland	Kyl	Thomas
Cochran	Landrieu	Thompson
Collins	Leahy	Thurmond
Craig	Lieberman	Torricelli
Crapo	Lincoln	Voinovich
Daschle	Lott	Warner
DeWine	Lugar	Wyden
Domenici	McConnell	
Dorgan	Miller	

NAYS—29

Biden	Durbin	Levin
Boxer	Feingold	McCain
Cantwell	Feinstein	Mikulski
Carper	Graham	Murray
Chafee	Gramm	Nelson (FL)
Clinton	Gregg	Reed
Conrad	Harkin	Sarbanes
Corzine	Hollings	Stabenow
Dayton	Kennedy	Wellstone
Dodd	Kerry	

NOT VOTING—1

Helms

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3239

The PRESIDING OFFICER. The pending business is the Brownback amendment No. 3239.

Mr. BINGAMAN. I suggest the Senator from New Jersey and the Senator from Kansas be allowed to explain that amendment.

The PRESIDING OFFICER. There are 2 minutes equally divided.

Mr. BROWNBACK. Mr. President, this is a compromise approach on a very difficult issue. It involves taking out the underlying language on the CO_2 registry. It will put in place a 5-year voluntary program on registering of CO_2 emissions. After that period of time, if 60 percent are not reported, it does put in place a trigger mechanism, a mandatory reporting, unless there is an affirmative vote by this body which is required in the bill to remove that reporting requirement.

It is a bipartisan approach. It is a compromise approach on a tough topic. It is voluntary. It is market oriented. It provides companies a way to limit their risk and exposure on CO_2 issues of anything that might happen in the future and provides a registry for companies that want to voluntarily step forward and work to reduce those CO_2 emissions. They may want to put in a new powerplant that is coal fired to protect themselves for CO_2 exposures.

This is a tough and complex topic. I think we have struck the right balance with this amendment. I urge my colleagues to vote for it.

The PRESIDING OFFICER. Who yields time in opposition?

Mr. BINGAMAN. Mr. President, I ask unanimous consent the Senator from New Jersey be given a minute to explain his perspective.

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

Mr. CORZINE. Mr. President, we want to make sure in this compromise amendment that the perfect not be the enemy of the good. This is not everything anyone would want, but we have struck a compromise with voluntary reporting requirements and database buildup and recognition of actions by industry to control CO_2. We will look at it in 5 years.

If the threshold is not met, mandatory requirements will come into play. This is an outstanding compromise where people worked very hard on a complex issue to get to a bipartisan middle ground. I hope we will all support it.

Mr. BINGAMAN. I think it is appropriate to dispose of this amendment by voice vote.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3239.

The amendment (No. 3239) was agreed to.

Mr. HAGEL. Mr. President, with the adoption of this amendment, the Senate has affirmed its commitment to dealing with the reporting of greenhouse gases in a voluntary, incentive-based manner.

This amendment provides for a voluntary registry for the reductions in greenhouse gas emissions. Under this type of provision, industries will have an opportunity to record reductions made in their emissions and receive credit for those reductions.

The legislative record should clearly note that the provisions creating the mandatory reporting of greenhouse gases originally contained in the underlying legislation will no longer take effect unless the voluntary registry does not achieve a critical mass of participation. If the voluntary registry system generates sufficient participation, the mandatory reporting of greenhouse gas emissions will never take effect.

This amendment is not without problems, nor do I believe it is the best way to achieve robust participation in a voluntary registry. It contains several impediments that should be addressed in conference.

The memorandum of agreement does not clearly spell out the roles of the various federal agencies in the execution of the duties proscribed. This is particularly troublesome for a voluntary registry. Those entities wishing to participate need the greatest clarity and certainty in order to have the greatest incentive to participate. Lack of certainty creates a disincentive and should be addressed in conference.

There are onerous civil penalties contained is this amendment that should be removed. Greater baseline protection needs to be provided to ensure entities participating gain the rightful recognition for their efforts.

Furthermore, I hope the conference will address the fundamental question of whether any ''trigger'' is necessary. The mandatory reporting of greenhouse gas emissions has no true purpose. We already garner information on the totality of U.S. emissions through annual inventories established within and reported by the Energy Information Administration and the Environmental Protection Agency. The only purpose for the mandatory reporting of greenhouse gas emissions is to create the mechanism for the regulation of carbon dioxide. This option has been dismissed by the current Administration, and I would hope the final legislation does not create a mechanism to help bring this about in the future.

Numerous other options for structuring a voluntary greenhouse gas emissions registry were discussed during the discourse on Title XI of this legislation. Senator VOINOVICH and I offered an amendment on April 18, 2002. It would have established a new and enhanced national greenhouse gas registry to record and recognize voluntary reductions of greenhouse gas emissions.

That registry was supported by a wide cross-section of American industry, the very entities who would be participating in such a registry. I have included a copy of an April 16 letter sent to all Senators and ask unanimous consent that it be printed in the RECORD immediately following my remarks.

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

(See Exhibit 1.)

Mr. HAGEL. This amendment could provide an alternative structure for a voluntary registry for consideration in the conference committee. It was created in consultation with many other Senators and reflects the expertise of their input.

It is a workable framework for a registry that would be robust and gain the greatest and most meaningful participation from American industry. This, after all, should be our goal in the final outcome.

I appreciate the work of the sponsors of the amendment just adopted in putting the Senate on record in favor of dealing with the reporting of greenhouse gas emissions in a voluntary manner. And I look forward to the conference committee improving upon the work begun in the Senate to provide for the implementation of a voluntary greenhouse gas emissions registry.

EXHIBIT 1

April 16, 2002.

Hon. THOMAS A. DASCHLE,
U.S. Senate, Senate Hart Office Building, Washington, DC.

DEAR SENATOR DASCHLE: We write to encourage your support for a draft amendment to the Energy Bill that proposes substantial improvements to Title XI, including the establishment of a more effective national registry of greenhouse gas emissions and a more practical framework encouraging further voluntary efforts to reduce those emissions without harming our economy, our workers or our communities.

Without the needed changes, Title XI of the Energy Bill would impose an unnecessary federal mandate to track and report greenhouse gas emissions on large and small businesses, as well as farmers, ranchers, some hospitals, universities, school systems and more. And yet, the intent of this costly and burdensome mandate is redundant. The federal government, without any federal mandate, already compiles an annual inventory of greenhouse gas emissions in compliance with our national commitment to the ratified UN Framework Convention on Climate Change.

The draft amendment would establish a new and enhanced system to report and verify actions taken to reduce or avoid greenhouse gas emissions and provide transferable credits to persons who do. By offering appropriate recognition of actions taken, the amendment will provide powerful incentives to participate without harming the economy, all the while strengthening our national climate policy strategy.

The draft amendment provides a constructive, achievable and effective strategy to strengthen and improve the voluntary reporting of greenhouse gas emissions and the reporting of actions taken to reduce or avoid those emissions. We encourage you to support the amendment and work with Senators of both parties to secure its adoption.

Thank you for your consideration of our views. While we have some additional concerns regarding the policy provisions of the bill, especially those provisions that appear to call for a target and a timetable, we are hopeful these issues will be resolved prior to final passage of the bill. In the meantime, we look forward to working with you on developing an effective climate policy strategy as part of our national energy policy.

Sincerely,

Alliance of Automobile Manufacturers, American Architectural Manufacturers Association, American Boiler Manufacturers Assn, American Farm Bureau Federation, American Highway Users Alliance,

American Iron and Steel Institute, American Petroleum Institute, American Portland Cement Alliance, American Public Power Association, American Textile Manufacturers Institute,

Associated General Contractors of St. Louis, Associated Petroleum Industries of Pennsylvania, Association of American Railroads, Automotive Parts Rebuilders Association, Danville [IL] Area Chamber of Commerce,

Edison Electric Institute, Gas Appliance Manufacturers Association, Greater Bristol [CT] Chamber of Commerce, Greater Cincinnati Chamber of Commerce, Greater Merced [CA] Chamber of Commerce,

Greater Victoria [TX] Chamber of Commerce, Idaho Mining Association, Illinois Valley Area Chamber of Commerce & Economic Development, Integrity Research Institute, IPC—The Association Connecting Electronic Industries,

Kansas Petroleum Council, Leavenworth-Lansing [KS] Area Chamber of Commerce, Lorain [OH] County Chamber of Commerce, Louisiana Association of Business and Industry, Metropolitan Evansville [IN] Chamber of Commerce,

Naperville [IL] Area Chamber of Commerce, National Association of Manufacturers, National Mining Association, National Rural Electric Cooperative Association, National Society of Professional Engineers,

Nuclear Energy Institute, O'Fallen [IL] Chamber of Commerce, Salt Institute, South Dakota Farm Bureau Federation, Texas Association of Business and Chambers of Commerce,

The Siouxland [IA] Chamber of Commerce, U.S. Chamber of Commerce, Utah Rural Telecom Association, Wisconsin Grocers Association.

Mr. VOINOVICH. Mr. President, I rise today to speak on the Corzine/Brownback amendment No. 3239. This amendment replaces the existing language in Title 11 which would have created a mandatory registry for the reporting of greenhouse gases and replaces it with a voluntary program. I am pleased that the Senate has rejected the concept of mandating greenhouse gas reports at this time. While the amendment does contain language which would trigger compulsory reporting in five years if sixty percent of the national aggregate anthropogenic greenhouse gases are not represented on the voluntary registry, we do not expect this trigger to ever be activated since presently thirty percent of the gases are already reporting under the Clean Air Act by the utility sector.

I had joined with Senator HAGEL in offering an alternative amendment which would have provided a much more robust voluntary reporting program with a transferable credit program and baseline protection. This would have provided a clear incentive to encourage maximum participation.

The approach that Senator HAGEL and I took in our amendment would have accomplished three key objectives: (1) It will help us get the full picture on climate change with real incentives for voluntary participation in the registry; (2) It will make sure that picture reflects what is really happening by providing for accurate measurement and verification of emission reductions, and (3) It is forward looking because it creates a process for establishing transferable credits that can be used in voluntary transactions for any future potential regulatory program.

Unfortunately, due to cloture limitations, the Senate ran out of time to fully consider our amendment, yet I am pleased that Senators CORZINE and BROWNBACK adopted our idea of a voluntary registry to replace the overly burdensome mandatory program contained in the original bill. At this point in time I do not think it is wise public policy to mandate the reporting of greenhouse gases, and I am pleased that the Senate agrees with this point.

AMENDMENT NO. 3146, WITHDRAWN

Mr. BINGAMAN. Mr. President, I ask unanimous consent amendment No. 3146 be withdrawn.

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

The amendment (No. 3146) was withdrawn.

AMENDMENT NO. 3355, AS MODIFIED

Mr. BINGAMAN. I ask unanimous consent amendment No. 3355 be modified to reflect changes to the fuel cell credit adopted as part of the amendment by Senator MURRAY earlier this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be so modified.

The amendment (No. 3355), as modified, is 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 0.5 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) $500 for each 0.5 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 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).

Mr. BINGAMAN. I also ask unanimous consent that the Senator from New Jersey, Mr. TORRICELLI, be listed as a cosponsor of the amendment.

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

AMENDMENTS NOS. 3343, 3344, 3362, 3363, 3346, AS MODIFIED, 3335, AS MODIFIED, 3364, 3360, AND 3355, AS MODIFIED, EN BLOC

Mr. BINGAMAN. I ask unanimous consent that notwithstanding rule XXII, the following amendments be agreed to en bloc and the motion to reconsider be laid on the table. The amendments are as follows: Nos. 3343, 3344, 3362, 3363, 3346, as Modified, 3335, as Modified, 3364, 3360, and 3355, as modified.

Mr. MCCAIN. Reserving the right to object, would the Senator explain what amendment No. 3346 is?

Mr. BINGAMAN. This is an amendment by Senator KOHL. I can get the description in a minute on the precise provisions. There is credit for electricity produced from municipal biosolids and recycled sludge.

Mr. MCCAIN. Electricity manufactured from biosolids?

Mr. BINGAMAN. Produced from municipal biosolids and recycled sludge.

Mr. MCCAIN. Municipal biosolids?

Mr. BINGAMAN. I am sure the Senator from Arizona is very familiar with biosolids.

Mr. MCCAIN. Could I ask the manager a question? I understand we have tax credit for chicken litter, biowaste. Excuse me? Bovine, pig, dead animal, and now biosolids; is that correct?

Mr. BINGAMAN. We thought it was only fair.

Mr. MCCAIN. I don't want to hold up the Senate, but what about man's best friend, the dog? What about the pigeon, the noble pigeon?

Mr. BINGAMAN. If the Senator has an amendment.

Mr. MCCAIN. Should there be some consideration of these? Shouldn't they make a deposit to reduce our energy requirements?

Mr. BINGAMAN. We would be glad to consider any germane amendment the Senator would like to call up.

Mr. MCCAIN. I thank the sponsor for that consideration.

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

The amendments (Nos. 3343, 3344, 3362, 3363, 3346, 3335, and 3360) were agreed to, as follows:

AMENDMENT NO. 3343

(Purpose: To modify the credit for the production of fuel from nonconventional sources to include production of fuel from agricultural and animal waste)

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.

AMENDMENT NO. 3344

(Purpose: To amend the Internal Revenue Code of 1986 to clarify excise tax exemptions for agricultural aerial applicators)

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.

AMENDMENT NO. 3362

(Purpose: To amend the Internal Revenue Code to modify the definition of Rural Airport)

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.

AMENDMENT NO. 3363

(Purpose: To amend the Internal Revenue Code to exempt small seaplanes from ticket taxes)

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 amendment made by this section shall apply to calendar years beginning after 2002.

AMENDMENT NO. 3346

(Purpose: To modify the credit for the production of electricity to include municipal biosolids and recycled sludge)

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 (F), by striking the period at the end of subparagraph (G), and by adding at the end the following new subparagraphs:

''(H) municipal biosolids, and

''(I) 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:

''(G) 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.

''(H) 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 (8) as paragraph (10) and by inserting after paragraph (7) the following new paragraphs:

''(8) MUNICIPAL BIOSOLIDS.—The term 'municipal biosolids' means the residue or solids

removed by a municipal wastewater treatment facility.

''(9) 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.''.

(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.

AMENDMENT NO. 3335

(Purpose: To amend the Internal Revenue Code of 1986 to extend the credit for the production of fuel from nonconventional sources with respect to certain existing facilities)

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, coke gas, or natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B))'' after ''January 1, 2003''.

AMENDMENT NO. 3360

(Purpose: To provide incentives for water conservation through the installation of water submeters)

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.

The amendments (Nos. 3364 and 3355) were agreed to.

ADOPTION OF AMENDMENTS NOS. 3059 AND 3258 VITIATED

Mr. BINGAMAN. I ask unanimous consent the adoption of the amendments numbered 3059 and 3258 be vitiated.

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

AMENDMENT NO. 3380

Mr. BINGAMAN. I ask unanimous consent that the amendment numbered 3380 be in order notwithstanding rule XXII; that the amendment numbered 3380 be agreed to, and the motion to reconsider be laid on the table.

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

The amendment (No. 3380) was agreed to.

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

AMENDMENTS NOS. 3196 AND 3209, AS MODIFIED

Mr. BINGAMAN. Mr. President, I ask unanimous consent that notwithstanding rule XXII, it now be in order to consider the amendments numbered 3196 and 3209; that the amendments be modified by the changes at the desk, the amendments be agreed to, and the motion to reconsider be laid upon the table.

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

The amendments (Nos. 3196 and 3209), as modified, were agreed to, as follows:

AMENDMENT NO. 3196

(Purpose: To express the sense of the Senate concerning electric power transmission systems)

In the appropriate place in subtitle A of title II, insert the following:

SEC. 2. ELECTRIC POWER TRANSMISSION SYSTEMS.

The Federal Government should be attentive to electric power transmission issues, including issues that can be addressed through policies that facilitate investment in, the enhancement of, and the efficiency of electric power transmission systems.

AMENDMENT NO. 3209

(Purpose: To carry out pilot programs that aid accurate carbon storage and sequestration accounting)

On page 487, between lines 18 and 19, insert the following:

SEC. 13. CARBON STORAGE AND SEQUESTRATION ACCOUNTING RESEARCH.

(a) IN GENERAL.—The Secretary of Agriculture, in collaboration with the heads of other Federal agencies, shall conduct research on, develop, and publish as appropriate, carbon storage and sequestration accounting models, reference tables, or other tools that can assist landowners and others in cost-effective and reliable quantification of the carbon release, sequestration, and storage expected to result from various resource uses, land uses, practices, activities or forest, agricultural, or cropland management practices over various periods of time.

(b) PILOT PROGRAMS.—The Secretary of Agriculture shall make competitive grants to not more than 5 eligible entities to carry out pilot programs to demonstrate and assess the potential for development and use of carbon inventories and accounting systems that can assist in developing and assessing carbon storage and sequestration policies and programs. Not later than 1 year after the date of

enactment of this section, the Secretary of Agriculture, in collaboration with the heads of other Federal agencies and with other interested parties, shall develop guidelines for such pilot programs, including eligibility for awards, application contents, reporting requirements, and mechanisms for peer review.

(c) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary of Agriculture, in collaboration with the heads of other Federal agencies, shall submit to Congress a report on the technical, institutional, infrastructure, design and funding needs to establish and maintain a national carbon storage and sequestration baseline and accounting system. The report shall include documentation of the results of each of the pilot programs.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Agriculture $20,000,000 for fiscal years 2003 through 2007.

Mr. WELLSTONE. Mr. President, I rise today to speak to an important amendment on behalf of myself and Senator WYDEN regarding carbon sequestration.

The Energy Policy Reform Act and the debates we have had on it have sought to achieve an integration of energy and environmental policy including new and far reaching provisions to help this nation meet its international obligations to address global climate change. The amendment I propose today with Senator WYDEN provides an important complement to provisions in S. 517, the Farm Bill that already passed the Senate, and the President's recent announced plans to address global climate change. These other provisions would advance research on carbon sequestration from the agriculture and forest sectors, establish credible methods for measuring carbon sequestered for individual projects, and create a national greenhouse gas emissions database and registry at the project level.

The amendment takes a comprehensive view of both carbon sequestration and carbon storage—beyond the project level—to address what is happening over time to release and sink carbon for the full range of land uses, management practices and natural resources. The amendment creates a competitive grant pilot program for state and multi-state areas in a range of regional forest, agriculture and ecosystem settings. The purpose is to help us better understand what is needed for a national carbon sequestration inventory and accounting system that would be credible and cost-effective.

The amendment will enable us to assess the overall effectiveness and potential contributions of new programs and policies to encourage actions which offer a broad range of benefits to the environment. To do this, the amendment seeks to translate scientific information into easily understood means for landowners and others to apply in making decisions on their current practices. This information will distinguish practices which offer additional environmental benefits that may be associated with carbon storage or sequestration, such as flood and erosion prevention, soil conservation, fertility and productivity improvements, improved water quality and management, protection and restoration of ecosystems and habitat, and improved management of agricultural lands and forests including reforestation practices. It also would include information for landowners and others on how to assess the economic and financial costs and benefits of land uses that sequester or store carbon.

If we make this investment now, within the next 5 years we should be prepared to identify real incentives not only for forest and agriculture but also for natural resources and land use management which will show up also in our national accounts. I also anticipate that some policy changes supported by this information may enable our agriculture and forest sectors to realize an economic gain from the practices themselves.

The practices that will be encouraged by this amendment make good common sense and good economic sense. The State of Minnesota, with its rich forest and agricultural base and water resources, has a lot to lose from global warming.

While we have much to lose, we also have much we can contribute to reducing the problem of global climate change and gain in the process. If done properly, carbon storage and sequestration offer a welcome opportunity to draw together the interests and talents of the environmental community, agriculture, forest and timber products industries. Carbon sequestration is not the only or even major answer to our challenges in addressing climate change, but it is an important complement to other steps we must take to increase energy efficiency and conservation, increase use of renewable fuels and put in place an effective program for greenhouse gas emissions control.

This research must involve a wide range of perspectives and interests. The Secretary of the Department of Agriculture is directed to work in collaboration with other federal agencies, on all aspects of carrying out the purposes of the amendment. These agencies should include the Environmental Protection Agency, the National Aeronautics and Space Administration, the Departments of Commerce, Energy, and the Interior, as well as several agencies within the Department of Agriculture, including the Agricultural Research Service, the Cooperative State Research, Education and Extension Service, the Forest Service, and the Natural Resources Conservation Service.

Because forest and agriculture sectors play such a critical role in carbon storage and sequestration, the pilot areas should have a high percentage of land that is forest or cropland. The U.S. Department of Agriculture already tracks this information through its Natural Resources Conservation Service National Resources Inventory, the last being carried out in 1997.

Pilot State or multi-State areas should not only be capable of carrying out the research on a technical level, they should have demonstrated or be interested in pursuing the kind of policies and programs to encourage environmentally beneficial carbon storage and sequestration practices that this amendment seeks to advance. This research takes research and information already available at different levels of government, and in many different groups, and integrates it in a way that we can develop and assess these means of encouraging helpful practices.

The amendment calls for an approach to carbon storage and sequestration accounting based on sound science. It is our intention that the Peer Review process called for in the amendment would include public and private science and policy groups as well as by the user community. This peer review is important particularly in regard to translating science into information in a form that provides easy access to landowners to encourage them to consider environmentally beneficial carbon storage and sequestration practices in their decision making.

Eligible entities for the pilot program grants would include land grant colleges or universities as defined both by the National Agricultural Research, Extension and Teaching Policy Act of 1977 and tribal land grant institutions established through the Equity in Educational Land Grant Status Act of 1994. These research institutions, as well as others with demonstrated experience in the field should be included among the eligible entities as should state or state consortia or non-profits be considered for these grants, especially since we want to see the results used to move forward on the policy and program front to encourage these practices.

The grant-eligible programs should also demonstrate that they would include some means of ensuring the participation of governmental and non governmental interests that would be affected by the pilot program.

Carbon sequestration and storage potentially serve both environmental and economic interests. I have letters of endorsement from the American Farmland Trust, the National Farmer's Union, The Institute for Agriculture and Trade Policy, Environmental Defense and Nature Conservancy, as well as from leading soil and forest scientists in Minnesota, Kansas, Ohio, and Oregon. Many others who are prominent in the environmental, agricultural, forest, and research communities believe this amendment takes us in the right direction.

AMENDMENT NO. 3230

Mr. BINGAMAN. I ask unanimous consent, notwithstanding rule XXII, it be in order to consider amendment No. 3230; that Senator CANTWELL and Senator SMITH of Oregon be added as cosponsors, the amendment be agreed to,

and the motion to reconsider be laid upon the table.

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

The amendment (No. 3230) was agreed to, as follows:

(Purpose: To provide additional borrowing authority for the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration and to carry out other duties of the Administrator of the Bonneville Power Administration)

On page 62, between lines 3 and 4, insert the following:

SEC. 2___. BONNEVILLE POWER ADMINISTRATION BONDS.

Section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k) is amended—

(1) by striking the section heading and all that follows through ''(a) The Administrator'' and inserting the following:

''SEC. 13. BONNEVILLE POWER ADMINISTRATION BONDS.

''(a) BONDS.—

''(1) IN GENERAL.—The Administrator''; and

(2) by adding at the end the following:

''(2) ADDITIONAL BORROWING AUTHORITY.—In addition to the borrowing authority of the Administrator authorized under paragraph (1) or any other provision of law, an additional $1,300,000,000 is made available, to remain outstanding at any 1 time—

''(A) to provide funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration; and

''(B) to implement the authorities of the Administrator under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.).''.

AMENDMENT NO. 3366

Mr. REID. Mr. President, on the list, it is my understanding the only remaining amendment is numbered 3366 offered by the Senator from Michigan, Mr. LEVIN. It has been cleared on this side, and it has been cleared by Senator HATCH from the Finance Committee. I ask if the amendment has been cleared by the managers of this bill.

Mr. MURKOWSKI. Those have not been cleared on our side.

Mr. REID. This is No. 3366 offered by Senator LEVIN.

Mr. MURKOWSKI. If the Senator will wait a moment, that was No. 3366?

Mr. REID. No. 3366.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

Mr. MURKOWSKI. Mr. President, we cleared the pending amendment on our side. We have no objection. It is No. 3366.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3366) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BROADBAND TAX CREDIT LEGISLATION

Mr. KENNEDY. Mr. President, a number of us have come to the floor today to discuss legislation to provide tax incentives to accelerate ''broadband'' high-speed Internet access across the country. The widespread availability of broadband technology is essential to ensuring the United States' technological leadership in the world. We must make a commitment to a national broadband policy and do it now.

The reach of the information revolution to our Nation's rural and urban underserved areas depends on affordable Internet access. For far too long, these regions have found themselves disconnected from the information age because of their geography and high-cost of service. One of our greatest challenges for the future is to close the growing economic gap in access to computers and the Internet. If we do not act to close it now, this ''digital divide'' will become the opportunity of our time.

Several policy initiatives have been proposed to stimulate broadband deployment including deregulation, community planning grants, and low-interest loans to name a few. The broadband tax credit proposal is an important first step that has gained widespread support in Congress because it provides tax credits to those who take broadband to places where the market is not taking it, both geographically and technologically. So we are here to discuss the importance of that proposal and of ensuring its passage this year.

The Senator from West Virginia is the sponsor of the preeminent broadband tax credit bill, the Broadband Internet Access Act, of which I am pleased to be an original cosponsor, as is my friend from Oregon. Senator ROCKEFELLER had led the fight to bring broadband access to all Americans, and first introduced this bill along with Senators Moynihan, KERRY, and others. He reintroduced the Broadband Internet Access Act, S. 88, last year, and it has 64 cosponsors from both sides of the aisle. A companion bill in the House has 194 cosponsors. A version of Senator ROCKEFELLER's bill was reported out of the Senate Finance Committee as part of the stimulus package that was sent to the floor last December. I commend my friend from West Virginia for his leadership on this and many other technology issues so important to our nation's economy.

Senator SMITH and I have introduced a measure very similar to Senator ROCKEFELLER's bill as an amendment to the energy legislation now before this body. Under this proposal, any company providing the required level of service, whether by telephone, cable modem, terrestrial wireless, satellite, or any other technology, would be eligible to claim the credit. The proposal provides a 10 percent tax credit for investment in ''current-generation'' broadband services and a 20 percent credit for investment in ''next generation'' services. Current generation broadband is typically 5–20 times faster than conventional ''dial-up'' Internet service and capable of transmitting text and photos very quickly. Current generation broadband can also transmit video imagery, but with low quality. Next generation broadband is hundreds of times faster than dial-up and transmits video imagery with great speed and clarity, making it ideal for applications like telemedicine, distance learning, and video conferencing.

In my home State of Massachusetts, I saw firsthand how these types of advanced Internet services transformed the economy of the entire Berkshire County region. Like may rural areas across the Nation, the Berkshires were considered to be too far away from the Internet portals to interest providers. But business and Government leaders began an initiative called ''Berkshire Connect,'' that resulted in a partnership with providers to build a multimillion dollar network of microwave towers and fiber-optic lines linking the county's scenic villages and small cities with fast Internet access.

The project put the Berkshires on an equal footing with the rest of the global marketplace, because the Internet levels the playing field between large and small businesses and rural and urban areas. I am confident that passage of the broadband tax credit measure will bring similar success stories across the Nation like we have seen in the Berkshires for more residents and businesses.

The proposal provides $540 million in tax credits for broadband deployment to wire an estimated 5.4 million additional U.S. homes with current generation broadband and 700,000 more with next generation broadband. Today, 11 million U.S. homes are wired with current generation broadband and 340,000 with next generation broadband. This measure would increase those numbers by 50 percent and 200 percent respectively.

Senator SMITH and I filed this measure as an amendment to the energy legislation because we see a clear connection between Internet use and energy savings. One former Energy Department official has testified before Congress that by reducing shopping trips and retail office space, e-commerce was responsible for energy use staying flat in the last 1990s while the economy was expanding sharply. And a number of studies have found that telecommuting saves 1–2 percent of total annual gasoline consumption and has the potential to save more. Meanwhile, economists now recognize that telecommuters can avoid the ''congestion costs'' which each additional driver imposes on others in terms of lost time and excess fuel from sitting in traffic jams. Princeton Professor Paul Krugman has estimated Atlanta's congestion cost at $3,500 a year for each

additional driver. And associated savings come in the area of the environment. A 1999 study by the International Telework Association and Council found that the average telecommuter saves 28.5 pounds of pollution emissions every day he or she works from home.

The Senator from West Virginia was just discussing with me a number of other important benefits of broadband, apart from energy savings. I wonder if he would take a moment to describe those.

Mr. ROCKEFELLER. I would be happy to do so, and I thank the Senator from Massachusetts. For years now, it has been a goal of mine to make sure that West Virginians, and indeed all Americans, can have access to technology. The primary reason I introduced the broadband tax credit is to help address some of the most intractable problems associated with our country's transition to the digital economy—unequal availability of broadband access technologies. This tax credit will encourage deployment of broadband facilities in areas where such technologies have not, and, without Congressional action, perhaps will not, be made available. With the help of the tax credit, people and businesses in these areas will be able to more fully benefit from the networked economy, and from activities such as telemedicine, telecommuting, and distance learning. This has positive consequences for everyone—not just those in rural areas—that go beyond the marketplace.

I also think it important to understand that this technology will also be an important driver of productivity and economic growth. According to the Federal Reserve, information technology accounted for over 60 percent of the productivity growth occurring from 1995 to 1999. Listen to the change that occurred at that time. During the first half of the 1990s, productivity increased on average only 1.5 percent per year. Then, when we began to link our computers over the Internet, productivity jumped to 2.8 percent in the second half of the decade. It is this increase which Fed economists attribute primarily to information technology, and I think it is very fair to expect that wide-spread broadband networks are going to make us that much more efficient because they move us beyond using the Internet for e-mail to much more substantive and sophisticated applications. And the economic value of that to us as a nation could be very significant. One economist, Robert Crandall of the Brookings Institute, estimates that accelerated deployment of broadband will generate up to $500 billion in economic growth annually.

But the other side of this is that if we do not deploy broadband quickly, and other nations do, then we will lose the productivity edge that is so important. And unfortunately, that appears to be happening. A recent study by the Organization for Economic Cooperation and Development (OECD) found that the United States is now fourth in the world in broadband deployment, behind Korea, Canada, and Sweden. And others may pass us soon. While only 10 percent of U.S. households have broadband access, some 20 percent of homes in Canada have it, as do an astonishing 50 percent of homes in South Korea. Japan and a number of European countries have adopted very aggressive plans for broadband deployment involving laying optical fiber to every home. We should be very aware that if other countries do that—deploy fiber to all homes and businesses within their borders—and we continue to move very slowly even in the deployment of slower, current-generation broadband, those other nations will gain a huge economic advantage over us.

I thus see the broadband tax credit as presenting us with a double opportunity. It would help provide much-needed economic growth. And it will also help ensure that rural and underserved Americans can fully participate in an increasingly digital world.

Mr. SMITH. I wonder if I might interrupt my friend from West Virginia to make an observation. I think his point about competitive advantage is a very good one, and it is important for the Congress to remember that it applies not only internationally but also domestically. And it is an issue that is important to both sides of the aisle. For example, the Senate Republican High Tech Task Force—HTTF—has made the Broadband Tax Credit legislation a priority and a part of its policy agenda. This agenda states ''The Task Force understands that high speed Internet access has the power to transform how we use the Internet. Encouraging tax and regulatory policies that foster rapid, efficient, and competitive deployment of broadband and other important technologies to urban and rural areas will be crucial to ensure our economic growth and technological competitiveness.'' The fact is, those communities that do not have broadband will invariably be at the disadvantage to those that do. And unfortunately, the communities that often have little or no broadband service are rural and low-income areas. I know this matter is as important to my colleagues from Massachusetts and West Virginia as it is to me. The Senator from West Virginia and I both come from states with large rural areas, so our constituents likely face a similar situation. In the rural areas of Oregon, we have seen concrete evidence of the difference broadband makes in a community's economic vitality. For example, in La Grande, Oregon, in the eastern part of the State, gaining connection to a nearby fiber optic route in 1999 made it possible for the town to persuade ODS Health Plans to establish a call center/claims center there. By contrast, other communities, such as Madras and Crook County, report that they have both lost potential businesses because of lack of broadband infrastructure.

The other thing I think we should mention is that in addition to economic benefits from this technology, there are other important societal benefits. For example, telemedicine. I'm happy to say that Oregon has been at the forefront of developing new and innovative telemedicine programs. In LaGrande, which, again, is fortunate to have a solid broadband infrastructure, it has been possible to develop a very good program for the provision of rural mental health services. The program is called RODEO NET and it's been making a difference in the lives of rural Oregonians for some time. And the telemedicine program of the Central Oregon Hospital Network makes it possible for doctors to consult with patients remotely and to receive the patients' radiologial images, sounds, records, and pharmacy information. But to do this well, you need broadband. In fact, the average data speed used by RODEO NET is 768 kilobits per second, more than twenty times the typical dial-up service in rural areas of the country. The problem is that few rural communities have a broadband connection. And that is something we must overcome. This technology can greatly improve the quality of life for rural residents, and we should not allow some of them to be deprived because they live in a more remote area.

Mr. ROCKEFELLER. My friend is correct. I agree with him wholeheartedly. That is exactly the kind of application that will make a big difference to my constituents and his, and I want to do everything I can to make it widely available across the United States.

Mr. KENNEDY. I wonder if my friend is a aware of the trans-Atlantic surgery that occurred last year, where a surgeon in New York operated on a patient in France?

Mr. ROCKEFELLER. Yes, indeed As I recall, the New York doctor remotely controlled some kind of robotic arms there at the patient's location, and it came off without a hitch, I believe.

Mr. KENNEDY. I think that is one of the most fascinating things I've ever seen, and as one who has worked for years on healthcare issues, it makes me even more committed to moving this broadband technology out across the country as quickly as possible, because one needs a very high bandwidth connection for those kinds of applications. You cannot do remote surgery over a narrow band connection.

Mr. ROCKEFELLER. Exactly right, and I think that this shows the potential that exists if broadband becomes ubiquitously deployed in this country. When we can transmit massive amounts of data instantaneously, the applications are limited only by our imaginations.

Mr. KERRY. I wonder if my friend from West Virginia would yield for a comment at this point?

Mr. ROCKEFELLER. I would be happy to.

Mr. KERRY. I thank the Senator, and my colleagues from Massachusetts and Oregon. As you know, I feel very strongly about this legislation. My staff and I spent a lot of time working with our former colleague Senator Moynihan, and with Senator ROCKEFELLER and others back in 2000 when we were putting this bill together. We put a lot of brainpower into this bill. We met with innumerable telecom companies and analysts and experts, working to craft a bill that provided real incentives, and doing so in a technology neutral manner. I do not care what the technology is, as long as it can provide broadband, it should receive the incentive. And I think this bill does that. It specifically anticipates copper wire, coaxial cable, terrestrial wireless and satellite technologies. If they can deliver true broadband services, at a measurable speed requirement, then they qualify for the credit. That is as it should be. It is the service we are after, not a specific kind of delivery system. So this bill sets the standards and lets all compete equally. All they have to do is meet the speeds, and they get the credit.

For the current generation technologies, it targets rural and low-income areas. Those are the areas where the Federal Communications Commission has told us there is a problem with current generation deployment. For the next generation technologies, it targets the entire country, with the exception of urban businesses. That is because, while next generation broadband exists and is being deployed aggressively in some Asian and European nations, it has scarcely been deployed at all in the United States.

I have a number of reasons for caring about broadband deployment. One is that I think we cannot allow the ''digital divide'' to continue, and there is a digital divide with broadband deployment just as there is with computer access and dial-up Internet access. In fact, the digital divide with broadband deployment is almost certainly greater than with computers or dial-up. So as a matter of basic equity, I think we must take quick action to deploy broadband across the nation.

I also care about this issue because it is crucial for our international competitiveness. As Senator ROCKEFELLER mentioned earlier, the United States is falling behind in broadband deployment. There is little disputing that fact. While some seem unconcerned about that matter, I am very concerned about it. I think there is little doubt that a nation with ubiquitous broadband will be more efficient and productive than a nation without it. And, the fact is, other nations are starting to outspend us on broadband infrastructure. Sweden has set aside some $800 million on broadband deployment in rural areas of the country—a much smaller area than the United States, obviously. And they have already spent an undisclosed amount to build a fiber-to-the-home system serving much of Stockholm, which is becoming a model for the rest of Europe. Now France is following suit. It recently announced that it will invest $1.5 billion on broadband infrastructure over the next five years, and much of it will probably be optical fiber, as in Sweden. In Japan, who knows how much the government is investing, but it is substantial. The investment is made through Nippon Telegraph and Telephone, which is supposedly an independent telephone company, but the majority ownership belongs to the Japanese government. In any case, NTT is in the middle of a huge fiber-to-the-home project all over the country, so the investment is clearly very large. And listen to this figure from South Korea. In Korea, the government is laying out some $15 billion to provide an optical fiber connection to 84 percent of homes by 2005. This legislation would invest only $540 million over 10 years. That is not a lot for a nation as large as the United States. But it is an important start, and we should pass it now and get the ball rolling.

Finally, I feel strongly about this legislation because I think it is crucial for small business. As Chairman of the Senate Small Business Committee I have an obligation to look out for that sector, and it is something I am passionate about. I am a former small businessperson myself, and I know how difficult it can be for a small company to compete with larger enterprises. Broadband can make that easier by increasing the productivity of the small business and opening up new markets. The telecom analyst Scott Cleland—many of you know him from his testimony here on the Hill on various occasions—wrote a short piece last year on the importance of broadband to small businesses. Paraphrasing Mr. Cleland, he said this. First, that small businesses have less access to broadband because they tend to locate outside the high-rent urban business centers. It's those urban business centers, he says where broadband is most plentiful. The second point he makes, and this is very important, is that we as a nation are losing as a result of this situation because small businesses tend to be a very innovative, economy-driving force. If broadband were more widely available to small businesses, Cleland says, the U.S. would benefit economically.

Those are a few of the reasons why I feel very strongly about this legislation, and I think it is imperative that we pass it this year and send it to the president for signature. I am delighted that we are having this discussion today, and I look forward to working with all of you to pass this bill at the earliest opportunity.

Mr. ROCKEFELLER. I notice that we are joined on the floor by the distinguished Chairman and Ranking Member of the Finance Committee, two gentlemen who have a lot to say about which tax legislation passes this body. I am pleased that both are cosponsors of S. 88 and strong supporters of technology measures. I wonder if I could ask them their thoughts on the likelihood of passing the broadband credit this year.

Mr. BAUCUS. I thank my friend from West Virginia, and I congratulate him on his leadership on this legislation. I agree that broadband technology is extremely important for this country. It will help ensure that our productivity remains high and that our citizens receive the best services modern telecommunications have to offer. I think some of these services that you have already discussed there today—telemedicine, distance learning, and videoconferencing, for example—will be absolutely life altering for many Americans. In rural areas, we will find even more ways to use broadband—televeterinary services, remote monitoring of crops, remote livestock auctions, etc. The fact is that when the underlying broadband infrastructure is there, you can do amazing things with relatively simple equipment—a digital video camera and a computer. And, taking a moment to indulge a point of home-state pride, I want to ask my colleagues if they know where this idea originated? I see my colleague from Montana, and he is smiling. He knows where it came from.

Mr. BURNS. Of course. From the Montana legislature, that's where. We're very creative in Montana.

Mr. BAUCUS. Exactly. The State of Montana enacted the first broadband credit in the nation in 1999. It was the brainchild of one of our public utility commissioners, Bob Rowe, and of state senator Mignon Waterman and others in the legislature. It was in effect for only two years, I believe, before being temporarily suspended, along with a number of other tax breaks, due to the State's budget shortfall. But in the short time it was in effect, it had very positive results. I want to quote from an article by Bob Rowe in one of our State newspapers, The Missoulian, in June 2001, in which Bob was describing the effect of the Montana broadband credit:

> The results are impressive. Dozens of projects were awarded tax credits, most of them in rural Montana—places like Circle, Crow Agency, Superior and Big Timber. Projects included DSL, cable modems, and wireless. They also included projects to provide 'redundant' access that is critical to many technology businesses in case service goes out.

Now as you might surmise, Circle, Montana is not a very big place. It had 644 people in the last census. None of those communities mentioned in that article has more than 1,600 people. If a broadband credit can help bring broadband to rural communities like those, then it is a worthy piece of legislation. But the problem is, even when the Montana broadband credit is reinstated, it will not be enough to ensure broadband deployment to all communities in a State like Montana, so we will need Federal incentives, too. And

that is where measures like the federal broadband credit we are discussing now come in. It is important that we adopt this kind of incentive on a national basis, so that all communities may benefit from it. And along with the incentives that various States may enact, and along with other measures like low-interest loans and grants and so forth, we can really accelerate broadband deployment to all communities in the country.

So I applaud the efforts of my friends who have worked so diligently on this bill. I stand with you and am committed to moving this bill this year. The support is clearly there, with 64 cosponsors in the Senate and 193 in the House. There aren't many bills with that much support. So I think the time has come. We need broadband, and we need it now, and I think this bill will help a great deal. We will work together to get it done this year.

I want to turn to the Senator from Iowa, my Ranking Member on the Finance Committee. I used to be his Ranking Member when he was Chairman, and now the roles are reversed. But regardless of which of us is sitting in the Chairman's seat, we always confer with one another and work closely together, and I know he cares as much about getting broadband technology out to rural areas as I do. Senator Grassley, do you have any thoughts on this issue?

Mr. GRASSLEY. I thank my Chairman, and I appreciate the opportunity to speak on this topic. I am pleased to be a cosponsor of Senator Rockefeller's bill, and I think it is important legislation. As you probably know, I have spent a fair number of hours on a farm in my life, and I can tell you that telecommunications are absolutely a crucial lifeline to rural areas, and we must ensure that rural areas of the country are not left behind as the state of the art evolves. I think that is what is happening now—the state of the art is evolving, and rural areas are being left behind. In urban areas, we have wonderful broadband systems where you can type at your computer and have a little TV screen going up in one corner. A lot of people here watch the Senate floor right from their computers as they work, which makes our work easier and more productive. In rural areas that kind of capability generally doesn't exist. And we just can't allow two different telecom standards for urban and rural areas. That would be like urban areas having telephones and rural areas not having telephones. What kind of country would we be if that were the case? So I think this legislation is very important.

I want to point out one provision in this bill which will be extremely important to rural areas, and that is one involving telephone cooperatives. Anybody from a rural State knows the importance that coops play in making sure no one goes unserved. There are some places that are so scarcely populated that the big publicly-owned companies can't justify the investment to their shareholders. So who gets the job done in those places? By and large, it's the telephone coops. And they do a great job, and we need to make sure we support them in their effort. But, of course, telephone coops are tax exempt organizations. So the question arises, if they don't pay taxes, how will they benefit from a tax credit? But this bill has found a way to let them take advantage of the benefit. How so? Through the so-called, ''85–15'' rule. The tax code requires that at least 85 percent of a telephone coops' income be used to pay losses and expenses. So this bill exempts from income the amount of broadband credit a coop would get if it were a taxable company. That encourages coops to make broadband investments because, if they do, then they will get help meeting the 85 percent rule. I think that makes a lot of sense and is good tax policy. It both encourages a crucial infrastructure investment, and simplifies the tax law for coops, which is an importannt thing to do anytime we can.

So with that, just let me say again that I support this legislation, and I will work with Chairman BAUCUS and Senator ROCKEFELLER and the other members here today to pass it.

Mr. BURNS. I wonder if I might very briefly add a couple of points at this juncture. I wanted to join my colleagues here on the floor today because I feel strongly about this measure. As Senator BAUCUS said earlier, this whole idea started in Montana, and we've seen the kind of effect it can have there, so I feel confident that a federal broadband credit can have a similar effect in other areas of the country. The other point I wanted to make goes back to Senator GRASSLEY's discussion of farming applications. I've spent a fair amount of time in agricultural pursuits myself, and if there is any doubt how agricultural organizations feel about broadband, you should take a look at the farm groups that have endorsed this bill. The American Farm Bureau, American Agri-Women, National Cattlemens' Beef Association, National Corn Growers Association, National Council of Farmer Cooperatives, National Pork Producers Council, National Sorghum Producers Association, National Wheat Growers Association, North American Export Grain Association, Rice Millers' Association, California Cotton Growers Association, California Cotton Ginners Association, Western Growers Association, U.S. Rice Producers' Group. The list goes on and on. Anyone who thinks farmers don't care about technology should spend some time on a modern farm, and what you will learn in that American agriculture is one of the most innovative industries in the world. Let me give you an example. Deere and Company, the farm equipment maker, is also a supporter of this legislation. And you may think at first, ''Why do they care? They just make tractors.'' But when you talk to them, you learn that the tractor of tomorrow—indeed of today—has a lot of high-tech equipment on board that, as it drives through the fields, gathers information on plant conditions and soil conditions and moisture content and so forth. And that is incredibly valuable information to a farming operation. But to really use that information, you need a broadband connection to send it from the tractor to, say, a plant specialist a hundred miles away. Without that broadband connection, it will take a very long time to transmit the data, which makes it a lot less useful. So we need to take action now to get broadband networks built out all over the country, including those little places like Circle and Superior and Big Timber and Crow Agency and thousands of communities like them around the United States. And this bill is going to help do that, so I a feel very strongly that we need to pass it at the earliest opportunity.

Mr. JOHNSON. I would like to add a brief comment on this topic, which is of critical importance to my State of South Dakota. My colleagues have all spoken eloquently about the role of broadband deployment to our Nation, and the special importance of ensuring that our rural areas have equal access. I think we all agree that the widespread availability of broadband infrastructure is absolutely crucial to the future of America. Throughout history, we have found ourselves at critical junctures, when the Federal Government has needed to step in and help build an intrastructure system that is national in scope. The transcontinental railroad. Rural electrification. The Interstate highway system. None of those would have occurred without help from the Federal Government. That, in my opinion, is one of the most important aspects of our job—to know when it is time for the Government to step in and facilitate the building of something big, something that will benefit the nation as a whole and make us a stronger nation. The transport of large amounts of information is no less important today than the transport of large amounts of goods was a few decades ago. The physical transport of goods is still necessary, and probably always will be. But the transport of information? Why should we have to transport people just to transport information? If a supplier can meet with his customer without driving across town or getting on an airplane, then that is better. If a rural American can meet with the urban medical specialist without driving or flying to the city, then that is better. If a rancher can show his cattle for sale to a distant buyer without the expense of transporting them to a sale barn, then that is better. All of those things are theoretically possible today, but they are possible in fact only to a few of our citizens. The disturbing thing is, that other nations are moving ahead of us in deploying broadband technology, as my colleagues have already pointed

out. I believe that if the United States is to continue to lead the world economically, it must invest in broadband infrastructure.

That's why I will continue to fight hard to pass this legislation. I have written the President about it, I have written the majority leader about it, I have spoken to my colleagues on the Finance Committee about it, and now I want to address all of my Senate colleagues about this bill. The fact is, we need this legislation to push broadband out to remote areas of the country. There are areas where the market will not take broadband for many years, if ever. But that is where this legislation is targeted—those very areas the market is leaving behind. We need this legislation to ensure, first of all, that rural areas are not left behind, and secondly that we do not fall behind as a nation. We must not continue to fall behind Korea, Canada, Sweden, Japan, Singapore and others, because if we do, then they will be able to work faster and more productively than we can work, and it is productivity which has been our hallmark, our saving grace, our competitive edge for years. The Internet was an American invention, as are the broadband technologies that accelerate its use. We must not let others surpass us in our own technology, simply through inaction. I urge my colleagues to take up and pass this very crucial legislation this year—at the earliest opportunity. It is very important that we do so, and I pledge my support for it here today.

Mr. ROCKEFELLER. I thank the Senator and welcome his support. I believe the Senator from New York wanted to join in the discussion, as well.

Mrs. CLINTON. I thank my friend from West Virginia. As an original cosponsor on Senator ROCKEFELLER'S broadband tax credit bill and a supporter of the amendment offered on the energy bill, and having introduced my own bills to enhance broadband deployment in Upstate New York and around the country, I join my colleagues from both sides of the aisle today to express strong support for legislation stimulating broadband infrastructure deployment and demand for broadband services.

As we all know, our Nation's economy has suffered a slowdown of staggering proportions in the last year. Investment has slowed, jobs have been lost, and for many companies revenues continue to decline. Few sectors of our economy have been as dramatically affected as the telecommunications and high-tech industry, with job loss estimates in the industry exceeding more than a quarter-million in the past year alone. Of particular concern to me, Upstate New York, like rural areas across America, has continued to face obstacles to full engagement in the new knowledge-based economy. Prior to the recent downturn, the economic growth of the last decade left behind many of our Nation's rural areas—like Upstate New York with its highly educated population—that remain disconnected from major markets. Studies have shown that New York lags behind many states when it comes to Internet connections and usage that are essential to commerce and communications in this new economy.

To be sure, communications technologies are important not only for economic reasons. My State of New York suffered more than any other from the devastating attacks of September 11th. On that day, emergency calls, communications between loved ones, and demand for reliable information demonstrated so clearly our dependence on—and the need for—telecommunications technologies. I am extremely proud of the efforts that were made by our rescue personnel, utilities, and others to restore the communications infrastructure that was so damaged by the terrorist activities. Those tragic events underscored the importance of redundant telecommunications systems to enable us to stay connected in times of national emergency.

The message here is that broadband deployment and its uses are key for the continuing economic development and growth of our Nation. I recently offered a sense-of-the-Senate, which was adopted on the FY 2003 Budget Resolution passed out of the Budget Committee, that highlights the needs for investments in broadband technology to spur development and job creation in rural and underserved areas. Mr. President, I ask that it be included in the RECORD at this point.

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

SENSE OF THE SENATE REGARDING BROADBAND CAPABILITIES IN UNDERSERVED AREAS

(a) FINDINGS.—The Senate finds in the following:

(1) In many parts of the United States, segments of large cities, smaller cities, and rural areas are experiencing population loss and low job growth that hurts the surrounding communities.

(2) The availability and use of broadband telecommunications services and infrastructure in rural and other parts of America is critical to economic development, job creation, and new services such as distance learning, telework capabilities and telemedicine.

(3) Existing broadband technology cannot be deployed or is underutilized in many rural and other areas, due in part to technical limitations or the cost of deployment relative to the available market.

(4) Today's small and medium-sized businesses need an extension program that provides access to cutting edge technology.

(5) There is a need to create partnerships to reduce the time it takes for new developments in university and other laboratories to reach the manufacturing floor and to help small and medium-sized businesses transform their innovations into jobs.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Congress should:

(1) facilitate the deployment of and demand for broadband telecommunications networks and capabilities (including wireless and satellite networks and capabilities) in rural and underserved areas,

(2) encourage the adoption of advanced technologies by small and medium-sized businesses to improve productivity, and to promote regional partnerships between educational institutions and businesses to develop such technologies in the surrounding areas, and

(3) invest in research to identify and address barriers to increased availability and use of broadband telecommunications services in rural and underserved areas.

Mrs. CLINTON. The broadband tax credit is a critical component of this economic development plan, in order to get broadband to ''the last mile''—to the households, schools, businesses, local governments and many others that stand most to gain from its deployment and, of course, the jobs and services that are sure to follow.

Ms. SNOWE. I am delighted to have this opportunity to join my colleagues in discussing the importance of the broadband tax credit legislation. We have worked on this bill since mid-2000, and we need to get it passed this year.

I am particularly pleased to have worked with Senator ROCKEFELLER on this issue. He and I go way back on technology matters. We worked side by side to ensure that all our classrooms and public libraries are connected to the Internet and modern technology through the E-rate, and this successful program is beginning its fifth year of funding.

Just as the E-rate continues to ensure that our Nation's schools and libraries are not divided between technological haves and have nots, we must ensure that all of our Nation's homes and businesses—in both rural and urban areas—have access to broadband services. Because although dial-up services are good for sending e-mail, sharing short documents, and browsing the web slowly, you need broadband services if you need to receive information quickly or send an item that is data-intensive, such as photographs, graphics, or lengthy documents.

While broadband is already being deployed in rural States, such as mine, I believe it is imperative that we seek to accelerate the rate of this deployment. Because where are the homes and small businesses without broadband service? That's easy—in rural and low-income areas. And that is what this bill is designed to cover: the rural and low-income areas where broadband generally is not already available. Furthermore, it is designed to help us move to the next generation of broadband that some countries are already rolling out.

The bottom line is that there are times when it makes sense to help the market deploy technology more quickly and this is one of those times. Why? Because the Government can play an important role in ensuring that all our citizens have access to basic infrastructure, just as it ensured universal access to telephone service in the 1930s.

I will not repeat what my other colleagues have said about the United States falling behind in broadband infrastructure, but it is a fact and it is something we cannot allow. We must engage on this issue and we must do it now. As the lead Republican cosponsor

of the legislation, I urge the passage of the broadband tax credit legislation as one way to address this matter, and believe it should be done this year. While there are a number of other ideas on the table concerning broadband deployment, this is one that is ready to go, and we should not wait any longer. Accordingly, I urge my colleagues to support moving this incentive as part of the next available tax package moving through the Congress.

Mr. SMITH. I would like to return to the issue of exactly how we move this year. I think it is the most substantial broadband initiative with a real chance of passing in the near future, and I think we should be very specific about how we are going to accomplish it. It is now mid-April, the number of legislative days remaining in this Congress are dwindling, and the available tax vehicles would seem to be limited for the rest of the year.

Mr. KENNEDY. I couldn't agree more. As I said earlier, I think this would be a very good addition to the energy bill because it has clear energy savings implications. If that proves not to be possible, I think it should be included in any other tax bill that comes through this year. Passing the broadband tax credit this year should be a priority for the Senate and we must ensure its passage at our earliest opportunity.

Mr. ROCKEFELLER. Absolutely. I am with you 100 percent. We have to get this done, and we have to get it done this year. I note that the majority leader has joined us on the floor and I wonder if we might impose on him to give us his views on the prospects for the broadband tax credit.

Mr. DASCHLE. I thank the Senator for his leadership on the broadband tax credit, and I thank all of our colleagues who have expressed their support for this measure today. As you know, I am a cosponsor of Senator ROCKEFELLER's bill, S. 88, and share the strong support for this bill expressed by our colleagues today.

We have made this a centerpiece of the Democratic high technology agenda. We believe broadband deployment is key to the continued economic growth of the entire Nation, and is particularly critical in rural areas that studies have shown too often lag behind their urban counterparts. This bill addresses that issue head-on by giving special incentives to rural deployment. This measure is one of a number of solutions that have been proposed that will prove effective in achieving universal availability of the most advanced telecommunications technology.

I look forward to working with the Senator from West Virginia, the distinguished Chairman and Ranking Member of the Finance Committee, and all of our colleagues who have spoken out so forcefully today. I hear you and share your support for this proposal. Given the large number of cosponsors, it is clear that the broadband credit can win approval in this Chamber. So I would say to my colleagues that I want to move the bill at the earliest opportunity.

Mr. ROCKEFELLER. We appreciate the Leader's interest and support. With that support, and that of all our colleagues who have joined us today, I feel confident that we will succeed in getting this bill enacted into law this year. And I am excited at that prospect, because I think it will make a big difference in moving broadband both to remote and underserved areas of the Nation, and also in moving it to the next generation. That will be an outstanding result, and a great benefit for the Nation.

ENERGY POLICY ACT OF 2002

Mr. NICKLES. I would like to engage in a brief discussion with my colleague from Alaska concerning an important provision that is missing from the electricity title of this bill. Would the ranking member of the Energy and Natural Resources Committee, Senator MURKOWSKI, agree that it is important to provide a level playing field for competitors in the interstate wholesale electricity market?

Mr. MURKOWSKI. Yes, I agree with my colleague.

Mr. NICKLES. Is today's interstate wholesale electricity market a level playing field, in which all competitors are subject to the same rules?

Mr. MURKOWSKI. No. Publicly-owned utilities are not subject to the same oversight of their rates and other activities related to sales of bulk electricity in interstate commerce as investor-owned companies.

Mr. NICKLES. I see nothing in the current language of the electricity title of this bill to rectify this disparate treatment. This seems unfair, and contrary to our policy of promoting competitive markets in interstate electricity sales. Would the Senator from Alaska agree?

Mr. MURKOWSKI. Yes, I think that all utilities who substantially participate in the interstate wholesale electric power market should be under the same regulatory regime, and subject to the same oversight by the same regulator. But I also want to make clear that municipally-owned and cooperatively-owned utilities that are too small or not selling in interstate commerce, such as those in Alaska, should not be subject to FERC regulation. I would oppose any attempt to extend such Federal regulation to these entities or their activities.

Mr. NICKLES. I thank the Senator for that viewpoint. Do not misinterpret what we are saying. This is not about ''spreading the pain'' around to everybody. Rather, what we are saying is that if a municipally-owned or cooperatively-owned utility makes a strategic business decision to go into the competitive interstate bulk power market to earn profits, then it ought to play by the same rules as everybody else. And once they enter that market, it is important that the market competition takes place on a level playing field, or else competition will be diminished and consumers will suffer. So I would like to go forward, in conference, and work with my friend, Senator MURKOWSKI, and others of like mind, to correct this situation and ensure equal treatment for all who chose to compete in the interstate wholesale electricity market.

Mr. MURKOWSKI. I look forward to working with the Senator from Oklahoma on this issue as this bill moves to conference.

ENERGY EFFICIENT COMMERCIAL BUILDINGS

Mr. GRAHAM. Mr. President, Section 2105 of this legislation, the section providing a tax deduction for construction of energy efficient commercial buildings, does not list the specific building components that will qualify the building. This is different from Section 2103, pertaining to energy efficient residential property, in which items contributing to building efficiency are listed in some detail. My concern is that certain energy efficiency improvements, if not specifically included, may not qualify for the deduction under Section 2105. I was wondering if the Senator from Montana could clarify for me the reasons behind the differences between these two sections.

Mr. BAUCUS. The Senator from Florida asks a reasonable question, but he need not be concerned about the differences between these two sections. The commercial building deduction is constructed as a performance-based incentive for energy efficiency. The bill does not specify which materials should be used because different buildings may require different components to meet efficiency standards. Construction need not adhere to a specific list of energy efficient components.

Mr. GRAHAM. Let me ask then about a specific building component so that I can be certain I understand what the Senator has explained. Building insulation is not referenced in Section 2105, however it is referenced in Section 2103. Nevertheless, expenditures for insulation in a commercial building will qualify for the deduction so long as it meets the energy efficiency requirements laid out in this measure. Is that accurate?

Mr. BAUCUS. The Senator is correct. In fact, the efficiency requirements laid out in this legislation essentially require that building construction include a combination of highly energy efficient property. Energy efficient insulation would almost certainly be included among these components.

Mr. GRAHAM. The origin of my concerns regarding the enumeration of specific components stems from the language used to define energy efficient commercial building property expenditures at the beginning of Section 2105. It indicates that in order to qualify, energy efficient property must be eligible for treatment as depreciable property under section 167 of the tax code. There are many building components, like insulation, not specifically

referenced in section 167. Can the Senator from Montana confirm that the intention of this measure is not to exclude these components from eligibility for the energy efficient commercial buildings deduction?

Mr. BAUCUS. I can confirm for the Senator from Florida that the intention of this provision is to include all those components that would produce levels of energy efficiency sufficient to meet the standard laid out by this amendment.

Mr. GRAHAM. I thank the Senator for his clarification and his time.

IMPACT OF REFORMULATED FUELS PROVISIONS AND NEED FOR APPROPRIATE DISCRETION FOR ADJUSTMENTS TO REQUIRED BASELINES FOR ANTI-BACKSLIDING REQUIREMENTS

Mr. CORZINE. Mr. President, I rise today to bring to the attention of my colleagues an important issue that relates to provisions in the Energy bill dealing with reformulated gasoline. After a few brief introductory remarks, I would like to engage in a colloquy with my colleague and friend, the Chairman of the Committee on Environment and Public Works, in order to inform and clarify the legislative record on the matters I am about to discuss.

The provisions contained in Subtitle C of Title VIII of the Energy bill deal with motor fuels. As has been discussed on this floor on preceding days, these provisions deal with a number of issues, including a ban on the use of MTBE and requirements for use of ethanol in reformulated gasoline. I would like to speak today on another issue in this subtitle that has received less attention during our debate on these issues, but which could have a profound and detrimental effect on the supply of gasoline in New Jersey and elsewhere in the Northeast, by affecting an important supplier to this market.

Section 834 of Subtitle C eliminates the oxygen content requirements for reformulated gasoline. It is necessary to do this since the subtitle, in Section 833, Subsection (c), otherwise bans the use of MTBE, the oxygenate most commonly used to meet the oxygen content requirements of the Clean Air Act. And while we have all become aware of the groundwater contamination problems caused by leaks of gasoline containing MTBE, it is important to understand for the situation I am about to discuss that MTBE does provide significant benefits in regard to emissions of toxic air pollutants under current EPA models. Indeed, overall toxic air emissions reductions achieved through the use of reformulated gasoline substantially exceeded the minimum requirements set by the Clean Air Act Amendments of 1990. I think we all agree with the Blue Ribbon Panel's recommendation, that with or without MTBE, it remains an important goal to maintain the real world emissions benefits derived from the use of reformulated gasoline.

So when the authors of Subtitle C eliminated the oxygen requirement for reformulated fuel and banned the use of MTBE, they also wanted to be sure that the toxic air pollutant reductions achieved from the use of reformulated gasoline were maintained. Thus, they included the so-called 'anti-backsliding' provisions found in subsection (b) of Section 834. Among other things, subsection (b) will require the EPA Administrator to . . . establish, for each refinery or importer . . . standards for toxic air pollutants from use of the reformulated gasoline produced and distributed by the refiner or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refiner or importer during calendar years 1999 and 2000.

This provision thus requires EPA to establish, for each refinery, the amount of toxic air emissions from the gasoline based on 1999 and 2000 data, and then establish that as a ''baseline,'' or maximum level of toxic air emissions from the gasoline produced by that refinery.

What this provision doesn't do, is tell the refiner how to maintain the baseline once MTBE is eliminated, it just has to do it. In most cases, refineries can meet the gap in toxic air emissions performance—caused by the ban on MTBE—simply by doing little more than complying with an already-existing separate regulation that requires them to reduce the levels of sulfur in the gasoline. Removing sulfur improves the toxic air emissions performance of the gasoline as calculated by EPA. Or the refinery could invest in improved extraction technology to remove directly some of the toxics—for example, benzene. Or a larger, multi facility refiner could trade between its refineries the credits for emissions of toxic air pollutants authorized by the Subsection.

So, once the EPA Administrator establishes the baseline for a refinery, most refiners have options that are available to ensure that their refineries do not 'backslide' on the emissions of toxic air pollutants from gasoline. For example, refiners that had high sulfur levels during the base period will have a relatively easy time complying with this requirement for their reformulated gasoline, primarily because they must desulfurize gasoline by 2004–2005 under already existing rules, and this step will substantially reduce toxic air emissions, thus offsetting the increases in calculated emissions from eliminating MTBE.

But what happens under the Energy bill to the refiner who had voluntarily taken steps, not required by any regulation, to incorporate state-of-the-art benzene extraction technology and also removed a very large amount of the sulfur from its gasoline before the base period that the EPA will use to establish its baseline? That refiner will be given a baseline that is far tougher than virtually any other refiner. It is so tough, Mr. President, that when MTBE is banned, as required by the bill, it likely will not be able to make up the lost benefit MTBE provides—substantially lowering modeled emissions of air toxic pollutants—by lowering sulfur to required levels or taking any other actions that will allow it to maintain that baseline performance level.

This is exactly the situation facing the Amerada Hess Corporation, a corporate constituent in New Jersey that is an important supplier of reformulated gasoline. At its Port Reading, New Jersey refining facility, Hess produces 35–50 thousand barrels per day of reformulated gasoline that is supplied to New Jersey, New York, and Connecticut. Hess also supplies another 40–60 thousand barrels per day of reformulated gasoline into the northeast market from HOVENSA, a refinery it partly owns on St. Croix in the US Virgin Islands. Both facilities, the only two under the Hess umbrella, have long produced very clean gasoline—taken together, the gasoline produced by these refineries has almost 60 percent less sulfur and 35 percent less benzene than the refinery industry average.

Once the EPA establishes baselines for these two refineries, and MTBE comes out of the gasoline, they will have no realistic options to maintain the baseline—exactly because the gasoline was already so clean. They can put in ethanol, but that does not have the same level of positive effect on toxic air emissions, compared to MTBE. They will lower sulfur further to 30 ppm, but in contrast to most other refineries, this will not be enough to maintain the baseline, since the gasoline was already low in sulfur before and during the relevant base period. Benzene is already at very low levels, and further reductions are not reasonably achievable.

I will include in the record tables of data provided to me by Amerada Hess that illustrates this result. They could buy credits, if they were available, but this would allow refiners who did not take early action to clean up gasoline to obtain a competitive advantage.

The only reasonable way to address this situation, Mr. President—and avoid penalizing a refiner by virtue of the fact that it took early action to clean its gasoline before it was required to do so—is to ensure that the EPA Administrator has the ability and discretion to review situations like this, and when necessary and appropriate, make adjustments to the refinery-specific baselines.

This notion of providing limited, necessary baseline adjustments is not unprecedented. Indeed, EPA provided this form of relief just last year on nearly identical facts. In that case, it was implementing the Mobile Source Air Toxics, or MSAT, rule. That rule sets maximum levels of toxic air emissions from gasoline from baselines established using data from the base years, 1998, 1999, and 2000. It is thus nearly identical to the anti-backsliding provisions of Subtitle C—it only differed in

that it covered all fuel, conventional and reformulated, and looked to data from one more base year, 1998.

In that case, Mr. President, Hess faced the same situation in which it finds itself in this instance for its gasoline supplies form Port Reading and HOVENSA, except that the reason MTBE was going to be unavailable on a going forward basis was state-enacted bans on its use in New York and Connecticut. In this case, it is federal law that will ban the use of MTBE. So the result in the MSAT rule situation should be the same when the provisions of this bill go into effect. In the case of the MSAT rule, EPA agreed that once the state MTBE bans went into effect, EPA would make an appropriate adjustment to the baselines for the Port Reading and St. Croix refineries to reflect their unique situation.

The adjustment was based on EPA's finding that the reformulated gasoline which these refineries produce significantly outperforms the industry average for toxic air emissions, and that MTBE bans would affect the modeled toxics performance. The purpose of this relief, quite simply, was to level the playing field, so that a refiner that took steps to clean up its gasoline early could continue to supply gasoline when MTBE is eliminated. I will enter into the RECORD a copy of the letters from EPA laying out the details of EPA's resolution of this problem.

My purpose today is therefore twofold. I first wanted to bring this matter to the attention of the Senate. It would be a travesty if we were to enact legislation that penalized parties for taking early action to improve the environmental performance of their product. And I should hasten to add here, Mr. President, that based on every conversation I or my staff have had on this matter, we have been assured that this was an unintended consequence. So my second purpose, Mr. President, is to ensure that the record on this legislation provides sufficient guidance to EPA in order that it can address this matter effectively.

For these reasons, I would like to engage the Chairman of the Environment and Public Works Committee, the Senator from Vermont, in a colloquy on this issue.

As discussed in my remarks, EPA had the requisite authority and discretion under the MSAT rule to make limited, appropriate adjustments to refinery-specific baselines for toxic air emissions based on unique circumstances such as those facing Amerada Hess. Would you agree that EPA would enjoy a similar level of discretion under the anti-backsliding provisions of Subtitle C of Title VIII if and when the Energy bill, or any other bill that carries similar provisions, becomes law?

Mr. JEFFORDS. I appreciate the Senator from New Jersey bringing this matter forward at this time. As he noted, the last thing we want to do in this statute is to penalize—advertently or inadvertently—those parties that take early action voluntarily to improve the environmental performance and public health benefits of the products they produce, in this case, reformulated gasoline.

Based on the facts that the Senator has presented and as they have been presented to me and my staff, it appears that Amerada Hess and HOVENSA could be disadvantaged if the anti-backsliding provisions of the bill were implemented without consideration of the factors that you have outlined. And, this situation could lead to a less competitive market in the Northeast, potentially driving up prices.

It seems reasonable that refineries such as you have described, which have worked out an understanding of an appropriate adjustment with EPA in the context of the implementation of rule on mobile sources of air toxics, should be able to proceed in a similar fashion when the provisions relative to reformulated fuels—particularly, the anti-backsliding provisions in Section 834—are implemented. EPA has informed my staff that they would interpret the provisions in question as providing them with adequate authority to do so. It would seem logical that such authority would be used as it was in the case of the rule, regardless of whether the situation is a state ban or a Federal ban on MTBE.

Mr. CORZINE. I very much appreciate the Chairman's answer, and believe that EPA should be able to retain and incorporate existing baseline adjustments granted under the MSAT rule into the baselines that will be established under Section 834(b).

I wonder whether the Chairman could answer another question in this regard. If the MTBE ban proposed in S. 517 takes effect before or supersedes the implementation of existing state MTBE bans, is S. 517 intended to negate baseline adjustments that refer to or are based upon those state laws?

Mr. JEFFORDS. As the Senator knows, there is no Federal preemption of State law contained in the Subtitle C. In fact, Section 833 of the bill, in Subsection (d), states specifically that enactment of the federal MTBE ban contained in the preceding subsection will ''have no effect on the law in effect on the day before the date of enactment if this Act regarding the authority of States to limit the use of [MTBE] in motor vehicle fuel.'' And Section 834, in which the anti-backsliding provisions are contained, includes a savings clause (Subsection (d)) that states ''[n]othing in this section is intended to affect or prejudice any legal claims or actions with respect to regulations promulgated by the Administrator prior to enactment of this Act regarding emissions of toxic air pollutants from motor vehicles.''

Taken together, these provisions are a clear indication that it is the intent of the Senate not to preempt the state laws that were the cause for the baseline adjustment granted under the MSAT rule or to affect any legal claims or actions related to the MSAT regulations, including the sections in that rule providing for baseline adjustments. Furthermore, as I observed in my prior response, fairness would dictate that the result should be the same whether MTBE is banned as a result of this bill or as a result of state law.

Mr. CORZINE. I again thank the distinguished chairman of the Environment and Public Works Committee for his comments and perspective on this issue, as this is a very important issue for my State and region.

Mr. President, New Jersey is the largest user of reformulated gasoline in the Northeast. Hess—through the Port Reading and Virgin Islands refineries—supplies about 13 percent of the reformulated gasoline used in the New York/New Jersey/Connecticut region. Production from Hess's Port Reading refining facility alone translates to 14–20 percent of New Jersey's total gasoline consumption. My office is advised that if S. 517 does not allow EPA to retain existing MSAT baseline adjustments or grant new ones, it will constrict the ability of its Virgin Islands joint venture facility to manufacture reformulated gasoline and may cause Port Reading to close. The reformulated gasoline supplied by these two refineries, as I noted previously, today has almost 60 percent less sulfur and 35 percent less benzene than the refinery industry average and would be replaced by other suppliers, who would supply less clean gasoline on average. Moreover, New Jersey could lose a major employer in the form of Port Reading which, in addition to producing clean gasoline, has been identified as among the top environmental performers for refineries in the country in Environmental Defense's most recent rankings.

As a matter of sound environmental policy, refiners who voluntarily cleaned up gasoline by removing dirtier components before the baseline period should certainly not be put in a worse position than refiners who waited until regulations forced them to reduce toxic air emissions. Nor should such refiners reap a windfall under S. 517 by having clean refiners end up buying credits from them to stay in business.

I greatly appreciate the interest my Chairman on the Environment and Public Works Committee has shown on this issue, and hope we can work together, along with other interested Senators, to remedy this situation on this and any future legislation that may carry similar provisions.

PRIVATE USE CLARIFICATION

Mr. KYL. I would like to engage in a colloquy with the chairman of the Senate Finance Committee in order to discuss an issue that I know the chairman, the ranking member of the committee and their staffs have been attempting to address for some time. Specifically, we all know that the electric industry is undergoing significant

change However, certain tax provisions, drafted long ago, appear to obstruct the current restructuring of the industry. The Senate Finance Committee has attempted to better understand these tax and non-tax conflicts in the rapidly changing national energy environment by directing the Department of the Treasury to conduct an ongoing study of the issue and report back to the tax-writing committees on an annual basis with legislative recommendations. In addition, the manager's amendment to the tax title to the energy bill before us on the floor has provisions that will facilitate restructuring for cooperatives and investor-owned utilities.

Public power utilities need to know how they can operate in this new environment. This guidance is especially critical given the lack of a legislative solution to modernize Federal ''private use'' tax laws passed in the mid-1980s. I rise today to suggest two mechanisms that will provide very limited, but necessary, guidance for public power utilities. I believe both of these mechanisms can be addressed either through administrative guidance or legislation.

First, the report of the Senate Finance Committee urges the Department of the Treasury to finalize as quickly as possible regulations relating to the definition of private activity bond for public power entities. In adopting these regulations, the committee hopes that the Treasury will use its regulatory authority to provide flexibility to foster the participation of public power in a restructured electric industry. I believe that finalization of the regulations is important.

I further believe that flexibility may be provided in the regulations by, among other measures, lengthening the term of the short-term output contract exception to 5 years; providing specific, more flexible guidelines for utilities to replace load lost from participating in the open access of their transmission facilities; and allowing the advance refunding of bonds used to finance transmission facilities used in open access or regional transmission organizations. I would hope that the legislative history to the tax title to the energy bill would urge the Treasury Department to consider adopting these items to the greatest extent possible when the private activity regulations are finalized.

Second, public power utilities historically finance aggregate generation, transmission and distribution needs with tax-exempt debt and electric system revenues, equity. Moreover, these construction needs are often financed on a system, versus a project, basis. This means that each dollar of borrowing is not tied to a dollar investment in specific projects. This is a common utility practice, but one that complicates the ability to manage private use limitations in the current environment.

Current law does not provide specific guidance in this area, though the Internal Revenue Service has issued individual private letter rulings to entities other than utilities that have sought clarification on the ability to allocate private business use to equity. Unfortunately, the private letter ruling process can be lengthy, administratively cumbersome and not viable were a large number of utilities to pursue this remedy. A modest solution to this issue would be to provide that the portion of a public power utility's system that is financed with amounts other than tax exempt-debt can be used without regard to private use limitations. Public power systems then have a strong incentive to finance projects with equity or taxable debt rather than tax-exempt bonds.

Specifically, language to provide broad guidance in this area could state:

> If, after first allocating private business use contractual sales to the portion of electric output facilities financed with equity or taxable debt, the remaining amount of such contracts, if any, when allocated to the tax exempt bond-financed portion of the facilities would not cause the private business use test to be exceeded, then the private business use limitations are deemed not to have been exceeded.

I have been informed by the Treasury Department that they believe that they have the authority to address this issue and are working on published guidance in this area. Unfortunately, the Treasury and the Internal Revenue Service have been working on comprehensive allocation regulations for some time and guidance is needed now. Therefore, I would again hope that whatever legislative history that emerges with respect to the tax title to the energy recognize the ability of a public power system to allocate its equity to investments in as flexible a manner as possible.

I hasten to add that these two suggestions do not provide a comprehensive fix to the numerous technical private use problems that require the attention of this body. However, it will provide necessary guidance to public power utilities at a time when managing private use has become increasingly challenging due to industry events. Moreover, they will not upset the competitive balance in the industry.

I ask the distinguished Chairman of the Committee on Finance if I can count on him to support language with respect to these two items in any report that this body or the conference may issue.

Mr. BAUCUS. The Senator from Arizona can count on my support in ensuring that guidance with respect to the finalization of regulations relating to the definition of private activity bonds for public power entities is provided at the earliest opportunity and most certainly in conference. Regarding the ability to allocate private business use to equity, I look forward to working with my colleague to fashion an appropriate remedy for this important issue.

NATIONAL SCIENCE AND TECHNOLOGY ASSESSMENT SERVICE

Mr. MCCAIN. Mr. President, section 1601 of title XVI of this bill would establish a National Science and Technology Assessment Service to develop information for Congress relating to the uses and application of technology to address current national science and technology policy issues. Everyone in this body appreciates that the science and technology policy issues that we face today are diverse and complex. Clearly there is a need for some reliable means for Congress to receive timely, unbiased information on such matters.

However, I am concerned that the details of the organizational structure being proposed in this section have not been fully vetted. No hearings were held on the proposal. Many of those interested are not locked into this particular design proposal, but feel that there is a valid need for such an organization. I hope that we can revise the title XVI provisions to ensure that it meets the needs of Members. Many of us recall the former Congressional Office of Technology Assessment which was abolished in 1995 over concerns about its ability to provide timely information to Members of Congress. Oftentimes their reports were released after a vote on a particular issue, rendering them useless from a Congressional standpoint. There were also concerns that the office had grown to be much larger than originally anticipated. By the time the office was abolished, it had grown to have an annual budget of approximately $22 million and had over 200 employees. The cost of an average report was around $400,000.

I believe that the authors of this title XVI intend that the assessment service be an unbiased, nonpartisan entity whose reports and recommendations would be widely accepted by the Congress. To create such an entity with instant credibility, requires an open process for considering different approaches to structuring it. Without this opportunity and process, the established service may not be received as a reliable non-partisan entity. Without such a reception, the service would be essentially useless.

Although I have filed an amendment that would delete this title from the bill, I am hereby withdrawing that amendment. I hope to work with the chairman of the Commerce Committee, Senator HOLLINGS, to further review the provision while the Energy bill is in conference with the House. I urge Senator HOLLINGS to hold hearings on this proposal to allow for an open debate on the needs and benefits of the congressional service. I further urge the chairman to engage other committees and Members in these discussions.

Mr. HOLLINGS. Mr. President, I thank Senator MCCAIN for his comments and his willingness to work with me on this issue. The need for reliable, sound advice to Congress on scientific and technology issues has never been greater. Many of the issues that we tackle every day involve some scientific or technological element.

Congress needs to be sure that it can avail itself of excellent scientific analyses on complex issues. The advice that we were able to receive in the past from the Office of Technology Assessment on such issues as climate change and homeland security is sorely missed. As Senator MCCAIN noted, any assessment service for the Congress needs to be non-partisan and effective. I look forward to discussions with the ranking member of the Commerce Committee, as well as other members of the Senate, regarding the proposed structure of the National Science and Technology Assessment Service and possible changes to that structure.

REQUEST FOR TAX MODIFICATION

Mr. HARKIN. Mr. President, I have long been interested in providing a modification in the tax law allowing a historic hotel in my State to be restored and used as housing for lower income elderly people. Unfortunately, as the chairman knows, the tax laws often determine the viability of the project and this modest sized project is more complex then most of its size.

Mr. BAUCUS. Mr. President, I appreciate the Senator from Iowa's concern and his persistence. However, because the provision is not an energy tax proposal, it is not appropriate for it to be included in this energy bill. But I do want the Senator to know that there is sympathy for the proposal, and I do plan to consider its inclusion on an appropriate measure in the near future.

DEVELOPMENT OF HIGH TEMPERATURE SUPERCONDUCTOR TECHNOLOGIES

Mr. SCHUMER. I would like to pose a question to my esteemed colleague from New Mexico, who serves as the chairman of the Energy and Natural Resources Committee. It is my understanding that the Energy Policy Act of 2002 contains language that will direct the Secretary of Energy to conduct research and development activities regarding enhanced renewable energy. Within that language's provisions for electric energy systems and storage, there exists language that directs the Secretary of Energy to undertake demonstration projects to further the development of high temperature superconducting, HTSC, technology. I am seeking the chairman's assistance in clarifying the specific factors and goals that are meant to be associated with these demonstration projects.

It is my understanding that the HTSC technology demonstration projects, which may include HTSC cables, fault current limiters, and power transformers, are meant to focus on the development of second generation YBCO-based superconductors that will make several significant contributions to the electrical system. Furthermore, the high temperature superconductor technology demonstration projects should also have a minimal adverse impact on the environment and land use, and produce environmental benefits by reducing reliance on oil as a cooling agent in electric power devices and reducing harmful emissions caused by fossil-fuel-powered generating plants.

I would like to know if the Senator from New Mexico agrees with my interpretation of the language in the Energy Policy Act of 2002.

Mr. BINGAMAN. I respond to my colleague from New York by stating that I do in fact share his understanding of the intent of the language relating to HTSC research in the Energy Policy Act of 2002.

OIL AND GAS DEVELOPMENT ON PUBLIC LANDS

Mr. DURBIN. Mr. President, I ask the chairman of the Energy and Natural Resources Committee to engage in a colloquy with Senator FEINGOLD and me with respect to oil and gas development on Federal lands, an issue that is very sensitive for Americans right now. There are areas on public lands where we can develop oil and gas resources in a responsible way. But we should not take this fact as a green light to degrade environmentally sensitive lands, which should be preserved for generations to come. We need to recognize that the Secretary of the Interior, as the steward of our public lands, must consider a range of factors when developing and use plans for public lands. The Secretary of the Interior is not just in the business of energy—lands administered by the Bureau of Land Management are multiple use lands and the Secretary is required to take many factors into consideration when developing land use plans, including the recreation, range, timber, minerals, watershed, wildlife and fish, and natural, scenic, and historic values.

The Bureau of Land Management has authority to lease public lands for oil and gas development under the authority of the Mineral Leasing Act, and this authority is referenced in section 602 of the energy bill. However, before the BLM exercises its authority, I believe that it is important that the secretary consider the characteristics of the land, including whether the land exhibits wilderness characteristics. For example, section 102 of the National Environmental Policy Act requires the Secretary to consider ''any adverse environmental effects'' and ''any irreversible and irretrievable commitments of resources'' that would result from proposed agency actions. In addition, section 202 of the Federal Land Policy and Management Act requires the Secretary to develop and maintain land use plans for public lands administered by the BLM, using and observing the principles of multiple use and sustained yield, and among other criteria, ''giv[ing] priority to the designation and protection of areas of critical environmental concern.'' Does the Senator from New Mexico agree that section 602 of the Energy Policy Act does not change the Secretary's obligation to comply with all laws and regulations applicable to the BLM's onshore oil and gas program, including applicable requirements under NEPA, FLPMA, and other laws designed to protect environmental values and sensitive areas on public lands?

Mr. BINGAMAN. The Senator from Illinois is correct. Section 602 simply states that in order to ensure timely action on oil and gas leases and applications for permits to drill on lands otherwise available for leasing, the Secretary of the Interior is required to ensure expeditious compliance with the requirements of section 102(2)(C) of NEPA, improve consultation and coordination with the States, improve the collection of information related to such leasing activities, and improve inspection and enforcement activities related to oil and gas leases. The section also authorizes appropriations to the secretary. Section 602 does not change any requirements under current law applicable to the management of public lands, including any requirements imposed by NEPA, FLPMA or any other applicable law.

Mr. DURBIN. I thank the chairman. It is my understanding that the current BLM policy requires the agency to consider activities on lands proposed for special designations, such as Areas of Critical Environmental Concern and Wilderness Study Areas, and, subject to valid existing rights, to avoid approval of proposed actions that could degrade the values of potential special designations. Does the Chairman agree that section 602 does not affect this policy?

Mr. BINGAMAN. The Senator from Illinois is correct.

Mr. FEINGOLD. The Senator may be aware that citizens' groups have petitioned the BLM to review several million additional acres for wilderness designation, but these lands are largely not protected from oil and gas development. The BLM's ''Wilderness Inventory and Study Procedures'' manual requires the BLM review wilderness recommendations received from the public, and to make a determination as to whether there is a reasonable probability that the area in question may have wilderness characteristics. If the BLM determines that the area may have wilderness characteristics, and if actions are proposed that could degrade the wilderness values, the BLM ''should, as soon as practicable, initiate a new land use plan or plan amendment to address the wilderness values.'' Does the chairman agree that section 602 does not alter this policy, that the BLM must review wilderness proposals it receives from the public?

Mr. BINGAMAN. The Senator is correct, Section 602 does not change any existing requirements or policies, including the potential wilderness review policy.

Mr. FEINGOLD. I thank the chairman.

PROTECTING LEASES ON THE OUTER CONTINENTAL SHELF

Mrs. BOXER. Mr. President, I rise to discuss an amendment that I have been working on with several of my colleagues for some time now. The amendment is based on S. 1952, a bill that would reacquire and permanently protect certain leases on the Outer Continental Shelf off the coast of California by issuing credits that can be used to

develop energy resources elsewhere in the country.

As you know, for decades, Californians have opposed oil and gas drilling along their coasts. We vividly remember the horrific oil platform rupture and oil spill that occurred off the coast of Santa Barbara in 1969. The ecological implications of that spill and the many other spills and leaks associated with the rigs that are currently along our coast are still being felt by Californians living along the coast.

Unfortunately, 36 more leases off our coast remain eligible for oil and gas development and four additional leases remain in legal limbo.

That is the last thing Californians want or need.

In fact, the State of California has taken the Department of the Interior to court over whether the State has the ability to deny these leases. I strongly support the State in this effort and have joined Representative CAPPS of California in filing an amicus brief in support of the State's position.

I believe every State should have the right to deny oil and gas development off their shores, as offshore activities inevitably impact the people and resources that are onshore. Last year, I reintroduced legislation, the Coastal States Protection Act, to place a moratorium on new drilling leases in Federal waters that are adjacent to State waters that have a drilling moratorium. That bill, however, addresses only future leases.

With regard to the undeveloped existing leases off of California's coast, I believe a proactive approach is needed. These leases are in the midst of protracted and contentious litigation. I do not believe, however, that any interests are best served by waiting for the courts to sort this out. I have been approached by California lessees that want out of California. I want them out; the State wants them out; and the people of California want them out. Instead of hoping the courts reach the same solution, I think it vital that we seek legislative action to eliminate any threat of future drilling off California's shores and remedy this situation as soon as possible.

That is why I have continued to work on this language with my colleagues to find a compromise that would protect the fragile environment off the California coast and at the same time redirect the financial resources for energy production to other areas where it can be used to meet our country's energy needs.

In short, we are working to rid California of unwanted drilling, end a protracted legal battle in which nobody wins, and free the financial resources of the lease owners so that they may produce energy elsewhere. Our goal is a win-win situation.

However, this is a new idea that has significant implications and we have not yet been able to work fully through all of the details. For that reason, I will not offer this amendment to the Energy Bill and will instead try to build consensus around this concept. I am committed to continuing to work on this issue with my colleagues because I know they too are committed to the same goal.

Mr. CAMPBELL. Mr. President, I rise to associate myself with the goal of the Senator from California. One of the California lessees has their headquarters in Colorado. I know that this company has wasted a great deal of time, money and effort in the unproductive leases off the coast of California. It is time for this company to be allowed to recoup its costs so that they can be redirected to more promising development opportunities elsewhere.

We need to enhance our domestic energy production in the interest of national security, and so we have to find a way to reconcile the competing interests of the California environmentalists, the Department of the Interior and the oil companies. We can all agree that our nation needs to produce more energy and that we must do so in environmental sensitive ways. However, the owners of the leases have had their hands tied in California for 20 or more years to no one's satisfaction. It is time to move on, so that both important national goals can be met.

I applaud the efforts of Senator BOXER to continue to seek a compromise that balances the environmental concerns with the need to fairly compensate the companies for their leases so they can redirect their efforts toward the production of more energy for our nation.

Mr. BINGAMAN. Mr. President there is no aggressive advocates on this issue than Senator BOXER. I am willing to continue working with her to see if there is a solution that addresses the environmental concerns of her state, the concerns of the oil and gas industry, and the need to develop additional energy resources. I also want to thank the Senator for her willingness to put their issue aside for now so that consensus can be reached. I am hopeful that through continued efforts we will be able to achieved that consensus.

COMPREHENSIVE STUDIES OF SHALLOW UNDERGROUND STRUCTURES HOLDING NATURAL GAS

Mr. BINGAMAN. I would like to pose a question to my esteemed colleague from Kansas. It is my understanding that there was a terrible accident involving the death of several people in Kansas from the leakage of natural gas from a shallow underground storage structure. As a result, you are offering a noncontroversial amendment to authorize the Department of Energy to conduct a detailed study on the engineering and geology aspects of these shallow underground structures so that their safety can be assessed on a rigorous basis. I appreciate my colleague's desire to work with me on addressing this issue in conference. I agree with him that it can be dealt with in the conference appropriately without taking up valuable Senate floor time.

I would just like to clarify that as this Energy Policy Act of 2002 moves into conference, if the good Senator from Kansas that it might be appropriate to move some of the detailed language under your amendment's section (c) to the subsequent conference report so that it gives the proper guidance and intent to the deparment?

Mr. ROBERTS. I thank my good colleague from New Mexico for understanding the reason why this amendment is important to not only my state but the safety of future underground shallow gas structures in the entire U.S. I look forward to working with him and the Senate conferees on the energy bill to ensure the proper report language is in the conference report based on the legislative language in my amendment.

AMENDMENT NO. 3185

Mr. KYL. Mr. President, on April 22, I submitted amendment No. 3185 which addresses service obligations of load-serving entities. This amendment gives specific direction to FERC in exercising that authority. It amends title II of S. 517 to require FERC to ensure that utilities with service obligations are able to retain existing firm transmission rights in order to meet those obligations.

This amendment allows FERC to go forward with its program to establish a standard market design for wholesale electric markets while at the same time ensuring that transmission owners and holders of firm transmission rights under long-term contracts are able to retain sufficient transmission rights to meet their service obligations under Federal, State, or local law, and thereby to protect retail customers.

This amendment has been reviewed by the Administration, FERC and a number of key participants in the electric restructuring debate. I believe we have some agreement on the concept, but need more time to work out the language. Accordingly, I am not offering the amendment now but would like to work with the managers of the bill to come up with an acceptable version.

Mr. MURKOWSKI. I thank the Senator from Arizona for bringing this very imporatnt concept to our attention. We very much want to work with him to develop an acceptable service obligation amendment.

Mr. BINGAMAN. I thank the Senator from Arizona for not pursuing his amendment at this time, and I agree to work with him to try to find an acceptable solution. To further this effort, I am willing to hold a hearing on the matter.

Mr. SMITH of New Hampshire. Mr. President, I am very pleased that the energy package the Senate will pass contains a solution to the MTBE problem. This comprehensive MTBE legislative package protects our drinking water while preserving air quality and minimizing negative impacts on gasoline prices and supply. Solving the MTBE has been one of my top priorities for over two years. My legislation

was voted out of committee both last Congress and this Congress, and I am pleased that it was finally passed by the full Senate.

As Chairman of the Environment and Public Works Committee, I held a field hearing in Salem back in April 2001 to hear from the folks in New Hampshire about their MTBE problems. I have come to the floor on several occasions to speak specifically about New Hampshire families and small businesses that have been impacted by MTBE contamination. I have visited with many of my constituents who suffer with MTBE contaminated wells.

The Miller family—Christina and Greg, and their son Nathan—live in Derry, New Hampshire. This young family has been struggling for over three years with the MTBE contamination in their well. I spent time at the Four Corners Store and surrounding homes in the Town of Richmond, New Hampshire. Although the store's underground storage tanks are in compliance with the law, an MTBE plume persists from a tank that leaked years ago. This plume has contaminated a number of private wells of the homes near the Four Corners Store. The Goulas and Frampton families who live close to the Four Corners Store, were kind enough to invite me into their homes, and show me the massive treatment system that had been installed by the State. I am very pleased that I can tell these families and many others in New Hampshire that we are one important step closer to having an effective solution to the MTBE problem.

Specifically, this legislation bans MTBE; provides money for the cleanup of MTBE; eliminates the oxygen mandate in the RFG program, and maintains the current level of air quality protection. Additionally, the legislation requires the Environmental Protection Agency (EPA) to conduct an expedited review of state petitions to suspend the oxygen mandate in the RFG program. If the EPA fails to complete the review of a State petition within 30 days, the petition will automatically be granted. This provision could allow New Hampshire to begin to eliminate MTBE from the fuel system even before the oxygenate mandate is lifted.

Finally, the language includes $2 million for the research of techniques to cleanup bedrock contamination and to establish a clearinghouse for sharing the information. According to Dr. Nancy Kinner, a scientist from the University of New Hampshire, tracking and cleaning up MTBE in fractured bedrock is one of the greatest challenges we face as a result of MTBE leaks. This research will help to address that problem.

Mr. President, this was not an easy compromise to reach, but we have come together on an effective solution. I want to thank Senator DASCHLE for including my MTBE legislation in this energy package from the beginning of this process. I would also like to thank the Majority Leader for working so hard with me and other members to hammer out a compromise package and ensuring passage. Senators MURKOWSKI, INHOFE, and VOINOVICH were in tough positions but they worked tirelessly to come to this agreement—without them, we could not have solved the MTBE problem. I would also like to thank the stakeholders, including the refiners, ethanol producers, and environmental groups—all of whom have worked with me over the last few years to reach a consensus.

Last, I would like to thank all the Senate staff who worked on this package. Specifically, I would like to mention David Conover, Chris Hessler, Melinda Cross, Eric Washburn, Chris Miller, Alison Taylor, Janine Johnson, Dan Kish, Jamie Karl and Andy Wheeler. I am pleased that this comprehensive solution is supported by so many of my colleagues.

Mr. BIDEN. Mr. President, the energy bill that we will pass today is not the most perfect bill—there are a number of things in this bill that I don't like. What we will pass today is the product of two months of debate and changes, and it is a compromise. It offers the basis for a comprehensive and balanced plan to address the energy needs of this country.

Anyone who drives a car or pays an electric bill knows that over the past two years there have been huge fluctuations in oil and gas prices. The bill that will pass the Senate today by a bipartisan vote will increase energy supplies—fossil fuels and alternative sources such as ethanol, biodiesel, wind, solar and geothermal—will help stabilize prices, and will do so in an environmentally sensitive way. It provides tax incentives to spur new oil and gas production and development of renewable sources, while also promoting responsible conservation. It includes important consumer protections and assistance for low income persons, particularly the elderly who live on fixed incomes. And I was also pleased that this bill protects the Arctic National Wildlife Refuge from oil drilling, and takes important steps toward cutting greenhouse gas emissions.

I am voting in favor of this bill today because it provides an important framework for a national energy policy. I think that there is more we can do and I am hopeful that in conference, the House and Senate will work together to improve this legislation.

Mr. NELSON of Nebraska. Mr. President, I rise to explain the reality of ethanol production in the United States and do so in opposition to the amendment to postpone the renewable fuels standard implementation date.

There are currently 61 ethanol plants with the capability of producing 2.3 billion gallons of ethanol per year, the amount required by the current RFS on the starting date of January 1, 2004. Some opponents of the RFS claim ethanol plants operate at only 82 percent of capacity.

We have tried to explain that production is below capacity because the market for ethanol at a fair price is below production capability. In previous testimony, I have explained that certain big oil and gasoline companies simply refuse to use ethanol even when wholesale price is well below the wholesale price of gasoline and ethanol's high octane number is a free benefit. The RFS will change that situation.

However, to ease the concern of the RFS opponents, we have accepted their production number of 1.7 billion gallons in 2001—not the 2.3 billion gallon capacity.

There are currently 16 new plants under construction that will add another 400 million gallons of capacity, raising the total to 2.7 billion gallons of ethanol by year's end. Again, taking our opponents numbers, total production is forecast at 2.2 billion gallons.

From a review of proposed new ethanol plants in various stages of planning, design, engineering, permitting and financing, we can very conservatively estimate that another 300 million gallons of production capacity will come on line in 2003, to give us a total of 3 billion gallons capacity and 2.5 billion gallons of production, using the estimates of RFS opponents.

I know ethanol plant operators; they will exceed nameplate capacity when the market is there and the price is fair. We should also have well over 70 million gallons of biodiesel production by 2004. This is equivalent to about 100 million gallons of ethanol, using the 1.5 to 1 ratio for biodiesel and cellulosic biomass allowed by the RFS.

Consequently, without unforeseen obstacles, America will have the capability to produce about 3 billion gallons of ethanol when the RFS requirement is only 2.3 billion gallons to be used throughout 2004—giving us still more construction time in 2004. If a disaster hits, there are safety features in the RFS to deal with the problem.

I might add it is far more likely that a disaster in oil and petroleum product availability will occur than a shortage in the supply of ethanol. Should a fossil fuel disaster hit, ethanol supplies will be most welcome in keeping the price of gasoline down.

I will add to the RECORD an op-ed article written by a professor of rural sociology and environmental studies at the University of Wisconsin in Madison. It appeared in The Washington Post on April 4. It is titled ''Why We Can't Drill Our Way to Energy Independence.'' Professor Freudenburg ends his article with these thoughts: ''Only if we recognize the facts can we start to talk about a realistic energy policy. If the United States is ever to become energy-independent again, it won't be because of oil.''

The professor is right, and Senator KERRY was right when he said we have to create our way out of our dangerous dependence on foreign oil dependence.

I wish my colleagues, determined to weaken the ethanol industry, would

join the creative team by recognizing ethanol, biodiesel and other biofuels are a big part of the solution. We are all patriots. We are clear-sighted and determined to protect our national interest abroad and homeland security in America.

We seem, however, myopic in fully appreciating that transportation fuels do much more than move us to our jobs, our kids to school and goods to the market. They are absolutely vital to our economy, our well being—and to national and homeland security. Interrupt the flow of fossil fuels in our transportation sector and we are weakened in all of these sectors.

We must break that direct connection between fossil fuel imports and the overall well being of America. We can do so through the biofuels provisions in the RFS.

If we were real patriots, we would push beyond the goal of about 3 percent replacement by 2012 and set a goal of 10 percent or about 14 billion gallons by that year. In Nebraska, Iowa, Minnesota, and Illinois we are already well above the 10 percent mark.

For almost all States outside the Corn Belt, there are ample supplies of cellulosic biomass including agricultural and forestry crops and residues, rights-of-way, park, yard and garden trimmings and the biomass and fraction of municipal waste that is a disposal problem, and ends up in land fills and sewers.

We are on the cusp of the science and technologies to cost effectively convert this biomass into biofuels, bioelectricity and biochemicals. That is why I am promoting a ''Manhattan'' type approach in order to rapidly move forward with large demonstration plants and then on to full commercialization.

By working together and with adequate resolve, we can make the 10 percent goal and go beyond to the benefit of America's national, energy, and homeland security and its economy through new basic industries, quality jobs and an expanded tax base. The environmental benefits are equally important.

If the Senator from California is concerned about ozone formation resulting from the introduction of ethanol, she should look to Chicago and Milwaukee where they have been essentially using ethanol blends for years with air quality steadily improving.

If the California Senators are concerned about benzene in their ground water, they should call for reductions in benzene and other aromatics in gasoline. These other aromatics, toluene and xylene, partially break down into benzene, a potent carcinogen, in the combustion process, both in the engine and the catalytic converter. Ethanol can replace these aromatics to the overall benefit of the environment.

California will ban MTBE in 2004. Yet, the California Senators oppose the introduction of ethanol to replace MTBE. They want to turn to the aromatics and alkylates to meet supply and octane needs. The availability and costs of alkylates are unknown. The adverse environmental and health effects of aromatics are well known. Therefore, to accept aromatics and to oppose ethanol is a disservice to the people of California.

The opponents of ethanol bring up the possibility of price fixing by the ethanol industry. I believe bringing such unsubstantiated claims to the Senate, and used as arguments to damage the ethanol industry in its entirety while the future of ethanol is being debated, is regrettable. This sudden flood of media on this issue cast suspicion on the reality of these claims, and leads one to believe that enemies of ethanol are simply continuing their campaign to tarnish ethanol's reputation and the industry in its entirety.

If there are concerns about the price of ethanol, the reality of the marketplace should provide needed comfort. At the wholesale level, ethanol prices are well below those for MTBE, ethanol-free gasoline, the aromatics and, we assume, alkylates, since wholesale prices for this gasoline component are not available.

The RFS is the best option we have to reduce our dangerous dependence on imported oil and to gain other benefits I have already outlined. It is time to bring this debate to a close and to seriously move forward with national determination to lead the world in the production of biofuels, bioelectricity and biochemicals using cellulosic biomass and waste streams as feedstocks.

Mr. President, I ask unanimous consent the op-ed from the Washington Post be printed in the RECORD.

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

[From the Washington Post, Apr. 24, 2002]

WHY WE CAN'T DRILL OUR WAY TO ENERGY INDEPENDENCE

(By William R. Freudenburg)

WASHINGTON, Apr. 24.—It's time for a reality check on energy policy.

Politicians are fond of claiming that increased domestic oil production can restore energy ''independence,'' but anyone who actually believes those claims is living in a world of self-delusion. U.S. energy independence hasn't been physically possible since the days when Elvis was still singing, and if we're talking about oil, it won't ever be possible again.

There are two reasons. One is that the United States simply uses too much oil, too wastefully. The other is that we've already burned up almost all the petroleum we have. The calls for ''energy independence'' aren't based on realism; they're based on nostalgia.

To be fair, we've had quite a petroleum history. Back in 1859, the United States was the country where the idea of drilling for oil originated, and for nearly a century thereafter, we were a virtual one-nation OPEC. Save for a few years around the turn of the last century, the United States produced over half of all the oil in the world more or less continuously until 1953.

But ever since then, our proportion of world oil production has been dropping, with only minor fluctuations, no matter how much our politicians have tried to stop the slide. Ironically, around 1973, when President Nixon's ''Project Independence'' first brought the issue of energy policy (and the idea of energy ''independence'') to the minds of most Americans, the country moved decisively in just the opposite direction from independence. Even during the massive push to increase U.S. oil production in the years of Ronald Reagan and James Watt, the only real effect was a tiny increase in the U.S. proportion of world oil production—from 14.5 percent to 16.8 percent—between 1980 and 1985.

By the time Reagan left office, physical reality had reappeared, and the U.S. share of world oil production was even lower than when he started. In recent years, we have produced less than a tenth of the world's oil.

Why have politicians been arguing about oil exploration on the northern edge of Alaska, even as we keep moving further off the southern edge of the continent, into the ever-deeper waters of the Gulf of Mexico? It's simple: We've already drained almost everything in between.

Politically savvy spin doctors may be able to get many Americans to overlook the facts, at least in the short run, but they aren't going to change reality, and the aren't going to turn back the clock. According to the American Petroleum Institute, the United States is now down to just 3 percent of the world's proven reserves of oil. Wishful thinking isn't going to change that.

Unless the politicians can figure out how to turn their hot air into oil, we need to face the facts: It is no longer possible for the United States to drill its way to energy independence. This country simply doesn't have that much oil left, and if we use that oil faster, we will just run out sooner.

Only if we recognize the facts can we start to talk about a realistic energy policy. If the United States is ever to become energy-independent again, it won't be because of oil.

Mr. FEINGOLD. Mr. President, energy policy is an important issue for America, and my Wisconsin constituents take it very seriously. The bill before us seeks to address the balance of domestic production of energy resources versus foreign imports, the tradeoffs between the need for energy and the need to protect the quality of our environment, and the need for additional domestic efforts to improve our energy efficiency, and the wisest use of our energy resources. Given the importance of energy policy, an energy bill is a very serious matter, and I do not take a decision to oppose such a bill lightly. Mr. President, in my view, this bill does not achieve the correct balance on several important issues, and I will oppose this bill.

Though the bill as amended will revitalize the Federal Government's responsibility to regulate fuel economy, it weakens current law and exempts pickup trucks from any future increases in fuel economy standards. The amendment by the Senator from Michigan, Mr. LEVIN, on fuel economy which I supported requires the Department of Transportation to develop new fuel economy standards in 15 months for light trucks and 24 months for passenger cars. Taking pickup trucks off the table undermines a serious effort to re-think our fuel economy policy in a rulemaking context, and it is a direction I oppose.

In addition, Mr. President, as introduced, this bill contained a renewable

energy portfolio standard requiring electric utilities to generate or purchase 10 percent of the electricity that they sell from renewable sources by 2020. I supported an amendment offered by the Senator from Vermont, Mr. JEFFORDS, to increase this percentage to 20 percent, but on the floor the Senate adopted amendments to water it down to 8 percent. Moreover, with the exemptions for some utilities added to the bill, the real effect will be about 4–5 percent new generation from renewable sources by 2010. We can and should do more to use renewable sources of energy, and this bill should have set a serious target.

In addition, this bill repeals the proconsumer Public Utility Holding Company Act, the Federal Government's most important mechanism to protect electricity consumers. The Senate failed to adopt the amendment by my colleague from Washington, Mrs. CANTWELL, to strengthen consumer protections which I helped write and co-sponsored. The bill should have given the Federal Government more oversight over utility mergers and should have prevented utilities from passing on the costs of bad investments to consumers and from using affiliate companies from undercutting small businesses. Also the electricity provisions of the bill do not re-regulate trading of energy derivatives. This would have been addressed by an amendment offered by the Senator from California, Mrs. FEINSTEIN, which I supported, which would have fostered a more stable market with transparent transactions and helped to prevent another Enron.

Finally, I am also concerned that we added $14 billion in tax breaks without paying for them on this bill. Our budget position has deteriorated significantly over the last year, in large part because of the massive tax cut that Congress enacted. We now face years of projected budget deficits. The only way we will climb out of this deficit hole is to return to some sense of fiscal responsibility, and first and foremost that means making sure that the bills we pass are offset. Without offsetting the cost of the tax package, we are digging our deficit hole even deeper and adding to the massive debt already facing our children and grandchildren.

The American people deserved better with this bill, and I cannot vote in favor of it. This measure will need to improve in Conference to get my vote, and I look forward to an improved bill.

Mrs. BOXER. Mr. President, I will vote against the energy bill because it is a bad bill for California and the nation.

The bill includes an ethanol mandate for California that will raise gas prices. Cleaner air for California can be achieved without this mandate. Ethanol has been given a liability waiver if there are adverse consequences from its use. I tried to eliminate this waiver but lost on a 42–57 vote. We already know that ethanol may spread plumes of harmful chemicals, such as benzene, toluene, ethyl benzene, and xylene. So this is a dangerous waiver.

The energy bill does not do enough to protect consumers from another electricity crisis. I worked to include a measure in this bill that would have guarded against future market manipulation by companies like Enron by increasing oversight of the electricity market. Companies would be far less likely to gouge consumers if these additional protections were in place, but the Senate refused to pass this vital measure.

Also, I am disappointed that the Senate walked away from reasonable fuel economy standards and stronger air conditioner efficiency standards, which are so important to our environment and to lessening our dependence on foreign oil.

The ''good guys'' have had few wins. We were able to keep the provision of the bill to provide tax credits for alternative energy sources and alternative fuel vehicles. And we defeated an attempt to open the Alaska Wildlife Refuge to drilling, for which I am very thankful to the grassroots of California for all their efforts. But drilling in Alaska did get 46 votes, and I am concerned that with the bill passing the Senate, drilling in Alaska may not be dead in the conference committee.

In conclusion, the bill does more harm than good for the people of California.

Mr. KENNEDY. Mr. President, I must rise, regrettably, to oppose the energy bill. This legislation means higher gas prices and lower environmental protections for the American people, and it should be opposed.

I commend Senators BINGAMAN and DASCHLE for their leadership and their tireless work on this initiative. I believe I could have lived with many sections of the bill as introduced. I know there are many issues regarding our national energy policy upon which Senator DASCHLE, Senator BINGAMAN and I agree. However, in my opinion the bill in its current form falls far short of the mark for environmental and consumer protections, and forces us to rely on oil more than innovation for our energy needs for the foreseeable future.

The energy bill as introduced wasn't as bold as it could have been, but it represented an improvement over the status quo. It had higher goals for renewable energy. It maintained some consumer protections. There are still provisions in this bill that deserve everyone's support. It's true that we are raising the bar a bit in calling for renewable energy, though not enough. We're providing some tax credits for renewable energy production and energy efficiency. We're improving pipeline safety. We're investing resources in making renewable energy more efficient and profitable. We're conducting research on finding the most appropriate and effective places to site renewable energy facilities. We spoke very clearly that drilling in the Arctic Natural Wildlife Refuge is not in the interests of our economic or national security.

I am also pleased with Senator BAYH's leadership on clean-burning school buses, and I look forward to continuing our work together on this very important issue.

But I think this bill doesn't do enough to ensure that efficiency is a serious component of our energy policy. I commend Senators KERRY and MCCAIN for their efforts on fuel economy standards, but I'm very disappointed in the vote on CAFE. I'm also disappointed that the Senate couldn't find an agreement to set broad goals for fuel consumption as reflected in the Carper amendment. I fear we will be forced to revisit this issue again sooner rather than later.

I'm very concerned that we didn't do enough to protect consumers in this bill. Energy industries wanted fewer regulatory restrictions, and were rewarded in this bill. The underlying bill had adequate consumer protections, but they were watered down by amendments. In today's fast-paced world of energy trading, and mergers, we should err on the side of transparency and consumer protection. The energy bill doesn't do that.

I'm particularly concerned about the potential harm to the environment in this bill. This bill supports hydraulic fracturing. It forces States to use ethanol—and while ethanol clearly addresses air pollution, I'm concerned that the residue created by ethanol, known as EBTE, could pollute our water supply. We shouldn't be trading clean water for clean air.

The fuel oxygenate mandate provisions are cumbersome for Massachusetts. It forces our state to use more ethanol than it will be able to accommodate for several years. The infrastructure to transfer ethanol is inadequate, and when Massachusetts finds itself unable to meet the mandate, it will be forced to pay a credit—increasing gas prices at the pump. I'm also concerned about the impact to the highway trust fund—Federal resources from the gas tax should be spent on repairing and constructing roads and bridges. More ethanol would reduce the revenues in this fund and compromise our ability to maintain our transportation infrastructure.

I am very concerned about the liability protections given to industry. We're subsidizing and capping the liability costs of the nuclear industry in this bill—I believe if you're not prepared to bear the total costs of nuclear power, then you shouldn't enter the business. We're giving blanket product liability protections to fuel additive manufacturers, even though we don't have adequate information on their safety if they drain into our drinking water. An energy bill should be about innovation, conservation, and security—not about providing yet more liability protections for corporations when their products hurt people or the environment.

This bill has some improvements, but I'm sure the Senate could do better.

Mr. MCCAIN. Mr. President, regarding this energy proposal before the Senate proceeds to a final vote today. For 6 weeks, we have debated various aspects of this energy proposal. It's been the most exhaustive debate on energy related issues since 1992 when previous energy legislation was enacted.

In that 10-year time span, unfortunately, conditions have only worsened. America's dependence on foreign oil has increased from 46 percent to 57 percent. In 1992, gas prices were $1.13 per gallon. But, in recent times, consumers have had to absorb several price spikes in gasoline prices, some in excess of $2 per gallon. Special interest tax subsidies are also on the rise. In 1992, the Congress enacted $1.5 billion for energy tax credits and benefits for 5 years. This Senate bill includes more than $13 billion for 10 years, and this amount could increase since the House-passed energy bill includes more than $30 billion in energy tax subsidies.

As I listened to many of my colleagues debate these various issues on the Senate floor, the consistent message I have heard from both sides of the aisle is the need for a balanced energy policy, increasing U.S. energy stability, and protecting American consumers. These are all laudable and important goals. The end result, however, is a bill that falls significantly short of these goals and represents more benefits to special interests than to the American people.

One of the stated objectives of this new energy policy is to reduce America's dependence on foreign oil. Regrettably, we missed a critical opportunity when the Senate rejected a proposal to increase fuel efficiency standards, which would have substantially decreased our Nation's dependence on foreign oil and also reduced greenhouse gas emissions. Had we adopted an increase of fuel efficiency standards to 36 mpg average by 2015, we could have potentially saved 2.6 million barrels of oil per day by 2020. This amount is about equal to present imports from the Persian Gulf.

The Senate also rejected a modest effort to mitigate the growth rate of our Nation's oil consumption, which increases each year by an estimated 2.5 percent, by requiring the Secretary of Transportation to reduce the amount of oil we use to power passenger cars and light trucks by 1 million barrels per day by the year 2015.

Both these critical measures would have gone far to improve energy efficiency, the environment, and public health. By increasing CAFE standards by 46 percent and reducing our consumption of oil, we could also have reduced greenhouse gas emissions by 25 percent in Arizona alone, significantly improving the air that is negatively impacting our citizens. Instead, pressure from car manufacturers and industry won the day, and we rejected these modest approaches to improving energy efficiency and public health.

Another big benefactor in this bill is the ethanol industry. Not only does this bill propose a ten-year extension of tax benefits for the ethanol industry, it also requires that ethanol use in gasoline shall be increased three-fold by 2012.

Proponents of the new reformulated fuel standard requirement suggest that their intention is to help farmers, small ethanol producers, and replace the controversial fuel additive, methyl tertiary butyl ether, MTBE, which has been proven to contaminate groundwater. This new ethanol requirement is so important to its sponsors that they willingly override continuing public and scientific concerns about ethanol's impacts on the environment and public health. Unanswered questions remain about the Nation's production and transportation readiness for this expanded market. Billions will continue to be drawn from the Federal treasury to subsidize the ethanol industry.

The ethanol industry has enjoyed extremely generous subsidies for close to 30 years. By any business standard, it should be more than aptly competitive. This is a free market economy, yet, here we are, essentially guaranteeing the ethanol industry a monopoly on the gasoline market for the next 10 years. Plus, this bill continues the 5.3 cents-a-gallon tax subsidy and other ethanol tax benefits, which drain $1 billion annually from the Federal treasury. By tripling the amount of ethanol use, this amount could raise to $2.5 to $3 billion a year. This is poorly conceived public policy, and blatant corporate welfare at its worst.

Back in March of this year, I voted for the Job Creation and Worker Assistance Act of 2002. It was the economic stimulus package that provided temporary assistance for unemployed Americans and their families. At the time, I stated that we should not ignore the plight of millions of Americans who were laid off and wanted to return to work. I also said that my vote for this legislation should not be interpreted as a total endorsement of all of its provisions. Indeed, I stated my serious reservations about a particular provision in the bill that extended a tax credit to the industry in the business of converting poultry waste into electricity until the end of 2003.

Well, guess what? The tax incentives in the energy bill address the very same provision again but with a twist that will cost taxpayers $2.3 billion over the next 10 years. In the past, this income tax credit has been allowed for the production of electricity from either qualified wind energy, ''closed-loop'' biomass, or poultry waste facilities. But the bill before us not only extends this tax credit until the end of 2006, it also expands the qualifying energy resources to include geothermal energy and solar energy, ''open-loop'' biomass, and swine and bovine waste nutrients.

I am certainly glad that we have gone beyond helping the chicken waste industry now. Now, we have eliminated the discrimination in favor of chickens. We are awarding the productive use of the waste of pigs and cows. But why don't we totally eliminate this animal waste discrimination. Why not give a credit for the waste of dogs, cats, mice, birds? The list is infinite. Let's end discrimination now and give a tax credit for converting all kinds of animal waste. I am very confident that the American taxpayer will feel that their hard-earned money is being well spent. And if you believe that statement, I'm sure that there is some waterfront property in Gila Bend, AZ, you would be interested in buying.

Again, my concern is that the special interests continue to benefit at the expense of hard-working American taxpayers. I regret that I cannot support a bill that is so detrimental to taxpayers and does little to improve national energy security.

Mr. KERRY. Mr. President, today the Senate completed consideration of the energy reform bill after 6 weeks of debate. I voted yea on final passage. Before we began debate on this legislation, I gave a talk here in Washington at the Center for National Policy outlining a sound energy policy for this Nation. Despite my vote for the energy bill, I believe that the Senate has fallen far short of crafting a sound energy policy for this nation.

The Senate did not enact a national energy policy today. I should add that the House and President has failed at that task, as well. Why then am I voting for the Senate bill? Because the Senate bill is far better than the President's plan or the House bill. It is critically important that the Senate have a voice in this discussion and put forward its work. After 17 years in the Senate, I can see from this debate, that while the bill we passed today falls far short of what the Nation needs, it is simply the most the political system can bear right now. The fundamental changes we need were resisted and ultimately defeated by the special interests that benefit from the status quo. And while it may be too much to ask, I hold out hope that the bill can be improved in the conference process. If it is not improved, I do not believe I will be able to support the conference report.

I want to quickly outline some of the strengths in this bill and some of the weaknesses.

The tax package is reasonable and balanced. It totals about $15 billion, with that cost nearly equally divided between coal, oil, gas, and nuclear and energy efficiency and renewable energy. In the context of this measure, I support the assistance to clean coal, marginal well production, and other areas. I strongly support the tax credit for hybrid, fuel cell, and alternative fuel vehicles. I strongly support tax credits for efficient air conditioners, water heaters and other appliances. I strongly support the tax credits for wind, solar, biomass, geothermal, and

other renewable electricity and energy production.

The bill contains significant provisions to increase oil and gas production. As I have said, it includes new tax credits for marginal well and other production. It also includes loan guarantees and prices supports for the construction of a natural gas pipeline from the North Slope of Alaska to the Lower 48 States. This will move more than 35 trillion cubic feet of natural gas to market, be the largest private works project ever undertaken in North America, and create hundreds of thousands of jobs.

The bill also contains a very modest renewable portfolio standard that would require 10 percent of the Nation's electricity be produced from renewable energy sources by 2020. This standard is weaker than what I believe is possible. I have advocated that the Nation set a goal of producing 20 percent of its electricity from renewable sources by 2020. Unfortunately, the Senate not only accepted a lower target, but it adopted an amendment that undermines the integrity of the RPS system allowing for the purchase of inexpensive credits, credits potentially below the market price of renewable electricity. Nevertheless, it is important to enshrine this important concept of a renewable portfolio standard into law.

I supported the renewable fuel standard in the law. This provision was supported by the State of Massachusetts as a way to end more costly mandates under the Clean Air Act, ensure clean air, end the use of polluting MTBE, and create a national market for corn ethanol, biomass ethanol, and other renewable fuels.

The bill's most significant failure is that it does nothing to meaningfully reduce oil consumption or enhance efficiency in the transportation sector. The Senate rejected a proposal I crafted with Senator MCCAIN that would have raised fuel economy standards for America's passenger vehicles and save 1 million barrels of oil per day by 2015. The result is that the Senate has foregone action on the single greatest step we can take as a nation to reduce our dependence on oil, protect the economy from oil price shocks, and reduce harmful pollution.

For the past year I have urged my colleagues to oppose drilling in the Arctic National Wildlife Refuge. I am grateful that a majority of the Senate voted to protect the refuge. I am grateful that, while this bill is inadequate, it does not open the refuge to oil drilling. I will oppose any attempt to add drilling in this bill in conference with the House.

As I have said, this energy bill is not an energy policy for the Nation. It is a collection of policies, many good and many bad, that will, in total, move the Nation only incrementally forward. It is not by any means a solution to the challenges that we face. While I voted for this bill today, I pledge myself to continuing the fight for clean, reliable, and domestic energy and for a real energy policy for this Nation.

Mrs. FEINSTEIN. Mr. President, when the members of the Senate Energy Committee, including Senator SCHUMER, Senator CANTWELL, Senator WYDEN, and I, began talking about doing a comprehensive energy bill more than a year ago there were three major things all of us said that we wanted to see in the bill.

First we believed that we needed to reduce our energy consumption and hence our country's dependence on foreign oil.

Second we wanted to get to the bottom of what was happening with energy markets in California and the West where electricity and natural gas prices were 10–25 times higher that they should have been.

And we wanted to do all we could to ensure that a crisis of this magnitude could never happen again.

And third, we wanted to address global warming by quantitatively and measurably reducing our emissions of greenhouse gases.

These are still the elements I support in an energy bill. But the simple fact of the matter is that these elements are not in this bill.

First the Senate rejected Senator CANTWELL's and my amendment to provide transparency, oversight and authority by the Commodity Futures Trading Commission (CFTC) on energy derivative trading.

What we saw in energy markets was the on-line trading of energy commodities like natural gas and electricity multiple times to drive up prices and escape any federal oversight or transparency whatsoever.

This is what Enron was doing through its on-line trading company, Enron On-Line before the company went bankrupt.

And Dynegy and Williams, two companies operating on-line exchanges similar to Enron On-Line have taken over some of Enron's market share and are trading without oversight or transparency either.

The Senate had the opportunity to address this problem which arose from the Commodity Futures Modernization Act of 2000.

But instead the Senate rejected our amendment which would have ensured that there was proper oversight for energy trading.

So I don't think this energy bill will do a single thing that assures me that we won't have another crisis in my state.

The Senate also had the opportunity to pass legislation to increase fuel economy standards. Senator SNOWE and I introduced legislation last year that would have closed what is known as the SUV Loophole.

That loophole allows SUVs and other light duty trucks to meet lower fuel economy standards than other passenger vehicles. The standard is 27.5 miles per gallon for cars and 20.7 miles per gallon for SUVs.

Our bill would have saved a million barrels of oil a day, reduced our dependence on foreign oil by 10 percent, and prevented more than 200 million tons of carbon dioxide from entering the atmosphere each year.

It was the single most important thing our country could have done not only to combat global warming, but to become more fuel-independent at the same time.

I regret that we did not have the opportunity to vote on this measure as the Senate instead overwhelmingly defeated a much more ambitious proposal to significantly raise standards for all vehicles.

I am convinced that had we not done that, the Feinstein-Snowe amendment would have had a real shot at winning.

By a longshot however, the ethanol mandate is the most troublesome provision in the Senate energy bill.

What was also sneaked into this bill without a hearing was essentially a new gas tax that will result in a wealth transfer from California and New York and other coastal States to States in the Midwest.

It actually triples the ethanol market by mandate.

And if a State does not need it, it forces that State to buy credits to pay for it.

In fact, the mandate extorts California to use 2.68 billion gallons of ethanol over nine years that it does not need.

All this for a substance that is already subsidized to the tune of 53 cents per gallon and protected from any foreign competition through significant tariffs.

No one knows for sure how much gas prices will increase because of this mandate.

One recent analysis indicates that prices will increase 4 to 10 cents per gallon across the United States if the Senate energy bill becomes law.

I believe that the price spikes in California will be even more severe beginning in about 2004 as our State is close to our refining capacity and using ethanol will shrink our gasoline supply and force us to refine more.

California also does not have the necessary infrastructure in place to transport the ethanol to market.

I am particularly concerned about the limited number of suppliers in the ethanol market.

In fact, one company ADM controls 41 percent of the market.

And of course, nobody really knows the long-term health and environmental effects of nearly tripling the amount of ethanol in our gasoline supply.

Some evidence suggests that (1) reformulated gasoline with ethanol produces more smog pollution than reformulated gas without it; and (2) ethanol enables the toxic chemicals in gasoline to seep further into groundwater and ever faster than conventional gasoline.

But just like when we introduced MTBE into our gasoline we simply

don't know what the ramifications will be.

And of course to top it off this bill protects these energy producers from any future liability.

And the funniest thing of all is that all this is for a gasoline additive that California and other States hardly need.

With the exception of the winter months in some of the southern part of the State, California can meet all its Clean Air Act Standards with its own reformulated gasoline.

In actuality we need to use very little ethanol.

So that is why I strongly oppose this bill and I believe we will rue the day we passed this ethanol mandate and this energy bill.

Mr. BUNNING. Mr. President, I rise today to talk about biodiesel, an alternative source of energy. I believe that we have made great strides on this energy bill. A sensible energy policy requires that we boost production of domestic energy sources while also balancing conservation. Biodiesel as an alternative fuel is one good way this energy bill will increase domestic production and lessen our dependence on foreign oil.

I am very happy to hear that the Finance Committee's tax proposals were added to this bill. The tax proposals included provisions that promote conservation and expanded use of cleaner burning fuel.

Also in these provisions are tax credits for biodiesel. The tax credits are a good start at encouraging the use of biodiesel as an alternative fuel source. However, the tax provisions do not treat all biodiesel the same.

There are many types of biodiesel including animal fats, recycled cooking oils or restaurant greases, and vegetable oils made up of soybeans, sunflower seed, canola, safflower seed, and flaxseed. In the tax provisions, though, the vegetable oils are treated differently than the animal fat and recycled oils.

There should be equal tax treatment for biodiesel. The different tax credits for biodiesel sends a confusing signal to the biodiesel market. It encourages growth only in one area of this beneficial renewable fuel, vegetable oil.

In addition, vegetable production has highly federalized subsidies and a lucrative byproduct market. For instance, glycerin from soy refining is used in a variety of food and pharmaceutical processes, and has a value advantage of 10–15 cents per gallon of biodiesel. The rendering industry, the primary source of animal-based biodiesel feedstocks, receives no Federal support and has a more limited byproduct market.

The unequal tax treatment is in stark contrast to the remainder of the energy bill. The bill includes all domestic energy sources in its renewable energy provisions and treats animal and vegetable sources biodiesel equally.

Kentucky has a large amount of soybean crops. So, I support encouraging the use of vegetable oil and support the tax credits in the bill. However, tax incentives should not discriminate between different kinds of alternative fuels.

One of the goals of the pending energy bill is to encourage development of renewable energy supplies. Including all sources in the tax provision will further this effort and maximize the positive impact on U.S. agriculture.

I hope that we find a way to encourage all alternative sources of energy. This is important to our production and will strengthen our national security.

Mr. JEFFORDS. Mr. President, I wish to state my support for the amendment offered by my distinguished colleague from Illinois, Senator FITZGERALD, and to express my extreme disappointment that it was not agreed to by this body.

This very sensible amendment would have clarified that the incineration of municipal solid waste will not be treated as renewable energy for purposes of the renewable portfolio standard and for the Federal renewable energy purchase requirement.

This issue arises because the burning of landfill waste in incinerators is one method of producing electricity. It produces only a minimal percentage of our electricity, but creates almost one quarter of the nation's mercury emissions, and significant levels of dioxin.

Dioxin, a known carcinogen, cause impairment of immune, nervous, reproductive and endocrine systems, even at extremely low concentrations. Infants are particularly sensitive to dioxin because of dioxin concentrations in human breast milk. Studies of infants show up to 65 times the maximum dioxin exposure recommended by the Environmental Protection Agency.

The National Academy of Science has found that although waste incinerators have reduced their dioxin air emissions, total dioxin releases in fly ash, bottom ash and other revenues have not decreased.

According to the most recent EPA data, 2.2 tons of mercury were emitted from garbage incinerators in 2000. This accounts for almost 20 percent of the nation's mercury emissions. Toxic amounts of mercury exist in our lakes, rivers and groundwater. Mercury causes neurological damage and birth defects, resulting in developmental delays and cognitive defects.

The renewable portfolio standard contained in the bill is intended to provide incentives and market support for the production of clean, renewable energy technologies. These include wind, solar, geothermal and biolass energy. One of the primary reasons for promoting these energy sources is that they give us clean power. They provide electricity that is free of the toxic wastes and emissions associated with many of our traditional fuel supplies.

Including the incineration of municipal solid waste in this category flies in the face of reason. If we want to keep mercury flowing into our streams and rivers, we can just pour more money into coal-fired power plants. An energy source that cripples our infants and causes cancer is not something we should support under the umbrella of renewable energy.

I am aware that incinerators have made significant strides in reducing toxic emissions. However, as I have stated above, municipal solid waste incinerators still account for 20 percent of nationwide mercury emissions, and still contribute to the release of highly toxic dioxins.

It is completely inappropriate to incentivize the continued release of these toxic substances as part of a provision aimed at clean, renewable energy.

Neither the amendment nor the underlying bill language would in any way undermine or hamper the current incineration of municipal solid waste, and would not prohibit or discourage new incineration. Neither the amendment nor the underlying bill language will not create new regulations regarding incineration of municipal solid waste, nor change existing ones. All this amendment would have done is ensure that municipal solid waste is not encourage as a renewable energy resource.

Including energy sources that result in highly toxic emissions does however undermine the foundation of the renewable portfolio standard, which is to help clean, renewable energies to compete against other energy sources.

Mr. President, I am greatly disappointed that this amendment was defeated but intend to address this issue further in conference.

Mr. REID. Mr. President, the world's energy system has evolved for thousands of years.

Almost without trying, the global energy system has favored fuels that burn cleaner and more efficiently: from wood burning in prehistoric caves to the Franklin stove of the 18th century; to coal despite the fact that wood was more abundant; to oil required to meet the insatiable needs of a motorized transportation sector at the start of the 20th century; to natural gas, which can be distributed through a system of pipes right into the kitchen or a home furnace, or easily converted into electricity; and now to renewable energy sources.

Faced with uncertainties in electricity energy markets, turmoil in the Mideast, the need to cut back on the fossil fuel emissions linked to global warming, local and regional air pollution that contributes to high rates of asthma and smog-filled national parks, the United States must diversify its energy supply using renewable energy.

If State regulators approve Nevada Power's latest rate proposals for 2002, Las Vegas electricity rates will have jumped a total of 75 percent since 1999. In the same period, natural gas prices have doubled. We need to change the energy equation. We need to diversify

the Nation's energy supply to reduce volatility and ensure a stable supply of electricity. We must harness the brilliance of the sun, the strength of the wind, and the heat of the Earth to provide clean, renewable energy for our Nation.

I am also pleased that the energy bill currently before the Senate contains a renewable portfolio standard requiring that a small, gradually growing percentage of the nation's power supply come from renewables such as wind, solar, biomass and geothermal sources over the next two decades.

I am pleased that the tax provisions of this bill strengthen the production tax credit for renewable energy resources.

Eligible renewable energy resources have been expanded from wind and poultry waste to include geothermal, solar, open-loop biomass, and animal waste. The credit has been extended for 5 years for geothermal and solar, and animal waste, and 3 years for biomass. We need this production tax credit to provide business certainty and ensure the growth of renewable energy development and to signal America's long-term commitment to renewable energy. It is time to level the playing field—subsidies for fossil fuels dominate the Federal Tax Code, with 62 percent of all Federal tax expenditures going to oil and gas companies.

After pouring billions into oil and gas, we need to invest in a clean energy future.

Other nations are developing renewable energy resources at a much faster rate than the United States. In 1990, America produced 90 percent of the world's wind power; today we generate less than 25 percent. Germany now has the lead in wind energy, and Japan in solar energy. Foreign corporations are using the same technology available to us—in fact, many of these technologies were developed in the U.S. But they have surpassed us because their governments have provide stable support for renewable energy production and use. America needs to reestablish its leadership in renewable energy.

In the U.S. today, we get less than 3 percent of our electricity from renewable energy sources like wind, solar, geothermal and biomass. But the potential for much greater supply is there. For example, Nevada, is considered the Saudi Arabia of geothermal. My state could use geothermal energy to meet one-third of its electricity needs, but today this source of energy only supplies 2–3 percent. This needs to change.

The good news is that the production tax credit for renewable energy resources really works to promote the growth of renewable energy.

In 1990, the cost of wind energy was 22.5 cents per kilowatt hour and, today, with new technology and the help of a modest production tax credit, wind is a competitive energy source at 3 to 4 cents per kilowatt hour. At the Nevada Test Site, a new wind farm will provide 260 megawatts to meet the needs of 260,000 people—more than 10 percent of Nevada's population within 5 years. In the last 5 years, wind energy has experienced a 30 percent growth rate. In 2001, wind energy capacity grew nationally from 2,600 Megawatts to 4,300 Megawatts, a 65 percent increase. With the benefit of the production tax credit, wind energy is the fastest growing renewable. We need to do the same for the other renewable energy resources.

America needs to build its energy future on an environmental foundation that protects air and water quality.

A recent article in The Journal of the American Medical Association revealed an alarming link between soot particles from power plants and motor vehicles and lung cancer and heart disease.

This was an exhaustive study of 500,000 people in 16 American cities, whose lives and health have been tracked since 1982. Experts gave the study high marks. Its conclusions are obvious—we need to do a better job protecting the air we breathe.

The adverse health effects of power-plant and vehicle emissions cost Americans billions in medical care, and our cost in human suffering is immeasurable. Simply put, the human cost of dirty air is staggering. If we factor in environmental and health effects, the real cost of energy becomes apparent, and renewables become the fuel of choice.

America's abundant and untapped renewable resources can fuel our journey into a more prosperous and safer tomorrow without compromising air and water quality. The potential is enormous. We need to expand and extend the production tax credit to enable renewable energy to compete on a playing field that currently is heavily inclined towards the continued production of oil, gas, and coal. In many States, including Nevada, expanded renewable energy production will provide jobs in rural areas—areas that are desperate for economic growth.

I urge my colleagues to support this tax package, with its provisions for a production tax credit to encourage the growth of renewable energy resources. Renewable energy—as an alternative to traditional energy sources—is a common-sense way to make sure that the American people have a reliable source of power at an affordable price. Renewable energy is the cornerstone of a successful, forward looking, and secure energy policy for the 21st century.

Mr. REID. Mr. President, it is my understanding we are now going to move to final passage. I would like to say, before everyone votes—and we will be very quick here—we have spent approximately 6 weeks on this bill. It has been a tremendous amount of time and I have been here a lot of the time. But I want to extend the full appreciation of the entire Senate for the work done by the two managers of this bill. Senator BINGAMAN and Senator MURKOWSKI have worked through some very difficult issues. I think they have made the Senate very proud in the work they have done.

Mr. LOTT. Mr. President, I cannot let this opportunity go by. I will be brief so we can vote. I know Senators have obligations they want to fulfill, but I have to say we do owe a debt of gratitude from the Senate as a whole to the chairman and the ranking member of the Energy and Natural Resources Committee. They have been at this for 6 weeks. It has been at least 5 years since we spent that long—I don't think, since I have been in the Senate, we have spent 6 weeks on a bill. So this is a monumental undertaking. It is coming to a positive result.

They provide bipartisan leadership. They have been persistent, and I thank them for that. I especially have to say to my colleague from Alaska, I appreciate his attitude. Even though I know his feelings on an issue that meant so much to him and the other Senator from Alaska, Mr. STEVENS, he said we had to move forward on an energy policy for this country.

You did the right thing for your country. I know in the end we are going to do the right thing for you and your State, too.

I yield the floor.

Mr. DASCHLE. Mr. President, we are now reaching the end of 6 weeks of debate on this energy bill. I want to thank Chairman BINGAMAN for his tireless leadership.

He began this process by coordinating the work of nine separate committees, and he has done an amazing job of shepherding this large, difficult, and sometimes contentious piece of legislation to its conclusion.

When we began this energy debate, I spoke about the need to keep in mind four key goals. I said that any energy plan we pass should increase our energy independence . . . it should be good for consumers . . . it should create jobs . . . and it should be responsible—both environmentally and fiscally.

In a number of places, this bill meets those goals. In some, it falls short. But overall, this is a far more responsible, progressive, consumer-friendly energy policy than the one advanced by the Administration, or passed by the House.

Our energy plan invests in new ideas, new technologies, and new approaches to old problems.

It demonstrates that our energy policy need not be a tug-of-war between increased production and increased conservation. This bill helps us do both.

For example, this bill encourages the construction of a pipeline to bring natural gas from Alaska to the lower forty-eight states. There are 35 trillion cubic feet of known natural gas reserves on the North Slope of Alaska.

Right now, that gas is being pumped back into the ground because there's no way to get it to the American consumers who need it.

Our nation faces a long-term shortage of natural gas, all experts agree. An Alaska pipeline would deliver at least 4.5 billion cubic feet of gas per day to the Midwest, the central point of the nation's gas delivery network. 4.5 billion cubic feet per day is nearly ten percent of America's daily gas consumption.

Last month, Alaska Governor Tony Knowles met with me to discuss the additional provisions he felt were needed to invigorate this project. At his urging, and with the strong support of Senators MURKOWSKI and STEVENS, the bill we are clearing for conference today not only assures that any gas pipeline from Prudhoe Bay will run through Alaska, it also seeks to assure access to the gas for residential and business users in Alaska, protects access to the pipeline for future gas discoveries, and reduces the financial risk resulting from wildly fluctuating gas prices.

The provisions we added are important to our nation's energy and economic security, and improve the viability of the Alaska gas pipeline project. They should be retained in conference, and I will work with Senator MURKOWSKI and Governor Knowles to protect them.

That pipeline is one example of how this bill will allow us to use our traditional fossil fuel supplies more intelligently.

Other examples include tax incentives to increase common-sense conservation in our homes, expand the use of renewable energy like wind, solar and geothermal power, and encourage investments in new technologies to help us use energy sources like coal in a more clean and efficient manner.

And, when it comes to energy efficiency, this bill also says that the federal government must lead by example.

I also said at the beginning of this debate that we already look for the ''Made in America'' label on our clothes. We need to put that same ''Made in America'' label on our energy, too.

That's why this bill includes tax incentives to help us diversify our energy supplies by harnessing the power of the wind, the sun, and the heat of the earth itself, and to keep the energy produced from those sources affordable.

And that's also why this bill triples the amount of ethanol we use.

Yesterday, I was out in South Dakota at an ethanol plant with President Bush. I agree with the President when he said, ''[ethanol is] important for the agricultural sector of our economy, it's an important part of making sure we become less reliant on foreign sources of energy.''

To that I would add that it's an important way of keeping our air clean, as well.

Tripling the use of ethanol is a win, win, win, and I'm glad that's what this bill does.

The electricity provisions in this bill will shore up the authority of the Federal Energy Regulatory Commission to make our electricity more reliable and competitive, and will establish a small but important renewable portfolio standard.

Remember, ethanol and renewable energies come from American farmers and producers, pass through American refiners, and fuel American energy needs.

No soldier will have to fight overseas to protect them. And no international cartel can turn off the spigot on us.

It is important we make sure these provisions stay as part of this bill in the conference.

On a personal note, I should add that crafting this fuels compromise took enormous effort, and I would like to thank Senators JIM JEFFORDS and BOB SMITH of the EPW Committee, as well as Senators TIM JOHNSON, DICK LUGAR, BEN NELSON and CHUCK HAGEL for their vision and hard work.

I do regret that we failed to keep the vehicle fuel-efficiency provisions that were originally in this bill—something that could have been done without affecting safety or performance.

That measure we would have saved American drivers billions of dollars—and saved our nation the same amount of oil we are currently importing from the Persian Gulf.

Bold steps like that would have moved us much closer to energy independence, and I hope that we can work to increase vehicle fuel efficiency in conference.

While I am frustrated that we didn't take that large step forward, Congress did the responsible thing by refusing to take a huge step backward by opening the Arctic National Wildlife Refuge for oil drilling.

Ultimately, a bipartisan majority of the Senate concluded that drilling in the Arctic Refuge would do very little to help our economic situation or increase our energy independence—but would do a lot to damage one of the last pieces of pristine wilderness in this country.

Finally, this bill reflects the growing bipartisan consensus that the threat of global climate change is real and, unless we act, will have devastating consequences for our children and grandchildren.

The climate change provisions in this bill will help restore American credibility in this area and begin the long-overdue process of American engagement in solving this growing problem.

In the end, this bill recognizes that we can't be content to pursue an energy policy based upon the old philosophy of dig, drill, and burn—and begins the process of moving towards more innovative approaches to our energy future.

It doesn't get us all the way there, but it gets us moving in the right direction.

I am hopeful that we can continue to move even further in that direction when this bill goes to conference. But for that to happen, we need to pass this bill now.

It has been six weeks on the floor.

We have had a good, open, and fair debate. We've debated and voted on dozens of amendments.

Let us acknowledge the important role of conservation and renewable sources for our nation's energy future.

Let us start moving towards a more balanced and far-sighted energy policy.

Let us pass this bill.

The PRESIDING OFFICER. Under the previous order, the substitute amendment, No. 2917, as amended, is agreed to.

The amendment (No. 2917), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 517) was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 4 by title.

The legislative clerk read as follows:

A bill (H.R. 4) to enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and for other purposes.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause is stricken and the text of S. 517, as amended, is inserted in lieu thereof, and the clerk will read the bill for the third time.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. BINGAMAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 11, as follows:

[Rollcall Vote No. 94 Leg.]

YEAS—88

Akaka	Cochran	Hagel
Allard	Collins	Harkin
Allen	Conrad	Hatch
Baucus	Corzine	Hollings
Bayh	Craig	Hutchinson
Bennett	Crapo	Hutchison
Biden	Daschle	Inhofe
Bingaman	Dayton	Inouye
Bond	DeWine	Jeffords
Breaux	Dodd	Johnson
Brownback	Domenici	Kerry
Bunning	Dorgan	Kohl
Burns	Durbin	Landrieu
Byrd	Edwards	Leahy
Campbell	Ensign	Levin
Cantwell	Enzi	Lieberman
Carnahan	Fitzgerald	Lincoln
Carper	Frist	Lott
Chafee	Grassley	Lugar
Cleland	Gregg	McConnell

Mikulski	Santorum	Thomas
Miller	Sarbanes	Thompson
Murkowski	Sessions	Thurmond
Murray	Shelby	Torricelli
Nelson (FL)	Smith (NH)	Voinovich
Nelson (NE)	Smith (OR)	Warner
Nickles	Snowe	Wellstone
Reid	Specter	Wyden
Roberts	Stabenow	
Rockefeller	Stevens	

NAYS—11

Boxer	Graham	McCain
Clinton	Gramm	Reed
Feingold	Kennedy	Schumer
Feinstein	Kyl	

NOT VOTING—1

Helms

The bill (H.R. 4) was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. BINGAMAN. I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses, and the Chair is authorized to appoint conferees in the following ratio: Energy Committee, 6 to 5; the Finance Committee, 3 to 2.

EXECUTIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider two nominations.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that one vote suffice for both judges on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. BREAUX. I object.

Mr. WELLSTONE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I did not hear the request.

The PRESIDING OFFICER. The Senator from Oklahoma asked that one vote suffice for the two nominations.

Mr. WELLSTONE. I object.

Mr. LEAHY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I wish the Senator had the courtesy of telling the chairman what he was going to recommend. I would have pointed out to him that under the Senate practice and procedure, that cannot be done. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. DASCHLE. Mr. President, just for the information of our colleagues, there will be no more votes tonight after the two votes we have on the judges. The next vote will occur on Monday evening at approximately 5:30. There will be no votes tomorrow.

NOMINATION OF JOAN E. LANCASTER, OF MINNESOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the nomination of Joan E. Lancaster, of Minnesota, to be United States District Judge for the District of Minnesota, which the clerk will report.

The assistant legislative clerk read the nomination of Joan E. Lancaster, of Minnesota, to be United States District Judge for the District of Minnesota.

Mr. LEAHY. Mr. President, with today's votes on Judge William Griesbach to the U.S. District Court for the Eastern District of Wisconsin and Justice Joan Lancaster to the United States District Court for the District of Minnesota, the Senate will have confirmed its 40th and 41st district court judges in the less than 10 months since I became chairman this past summer. This is in addition to the nine judges confirmed to the courts of appeal.

With today's votes, the total number of Federal judges confirmed since the change in Senate majority will now be 50. As our action today demonstrates, again, we are moving to confirm President Bush's nominees at a faster pace than the nominees of prior Presidents.

It took almost 14 months for the Senate to confirm 50 judicial nominees for the Reagan administration. It took more than 15 months for the Senate to confirm 50 judicial nominees for the Clinton administration. And it took nearly 18 months for the Senate to confirm 50 judicial nominees for the George H.W. Bush administration.

At the risk of offending some of my colleagues, we have confirmed 50 judicial nominees in 10 months—while it took the Senate nearly twice that amount of time to confirm the same number of his father's judicial nominees and nearly 50 percent more time to confirm the same number of President Clinton's and President Reagan's nominees. With today's confirmations, in the fewer than 10 months since the shift to a Democratic majority in the Senate, President Bush's judicial nominees have been confirmed at a rate of five per month, a pace nearly double that of the average for the last three Presidents, two of whom had Senates led by their own party.

The confirmation of these nominees today demonstrates our commitment promptly to consider qualified, consensus nominees. I commend Senator KOHL and Senator FEINGOLD who worked with Chairman SENSENBRENNER to utilize a bipartisan commission process to recommend District Court nominees as has been the practice in Wisconsin for over 20 years.

Once confirmed, Judge Griesbach, who is a well-regarded judge in Eastern Wisconsin, will be the first District Judge to sit in Green Bay, WI.

Justice Lancaster, like Judge Griesbach, received the support of her Senators, Democrats who endorsed this Bush nominee. Both nominees appear to be the type of qualified, consensus nominees that the Senate has been confirming expeditiously to help fill vacancies on our Federal courts. I congratulate them and their families.

With today's votes on Judge Griesbach and Justice Lancaster, in fewer than 10 months of Democratic leadership, 50 judicial nominees have been confirmed. That number exceeds the number of judicial nominees confirmed during all of 2000, 1999, 1997 and 1996, four out of six full years under Republican leadership. I would like to commend all Senators, but in particular the members of the Judiciary Committee, for their efforts to consider scores of judicial nominees for whom we have held hearings and on whom we have had votes during the last several months.

Mr. HATCH. I rise to support the nomination of Joan Ericksen Lancaster to be U.S. District Judge for the District of Minnesota.

I have had the pleasure of reviewing Justice Lancaster's distinguished legal career, and I have concluded as did President Bush, that she is a fine jurist who will add a great deal to the federal bench in Minnesota.

Justice Lancaster's record of service in private practice and for the government is exemplary of the quality of judges the President has nominated.

Following her graduation from the University of Minnesota Law School, Justice Lancaster worked as an Assistant City Attorney, trying approximately 12 jury and 40 court trials.

From 1983 to 1993, Justice Lancaster served as an Assistant U.S. attorney for the District of Minnesota, representing the federal government in medical malpractice, tort, and insurance matters, and later prosecuting Federal crimes. Justice Lancaster then worked for several years as a partner with the Minneapolis firm of Leonard, Street & Deinard.

In 1995, Justice Lancaster was named as a District Court Judge in the 4th Judicial District in Minnesota, where she was assigned to family and juvenile cases. She also presided over adult civil and criminal matters.

Since 1998, she has served as an Associate Justice on the Minnesota Supreme Court.

Justice Lancaster is liaison to the Court's Juvenile Delinquency Rules Committee and has served as chair of the Minnesota Supreme Court Task Force on Juvenile Justice Services.

She has also served on a statewide task force devoted to addressing the problem of fetal alcohol syndrome.

I have every confidence that Justice Joan Lancaster will serve with distinction on the federal district court for the District of Minnesota.

Mr. WELLSTONE. Mr. President, I commend to the Senate for confirmation tonight the nomination of Justice