doing would be understood and supposedly intended by those who supported it.

Instead, we are being asked here on very short notice, without the kind of debate we need, to regulate in a way that is not necessary one section of our economy—the energy and the minerals transactions related to derivatives.

Again, if the argument is going to be made that we need to protect investors in America, it is hard to see that because these are not investor transactions; they are transactions between highly sophisticated individuals. If it is true that derivatives are somehow a threat to the investor community and the safety of the investments of the American public is at risk because of something wrong with the way we manage derivatives, then why don't we cover all commodities? As I said earlier, it seems to me the question of how we regulate Treasury bonds or foreign exchange or interest rates or other financial transactions is every bit as important to the American investor as is the question of how we regulate minerals or how we regulate energy transactions.

I know in today's climate, with the Enron collapse and with the energy troubles we faced a few years ago in California, there are those who want to look at every aspect of financial and other transactions relating to energy and see if there is some way we can improve it. But I suggest it does not necessarily mean that more regulation and more government bureaucracy is the best way to solve these problems, particularly when you have the Secretary of the Treasury and the Chairman of the Federal Reserve telling us we have to have the kind of resiliency in our economy that derivatives provide to us.

In conclusion, I believe the bottom line is that each side can point to those who support their positions and those who oppose them. Each side can come up with arguments about why what we are doing now is or is not working. But no side can say we have the background information necessary to make this decision, because we have not had the kind of hearings and congressional evaluation of this issue we should have had.

Because of that, I stand firmly opposed to the amendment. I believe ultimately the American people will be much better served if we do our jobs in the Senate the way our procedures are set up to do them. The procedures and the policies of the Senate have been established to make very clear that we can have the time to evaluate issues such as this and do the study necessary to have good, solid support.

I also believe, as has been indicated by those who debate here, if we went through that process I have suggested—having a study and then further congressional evaluation and then maybe propose legislation—we would probably have much more support for whatever came forth, if anything. We would build the collaboration, we would build the consensus, and we would come forward, because the one thing that there has been agreement on today is that nobody wants to have the problems we saw occur in California.

Nobody wants to see any kind of fraud or abuse from financial transactions or derivatives transactions. Everybody is willing to make sure that antifraud provisions and price protection provisions and the recordkeeping provisions are adequately available for derivatives transactions as necessary, so that we do not cause or increase any risk of problems in the economy.

If we will follow the procedures and the processes of the Senate, let this matter be handled by the committee of jurisdiction, which I believe is probably the Agriculture Committee, and then let other related committees handle their parts of it, with studies in support from the private sector and from our regulating agencies, I believe we can get the information necessary for us to do a good job, build consensus, and come forward with a solution that can be broadly supported on both sides of the aisle.

I thank the Chair very much for this time.

## RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mrs. CINTON).

## NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

AMENDMENT NO. 2989, AS MODIFIED

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Madam President, I rise again, as I did a week ago when we debated derivatives, in opposition to the derivatives amendment. It offers no solutions to problems that caused either Enron or the California energy crisis. In fact, the amendment we have is a solution looking for a problem.

I am glad we have had a little time to study the amendment further because we have asked a number of regulators what their position is regarding the additional regulation of this relatively new form of business. We have heard from two regulators who have jurisdiction over the trading markets. They both have come back with the same response: This is not needed at this time.

CFTC Chairman Newsome has said:

> This amendment would rescind significant advances brought about by the Commodity Futures Modernization Act.

In response to a letter I sent to the Securities and Exchange Commission, Chairman Pitt responded:

> The Securities and Exchange Commission believes this legislative change is premature at this time.

This amendment will disrupt a market that is working efficiently and providing important tools for energy companies. For instance, this amendment would require new capital requirements on electronic trading exchanges, even if they simply match buyers and sellers. These exchanges bear no risk associated with trading but this legislation could provide additional new taxes.

This amendment also provides new regulation on metals. I don't know of anyone who can point to how metals had anything to do with Enron or the California energy crisis. The regulatory model for metals has offered no problems. In fact, if you take a look at the derivatives market, there isn't a problem with any of the markets. I will speak about that in a moment.

Yet the supporters of this amendment believe we should quickly enact some new form of regulation to oversee the metals market. Enron was not caused by the trading of energy derivatives. As I said last week, Enron was not an energy trading problem. Enron was not an accounting problem. Enron was a fraud problem.

In fact, when the Chairman of the Federal Reserve, Alan Greenspan, was asked at a Senate Banking Committee hearing whether a nexus existed between energy derivatives trading and the collapse of Enron, he responded that ''he hadn't seen anything'' that would indicate that.

Why are we rushing to regulate an emerging business when the collapse of Enron was likely caused by potentially illegal acts by executives and, furthermore, that the collapse of Enron did not cause a blip on the scope of derivatives trading?

I know this is something everybody uses on a daily basis. In the example I gave a week ago, I cited some examples of things that might help to understand derivatives trading. I will not go into that again. I am kidding about this being something that everybody works with on a daily basis. In fact, we have been taking some classes in my office on how to spell ''derivatives.'' It isn't a common, ordinary thing, but it is a new market that we have looked at extensively, held hearings on, and have done work on in the past through the regular channels. Again, there was not a blip in that system when Enron went down.

We recently passed the Commodities Futures Modernization Act. Most of us in the Senate worked on this legislation extensively.

This legislation examined the regulation of energy derivatives. This legislation was debated at public hearings. It was negotiated. It was drafted over a significant period of time with full participation and input from members of the Clinton administration and the committees of jurisdiction. What

emerged was the proper amount of regulatory oversight for the trading of energy derivatives.

I also wish to comment on a letter sent to Senator LOTT by Secretary of the Treasury O'Neill and Chairman Greenspan. In it they write:

> We urge Congress to defer action on Senator Feinstein's proposal until the appropriate committees of jurisdiction have a chance to hold hearings on the amendment and carefully vet the language through the normal committee processes.

We know from history that hearings can make a difference on a bill, that working it through the committee process allows a lot more flexibility in actually working an issue and bringing it to light on the Senate floor, without some of the difficulties we have had on this particular amendment, which has been in the negotiation stage for about a week and a half. But the floor operation does not allow the kind of flexibility that could correct problems and lead to good legislation.

Madam President, this is all we are asking. I haven't heard anyone say we should not examine the issue. However, we should address it through the normal legislative process so we could learn exactly the ramifications of the amendment. I don't believe anybody has come to the floor and given us a thorough accounting of what would happen to the energy trading markets, the swap markets, or the metal markets if this law were enacted tomorrow.

We all want to solve the problems posed to us by Enron and the California energy crisis. But this amendment will not solve those problems. This amendment may add to those problems. Once again, I ask Members to oppose this amendment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, at approximately 3 o'clock today, Senator KYL is going to come to offer his amendment dealing with renewables. I spoke with Senator KYL. He says the debate on that should take some time. He did not say how much time. It may take a matter of hours. What we would do at that time is move off the Feinstein amendment. I have spoken with her.

With respect to the matter relating to the second-degree amendment Senator LOTT offered dealing with judges, there will be an arrangement made that we could vote on his amendment and perhaps side by side tomorrow.

I hope anyone wishing to speak on derivatives will come and do that as soon as possible. I understand Senator BOXER wishes to do that at this time. We will get into what I think is a very important debate dealing with Senator KYL's amendment on renewables at approximately 3 o'clock.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, what is the pending business?

The PRESIDING OFFICER. The Lott second-degree amendment to the Feinstein derivatives amendment.

Mrs. BOXER. Madam President, I rise to speak in behalf of the Feinstein derivatives amendment which I think is a very important amendment for us to adopt.

Senator FEINSTEIN's amendment, of which I am a cosponsor, narrows a gap in the oversight of the energy market. It is very simple. It would require the Commodity Futures Trading Commission to regulate the energy derivatives market.

We all know that derivatives are very complicated, and I know Senator FEINSTEIN has spent a good deal of time educating the Senate on derivatives. The point is very clear. It used to be that the energy derivatives market was regulated by the CFTC. It is the way it used to be, and it is the way it should be.

The CFTC should have the ability to obtain information critical to market oversight and to make market information public if the CFTC determines that it is, in fact, in the public interest to do so.

Senator FEINSTEIN has gained the support of the New York Mercantile Exchange and various consumer organizations. I have to say, as someone who has long fought for the rights of consumers, this amendment is crucial for consumers. We know in California what can happen when energy markets go secret and you do not know what is happening, except one day you wake up and find you cannot afford to heat or air-condition your house, and if you are a business, you can no longer afford to pay the energy bill.

I have to say from my heart that if the Senate walks away from this amendment, then it is giving a message to the country that we do not care much about this whole Enron scandal. Enron worked very hard to change regulations and laws to remove all government oversight. In my home State, they actually were under no oversight at all. One of the places there was oversight was the derivatives market under the Commodity Futures Trading Commission, and that was changed. Therefore, there was no oversight, and there was no way to ensure that the market was transparent—in other words, you could see the various transactions that led to the final energy bill—and it allowed, after they got out of the CFTC, for this online trading to go on in secret.

Clearly, in my opinion, Enron manipulated the electricity market for one reason, and one can explain it in one word: secrecy. They operated in secrecy. There was only one agency to mind the store, the Federal Energy Regulatory Commission.

This administration was wined and dined by Enron, and they did nothing to help California—zero, nothing—for almost a whole year. We saw the biggest transfer of wealth from ordinary working people to these energy companies. Enron had a methodical plan to free itself of any and all Government oversight so they could cooperate in secret and trade up the price of energy in secret through financial arrangements, including derivatives.

Senator FEINSTEIN has a very good amendment that will restore transparency to these sales. That is why I am very proud to support it, and that is why I say to you that it will be the first test vote on whether we learned anything from this Enron scandal, and more than that, are we willing to do something about the problems that led to the whole crisis in California.

In 1992, Enron worked to remove energy derivative contracts from Government regulations. This resulted in Enron being able to hide information about individual trades from Government oversight. That is why Senator FEINSTEIN has written this amendment. Let's go back, she says, to the days when there was oversight over these online trades.

Once the contracts were outside Government oversight, Enron lobbied Congress to remove the trading itself from Government regulation, and in 2000, Enron was successful and was allowed to create an unregulated subsidiary that could buy and sell electricity, natural gas, and other energy commodities in huge volumes without any Government oversight.

As I said, we know what happened. The prices soared in my home State. My State suffered a devastating economic crisis. I have a chart that shows the demand went up in that 1 year that Enron got out of any oversight 4 percent; energy prices in toto went up 266 percent.

I will never forget meeting with Vice President CHENEY after trying desperately to get a meeting with him—this goes for me, Senator FEINSTEIN, and other Members of the California congressional delegation. Do you know what he said to us? We told him to look at the prices: How can we sustain this? All of California spent $7.4 billion on energy in 1999, and then in 2000 when Enron got out of oversight, it shot up to $27 billion? How can we sustain it? He looked at us and said with a straight face: You are using too much energy.

I say again to the Vice President and anyone who happens to be watching, California on a per capita basis is the most energy efficient State in the Union. We use less energy than any other State.

We are a model in that regard. We have 34 million people plus, but on an individual basis we use less.

Our energy went up by only 4 percent and our prices went up by 266 percent,

and one of the reasons for this is Enron was allowed to trade online in secret. They sold the same energy over and over, sometimes, they say, as many as 14 and 15 times before it got to the consumer.

No oversight. People can make the argument that deregulation everywhere is a wonderful thing, and I am willing to listen to it, but I have to say, when it comes to a commodity that people need to live, they need it to heat their homes; they need it in hospitals to make sure an operation will not be terminated in the middle of it because of the loss of energy.

The Chair was talking about how many proud farmers are in her State. I say to the Chair, in my State I went to a meeting in the central valley—and the Chair has been there, I know—where they have all kinds of farming. One of the big industries is the poultry industry. They were so fearful that the refrigeration would go out and this poultry would spoil, some of it would make people sick, or they would have to throw it out.

The bottom line is, energy is not a luxury, it is a requirement. So when we go ahead and take the whole energy area outside of any type of reasonable regulation, we are setting up a horror story for people. I can truly say, we went through that and I want to spare that from happening in the State of the Chair—the Senator from New York has already gone through enough trauma for any Senator—and I want to stop it from happening anywhere in this great country of ours. The first test case is the Feinstein amendment to restore some type of oversight to this online trading.

There is a gentleman from San Marcos, CA, who wrote to President Bush. He sent me a copy. This was during the electricity crisis. He said:

> I am a father and a husband in a single income family. My wife and I very carefully planned our family economics in order to give our daughter the benefits of having a full-time parent at home. We are currently spending money on electricity bills that should be going into family investments for college or retirement planning.

This gentleman was so right. What happened was no regulation, the ability for Enron and others to completely manipulate the market. Senator FEINSTEIN's amendment, which has been second-degreed by a whole different subject about judges—and I am all for voting on that, but it should not have been done to this. We need a clean vote on her amendment to restore some sense of transparency and honesty to the electricity business.

This is another story I read about in the San Diego Union-Tribune when we were having our troubles. There is a pizza store called Big Top Pizza where the electricity bill went from $200 to $646—a 223-percent increase. It kind of mirrors what happened to my State. That happened in 1 month. Imagine as a business person seeing that kind of increase. I also read about a florist where their electricity bill went up 135 percent.

When we talk about these things, they may not sound as though they are so related to the amendment. The amendment talks about making sure we have an electricity business we can monitor to make sure it is fair and just and we do not have unjust and unreasonable prices. If we cannot see through this system—which is currently the case because no one is monitoring it—this is going to happen again. It is going to happen to other good people in other States.

In closing, I cannot say enough about how much I thank Senator FEINSTEIN for coming to the Senate with this amendment. What she is doing is looking at our experience in California and saying, how can we do something quite simple, which we always did before, which is to make sure we do not have people facing this type of escalation in costs, manipulation of prices, all done in secret, nobody looking over their shoulder, and who pays the price? The good American people and the good consumers of this country.

I hope we will have an outstanding vote in favor of the Feinstein amendment, and I hope we can begin then to attack the basic causes of what happened in my State—an unregulated industry, out of control, insider trading going on by the people at the top without one care in the world for the shareholders, for the consumers, and for the people.

Jeffrey Skilling, the CEO of Enron, made a ''joke'' about California which was: California and the Titanic are very much alike. The one difference is at least the Titanic went down with its lights on. That was supposed to be a humorous joke.

The bottom line is Enron turned out to be the Titanic, and if we do not learn lessons and if we do not move now to correct what happened, I do not know why we are here. That is how strongly I feel.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. DORGAN. Madam President, my understanding is we are awaiting mid-afternoon for an amendment that will be offered, we are told, by Senator KYL. I should not speak for him, but I am told the amendment will strike the renewable portfolio standard in its entirety.

What is the renewable portfolio standard? To some, when we talk about an energy policy, debate on that term sounds like a foreign language—a renewable portfolio standard. It means an attempt by this country to develop different approaches, using renewable, limitless supplies of energy to produce electricity in our country.

There are some who despair this energy bill that is designed to try to take us into a new day and a new approach to energy policy, does not have the CAFE standard that was voted on last week. Some are concerned about that. Frankly, with or without the CAFE standard, this piece of legislation does include some significant areas of improvement in dealing with the efficiency of the transportation sector. It does, for example, provide very significant financial inducements for people to buy automobiles that have new sources of power: fuel cell automobiles, hybrid automobiles, and others. We recognize that if you are going to deal with this country's energy problem, you have to deal with efficiency of the energy used in transportation. That is true. I understand that. There are many ways to do that.

Remaining in this bill are important provisions, including significant tax benefits to consumers with which they can purchase a car that meets certain specifications, or a vehicle that meets certain specifications with respect to gas mileage, the kind of power train it has, and other issues. So while some despair about the vote we had last week, let me say there remain in the bill significant areas of efficiency dealing with transportation.

But that is not the issue now. The issue is a renewable portfolio standard with respect to the production of electricity. The question for all of us has always been, when we debate energy on the floor of the Senate, will we develop new policies? Will we really turn a corner or will we simply repeat the debate we had a quarter of a century ago and beef it up just a little bit so we can debate it again a quarter of a century from now?

Will our policy simply be yesterday forever? Is that our policy? It is that just to dig and drill and dig and drill represents our policy for the next 25 years?

Look, I support digging and drilling, provided it is done in an environmentally acceptable way. We must produce new energy. We must and will produce new oil and natural gas and use coal. We must do that because we cannot solve our energy problem without producing more, but we must do it also in a way that is environmentally acceptable.

As we transition toward more production and more efficiency and more conservation, we also must, then, turn to this other issue of trying to find new sources of energy so we do not just rely on digging and drilling: new sources of energy such as wind energy, biomass, solar energy, geothermal, and more.

When we produce electricity in this country, there are several ways for us to do it. We have in the past traditionally mined coal and used coal in power plants to produce electricity and move that electricity over a series of transmission wires to places in America

where it is needed. Other plants use natural gas as the principal fuel. But there are other ways to produce electricity.

We now have newer technology—wind turbines. Those wind turbines have the capability, with much more effectiveness, to take that energy from the air and, through those turbines, create electricity. That electricity can be moved around the country where it is needed.

Likewise, with solar energy, geothermal energy, biomass—we also can produce electricity using renewable and limitless supplies of energy.

We must, when this bill leaves the Senate, have a renewable portfolio standard that is reasonably aggressive, and one that is workable. The renewable portfolio standard of 10 percent is one that we agreed to, generally speaking, when we wrote the bill earlier. Some have talked about 20 percent, which others have said is too aggressive. There are still others in our Chamber who say there should be no renewable portfolio standard, there should be no standard by which we achieve more in limitless and renewable sources of energy for the production of electricity.

I could not disagree more with that position. For us to write an energy bill in the Senate and say, let's just keep producing electricity the same old way, let's not really have any changes, let's not stretch ourselves, let's not turn the corner with respect to energy supply, I think is not a step forward at all. That is not new policy. That is, as I said, yesterday forever. We will not be here in most cases, 25 years from now, someone will have a new idea for a new energy policy. It will be digging more and drilling more.

That is not new, and it does not resolve our issues in the long term that are so important for this country.

September 11 described for all of us the fact that this is a pretty uncertain and dangerous world in some respects. We have talked a great deal since September 11 about national security. Madmen, sick, twisted, demented people who live in caves in Afghanistan, plot the murder of thousands of innocent Americans in America's cities. So we talk about national security and we prosecute a war against terrorism and we talk about homeland security and it is all very important. But there is another part of national security that is also very important. That is the security or the lack of it that comes with the need to get 57 percent of our oil, our energy supplies of oil and natural gas from abroad—most of which come from Saudi Arabia and Kuwait, in one of the most unsettled regions of the world.

Connecting our country's need for oil to a supply from a region that is so unstable and so uncertain is not a smart policy for this country. We have ratcheted this up to almost 60 percent of our energy supply coming from abroad—most of it coming from a region that is a very unstable region. We need to begin stepping that back. One way to start doing that is by reaffirming this afternoon that we believe in a renewable portfolio standard; that is, we believe in a standard by which we want this country to aspire to a goal, an achievable goal and a real goal of having 10 percent of its electric energy produced by renewable and limitless sources of energy.

I mentioned wind a moment ago. Wind energy is something that has, now, the capacity to produce a substantial amount of new energy for us. My home State of North Dakota is last in numbers of trees, as I have told my colleagues from time to time. We rank 50th in native forestlands, so we are dead last in numbers of trees. But according to the U.S. Department of Energy, we are No. 1 in wind. We are what they call the Saudi Arabia of wind energy. Putting up a turbine with the capability to take the energy from the wind and, through that turbine, turn it into electricity and move it across transmission lines makes good sense for this country. It is renewable; it is limitless; it is good for our environment; it just makes good sense.

That is why just one step in this energy bill that would be helpful for this country—just one—is to reaffirm today that we believe in this standard, in stretching our country to at least achieve the 10-percent level on alternative energy for the production of electricity. That is all we are talking about.

In North Dakota, for example, we have some transmission issues we have to deal with in order to produce more wind energy. I hope we can move to produce more energy from wind, from biomass, from solar, but we also have to find ways to transmit it through transmission lines. We are talking now in this legislation that Senator BINGAMAN brought to the floor about new technologies for transmission lines. It is for a range of initiatives. I was helpful in working on some incentives to try to move us toward composite conductor technology, for example, which is one technology, to double or triple the efficiency of transmission lines. If you can triple the efficiency of transmission lines, you don't have to build new corridors. You can move substantially more electricity across the grid system in this country to where it is needed.

The point is, we have a lot to do. This legislation does a lot. I believe this afternoon we will be confronted with an amendment that says, no, let's step back and not do quite as much. In the area of a renewable portfolio standard, it would be awful, in my judgment, for the Senate not to stand for and perhaps even improve that which is already in the bill. The 10-percent standard that is in the bill, with respect to some agreements, as I understand it, has been changed a bit. Perhaps we could even strengthen that. The point is, we ought not retract; we ought not step backwards on this issue.

So when Senator KYL offers his amendment, I hope we can have an aggressive debate today and have a vote in which this Senate, by a very strong majority, says: We insist on a renewable portfolio standard in this bill. It is the right way and the right step for this country, to make a break towards less dependence on foreign oil and more national security for this country, by having a renewable and limitless source of energy well into the future.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Republican leader.

Mr. LOTT. Mr. President, I asked questions this morning as to when we might be able to get an agreement on proceeding to the campaign finance reform issue. I know there have been a lot of efforts underway—Senator MCCONNELL, Senator MCCAIN, Senator FEINSTEIN, and others. Of course, I know the House has a real interest in this.

This morning I was beginning to feel that we were going to have to nudge it a little bit to get this worked out and get it agreed to so we could get a vote and move on to other issues without it interrupting them—the energy bill, for instance—even further.

UNANIMOUS CONSENT REQUESTS

I ask unanimous consent that notwithstanding the provisions of rule XXII, the Senate now proceed to the cloture vote with respect to H.R. 2356, the campaign finance reform bill, with the mandatory quorum being waived. I further ask unanimous consent that following that vote, again notwithstanding rule XXII, the Senate proceed to the consideration of a Senate resolution, the text of which is at the desk; further, the resolution be agreed to and the motion to reconsider be laid upon the table.

I further ask unanimous consent that the Senate then resume consideration of H.R. 2356 and the time until 6 tonight be equally divided between Senators MCCONNELL and MCCAIN.

I further ask unanimous consent that no amendments be in order to the bill and, at 6 tonight, the bill be read the third time and the Senate then proceed to a vote on passage of the bill with no intervening action or debate.

Finally, I ask unanimous consent that when the Senate receives from the House a technical corrections bill regarding campaign finance reform or a concurrent resolution which corrects the enrollment of H.R. 2356, and the text has been cleared by Senators MCCONNELL and MCCAIN, then the Senate immediately proceed to its consideration, the bill be read the third time and passed, or the resolution be agreed to, with the motion to reconsider laid upon the table and with no intervening action or debate.

Here is my point and why I make this request. I believe it is ready. I think it is time we bring this to conclusion. I think we can get a vote on it at 6 o'clock tonight, and then we would be prepared to get back to energy or other issues that the Senate would desire.

Mr. MCCONNELL. Will the leader yield?

Mr. LOTT. I am glad to yield, Mr. President.

Mr. MCCONNELL. Let me concur with what the leader said. As a Senator who has fought for many years to defeat that bill, I believe it is clear that position is not going to prevail.

We had good negotiations over a technicals correction to the bill. The consent request to which the Republican leader has asked that we agree gives Senator MCCAIN and myself, who have been on opposite sides of this issue, a chance to review a subsequent technicals bill that passes the House. Either one of us would have the right to veto it. We are very close to an agreement.

I agree with the Republican leader that there is certainly no necessity to have any all-night sessions or any of these other scenarios we hear have been suggested to the press, since the opponents of this bill are ready to move on with it. That is what this consent agreement makes clear.

I commend the Republican leader for offering it.

Mr. REID. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The deputy majority leader.

Mr. REID. I do congratulate the leader. It is really important we have gotten this far. We are very close. I say, however, Senator FEINGOLD and others—but especially Senator FEINGOLD—need to make sure the resolution referred to in this request is appropriate—and the correcting bill. I have no doubt they will be approved by Senator FEINGOLD. To my knowledge, he has not yet signed off on these.

I ask that the Republican leader and Senator MCCONNELL recognize it is really important that we get this out of the way. No one wants to spend all night here. We have so many other important things to do. I think there is no reason we can't work something out in the next little bit. But I have to do, as I have indicated, what needs to be done. I will do that. As a result of that, I object at this time.

The PRESIDING OFFICER. Objection is heard.

The Republican leader.

Mr. LOTT. If I could inquire of Senator REID, I understand he needs to confer with other Senators, and we would perhaps need to do that even more on our side.

But let me clarify, this did not include the technicals correction; is that correct?

Mr. MCCONNELL. What it does is set up a procedure by which, even after the passage of Shays-Meehan, if the technical corrections on which we are working is agreed to and is passed by the House and comes over here, in order to make sure it is one on which we still agree, Senator MCCAIN or I could veto it; otherwise, it could come up and be passed.

The point I think the leader is making is that we are ready to move on. It is time to pass this bill. We understand debate is largely over and we would like to wrap it up.

Mr. LOTT. I emphasize that point, Mr. President. When I was talking to Senator REID this morning, there were still, I guess, negotiations—or not even negotiations—the technical corrections were being reviewed by a number of people, including House people, and it seemed to be moving very slowly and seemed to be holding up the final disposition of this issue. And this looks to me as if that problem is taken care of by doing it this way.

So I just would inquire of Senator REID——

Mr. REID. If the leader will yield.

Mr. LOTT. Certainly.

Mr. REID. The Republican leader is absolutely right. We did have a conversation today. We have heard a lot of talk the last week or so that things have all been wrapped up. But we never really got to that point. I think we are almost there. This is a tremendous step forward from where we were this morning. I have no reason to doubt that we can be back here very shortly and enter into this agreement. We will make sure the Senator from——

Mr. LOTT. You are indicating, then, you hope very shortly we could come back perhaps and propound—or perhaps you would want to propound something such as this?

Mr. REID. I think we will be in a posture to do that very quickly.

Mr. LOTT. I thank you.

Mr. REID. I see both Republican leaders. Senator KYL is in the Chamber. What we wanted to do is move to his amendment dealing with renewables to get that issue out of the way. And I see Senator BOND and Senator LINCOLN in the Chamber. They have an amendment that may be agreed to.

I ask my friend, Senator NICKLES, are you going to speak on the derivatives issue?

Mr. NICKLES. I am going to speak on the energy bill.

Mr. REID. Yes. I am just wondering; Senator KYL is back in the Chamber, and he has had so many dry runs.

Mr. NICKLES. I will speak on the Kyl amendment as well.

Mr. REID. If we get this campaign finance agreement, everyone will step aside, of course, and we will move to that. I indicated to the staff on the Republican side, we are going to work something out tomorrow so we can go to an amendment the Republican leader has pending on the Feinstein amendment.

So what I would like—I am sorry to have been interrupted, but it was important I be.

I ask unanimous consent that the Senate now resume the Bingaman amendment No. 3016 and that Senator KYL be recognized to offer a second-degree amendment to the Bingaman amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BOND. Reserving the right to object, the Senator from Arkansas has an amendment that I plan to cosponsor. I do not think it will be controversial. We do not have it fully cleared.

I talked to the Senator from Arizona. He does not seem to have an objection. I ask if the Senator from Arkansas might be permitted to go.

Mr. REID. I say to my friend, it is my understanding that the Senator from Arkansas and the Senator from Missouri wish to lay down an amendment, and with the hope that it will either be accepted or finished at some later time. But after your initial statements, we could go to Kyl. It should not take too long; is that correct?

Mr. LOTT. Reserving the right to object—and I do so to save time—I know Senator REID is trying to make use of time while he works out clearances. I would object right now to going to Kyl. In the meantime, we have Senator NICKLES who would like to speak, and also Senators LINCOLN and BOND, and then we can communicate and see if we can't get an agreement on the Kyl amendment after we get through this. But I object at this point.

Mr. REID. The only thing I would ask: Senator KYL has been over here like a yo-yo. I hope he will not go too far away, so maybe we can lay this down a little later.

The PRESIDING OFFICER. Objection is heard.

The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The Lott second-degree amendment to the Feinstein first-degree amendment.

AMENDMENT NO. 3023 TO AMENDMENT NO. 2917

Mrs. LINCOLN. Mr. President, I ask unanimous consent to lay aside the pending amendment and call up amendment No. 3023.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arkansas [Mrs. LINCOLN], for herself, Mr. BOND, Mr. JOHNSON, Mrs. CARNAHAN, Mr. HUTCHINSON, Mr. HARKIN, Mr. GRASSLEY, Mr. BUNNING, Mr. BAYH, and Mr. CRAIG, proposes an amendment numbered 3023 to amendment No. 2917.

Mrs. LINCOLN. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To expand the eligibility to receive biodiesel credits and to require the Secretary of Energy to conduct a study on alternative fueled vehicles and alternative fuels)

On page 142, strike lines 8 through 11 and insert the following:

**SEC. 817. TEMPORARY BIODIESEL CREDIT EXPANSION.**

(a) BIODIESEL CREDIT EXPANSION.—Section 312(b) of the Energy Policy Act of 1992 (42 U.S.C. 13220(b)) is amended by striking paragraph (2) and inserting the following:

''(2) USE.—

''(A) IN GENERAL.—A fleet or covered person—

''(i) may use credits allocated under subsection (a) to satisfy more than 50 percent of the alternative fueled vehicle requirements of a fleet or covered person under this title, title IV, and title V; but

''(ii) may use credits allocated under subsection (a) to satisfy 100 percent of the alternative fueled vehicle requirements of a fleet or covered person under title V for 1 or more of model years 2002 through 2005.

''(B) APPLICABILITY.—Subparagraph (A) does not apply to a fleet or covered person that is a biodiesel alternative fuel provider described in section 501(a)(2)(A).''.

(b) TREATMENT AS SECTION 508 CREDITS.—Section 312(c) of the Energy Policy Act of 1992 (42 U.S.C. 13220(c)) is amended—

(1) in the subsection heading, by striking ''CREDIT NOT'' and inserting ''TREATMENT AS''; and

(2) by striking ''shall not be considered'' and inserting ''shall be treated as''.

(c) ALTERNATIVE FUELED VEHICLE STUDY AND REPORT.—

(1) DEFINITIONS.—In this subsection:

(A) ALTERNATIVE FUEL.—The term ''alternative fuel'' has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(B) ALTERNATIVE FUELED VEHICLE.—The term ''alternative fueled vehicle'' has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(C) LIGHT DUTY MOTOR VEHICLE.—The term ''light duty motor vehicle'' has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

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

(2) BIODIESEL CREDIT EXTENSION STUDY.—As soon as practicable after the date of enactment of this Act, the Secretary shall conduct a study—

(A) to determine the availability and cost of light duty motor vehicles that qualify as alternative fueled vehicles under title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.); and

(B) to compare—

(i) the availability and cost of biodiesel; with

(ii) the availability and cost of fuels that qualify as alternative fuels under title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.).

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(A) describes the results of the study conducted under paragraph (2); and

(B) includes any recommendations of the Secretary for legislation to extend the temporary credit provided under subsection (a) beyond model year 2005.

Mrs. LINCOLN. Mr. President, I am very pleased to be joined in offering this amendment with my good friend from my neighboring State of Missouri, Senator BOND. Senator BOND and I have worked together on numerous issues during our tenure in the Senate, and I am pleased to work with him again.

I am also pleased to be joined by Senators JOHNSON, CRAIG, CARNAHAN, HUTCHINSON, HARKIN, GRASSLEY, BUNNING, and BAYH as cosponsors of this amendment. I ask unanimous consent to add Senators CARPER, FITZGERALD, DAYTON, and DORGAN as cosponsors.

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

Mrs. LINCOLN. The purpose of this amendment is to place biodiesel fuel on an equal footing with every other alternative motor fuel in this Nation.

Biodiesel is a clean-burning alternative fuel that can be produced from domestic renewable sources, such as agricultural oils, animal fats, or even recycled cooking oils.

It can be used in compression-ignition diesel engines with no major modifications. It contains no petroleum, but it can be blended with petroleum at any stage in the production and delivery process from the refinery to the gas pump. Biodiesel is simple to use. It is biodegradable. It is nontoxic and essentially free of sulfur and aromatics. It is completely user friendly.

Although new to our country, its use is well established in Europe with over 250 million gallons consumed annually. The Energy Policy Act of 1992 set a national objective to shift the focus of national energy demand away from imported oil toward renewable and domestically produced energy sources. When EPACT was passed in 1992, it recognized ethanol, natural gas, propane, electricity, and methanol as alternative fuels. The original list of alternative fuels did not include biodiesel because the technology had not been fully developed at that point.

EPACT set a goal to replace 10 percent of petroleum-based fuels by the year 2000 and 30 percent by the year 2010. However, a GAO report issued in July of last year noted that ''limited progress had been made in increasing the numbers of alternative fuel vehicles in the national vehicle fleet and the use of alternative fuels'' as compared to the conventional vehicles and fuels.

We have not met the original EPACT goals of replacing 10 percent of the petroleum-based fuels by the year 2000, and we are not on track to meet the goal of 30 percent by the year 2010. In fact, we have not even come close. That is partly a result of not allowing all alternative fuels to be used to meet that EPACT alternative fuel mandate.

My amendment will significantly increase the use of alternative fuels by enacting a temporary program to allow covered fleets to meet up to 100 percent of the EPACT purchase requirements through the use of biodiesel. Currently, covered fleets can meet up to 50 percent of purchase requirements with biodiesel.

The amendment would also require the Secretary of Energy to conduct a study evaluating the availability and cost of alternative-fueled vehicles and alternative fuels.

The provisions of this amendment would automatically sunset after 4 years. At that time, covered fleets would again be able to satisfy only 50 percent of purchase requirements with biodiesel. This temporary program, in conjunction with the Energy Department study, is necessary to determine if vehicle and fuel markets are significantly developed to support continuing the purchase mandates or if a further extension to the biodiesel credit program is warranted. We must allow all alternative fuels to count toward EPACT's alternative fuel requirements.

Our amendment will allow us to make the most of existing opportunities. By offering an additional option for the use of alternative fuels, we will widen the possibilities for these fuels to be made more widely available. Fleets will continue to have the option to choose the complying vehicles and fuels that best meet their needs.

This amendment is not expected to affect fleets that are currently using ethanol or natural gas. But this amendment does provide a further option for alternative-fueled vehicles. Furthermore, it does not directly displace natural gas or ethanol sales since biodiesel is used in medium and heavy-duty trucks rather than light-duty vehicles.

It is in the best security interest of our Nation to reduce our reliance on foreign energy suppliers. We can no longer afford to be subject to the whims of the foreign cartels such as OPEC which successfully manipulate the price of oil.

Added to these threats posed by OPEC and the instability of the Middle East are the even more threatening possibilities we face in other parts of world. Developments in many regions of the world where much of today's energy supplies are obtained—West Africa, the Caspian Sea, Indonesia, and on and on—clearly serve notice that our Nation cannot continue to depend on these areas for our future energy needs. These events make it even more pressing than ever that we proceed forward with developing our own domestic alternative energy resources.

By allowing fleets to meet 100 percent of their AFV requirement by using biodiesel, we will take a positive step toward moving this country away from dependence on petroleum-based motor fuels and toward alternative motor fuels.

The time to start investing in renewable energy sources is now. We have taken far too long to get to this point. There are many other nations way ahead of us in using these types of alternative fuels. I urge my colleagues to support our amendment to work hard on being able to present the realities of the fact that we are there. We have products now that we can be using. If we can provide the incentives and the abilities to make sure the marketplace can become ready for these alternative fuels, we are on the cusp of finding the solution.

I appreciate the support of my colleague in working with me. I look forward to a very positive reception of our amendment with the wonderful cosponsors we have. I know the Senate will be ready to move forward on this one. I appreciate all the work Senators have put into this alternative fuels effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I particularly appreciate the great work of my colleague from Arkansas. There is a lot of rivalry across the border, but on this one, the Senators from Arkansas and Missouri and many other States are working together.

I have just come from a very exciting session outside with the National Biodiesel Board Assistant Secretary, J. D. Penn; USDA; Congressman HULSHOF; members of the Missouri Soybean Merchandising Council talking about the benefits that soy diesel can provide to our environment, to reducing our dependence on imported oil, and to strengthening our rural economy.

They had a wonderful old soy diesel truck that the Missouri Soybean Council first brought here 10 years ago. That baby is still running, still smells sweet. You follow that diesel down the road, you don't get smoke coming out of it that smells like burning tires. Think of french fries. It is not only cleaning up the air, but it is using a renewable fuel. We have been talking about renewable fuels; they are doing it. They are doing it in my State and Arkansas and Illinois and Iowa and Delaware, I gather. It works.

This is a fuel that doesn't require special kinds of newfangled engines. Right now the B–20 blend is being used in major bus fleets. The St. Louis Bi-State Transit Authority has agreed to use 1.2 million gallons of soy diesel in a B–20 blend. We are working with the Kansas City Area Transit Authority, which covers Kansas and Missouri, to use it. We have worked with Ft. Leonardwood in Missouri to train soldiers using soy diesel for battlefield smoke rather than petroleum diesel. Again, the real problem is that soldiers get hungry when they smell that soy diesel smoke.

I think it is particularly useful because studies have shown there are dangers from using regular diesel in school buses, and soy diesel can significantly clean up the emissions from buses as well.

What we are doing is very simple, as my good friend from Arkansas has already pointed out. We are just changing a qualification or limitation that was in the 1992 Energy Policy Act. We have not seen the progress we expected under that act, also known as EPACT, to displace 10 percent petroleum by 2000 and 30 percent by 2010.

One of the problems is the limitations on the use of biodiesel or soy diesel because they don't require alternative-fueled vehicles. Incidentally, the CAFE amendment proposed last week by the Senator from Michigan and myself and adopted on the energy bill specifically mandated that the alternative-fueled vehicles that are mandated in the existing act actually use alternative fuels. And soy diesel is one way of getting there.

What we believe is important under the Energy Policy Act is to allow 100 percent of the usage of biodiesel to be applied toward the requirement.

Now, the fleets that are using it include the Army, Air Force, Marines, NASA, Department of Agriculture, national parks, State departments of transportation, in Missouri, Iowa, Ohio, Virginia, Maryland, and others, and public utilities, such as Commonwealth Edison, Georgia Power, Kansas City Power and Light, and Duke Energy.

These fleets have found the biodiesel fuel use option to give them more flexibility to comply with their requirements, while more directly addressing the original intent of EPACT—displacing foreign petroleum sources. These fleets, particularly public utility fleets, that are strapped for resources have urged Congress to lift the 50-percent limitation on biodiesel fuel use credits. In addition to more directly addressing the primary intent of EPACT, the biodiesel fuel use provision serves to address the secondary intent of EPACT, which is providing for cleaner air emissions.

According to Government estimates, 90 percent of heavy-duty fleet emissions come from the oldest vehicles in the fleet. New vehicles that are being purchased are much cleaner. Biodiesel offers a solution to cleaning up the emissions of older vehicles.

Lifting the 50-percent limitation on biodiesel—which does not exist for any other alternative fuel—will serve to enhance the effectiveness of the EPACT program. Biodiesel offers one of the best ways immediately to reduce our reliance on foreign petroleum through the use of our existing national infrastructure and current and future diesel technology.

I would love to discuss the benefits of soy diesel at great length. If anybody has any questions, the Senator from Arkansas or I will be more than happy to discuss them. But given the fact that we do have many contentious provisions and amendments to discuss, we will limit our comments, unless somebody wants to get into a debate. We welcome the opportunity to provide more information on it.

With that, I simply urge all of my colleagues to support this amendment. It has tremendous bipartisan support in the heartland. I think, as more people look at it, this should be overwhelmingly accepted. I urge colleagues to look at it and ask questions and support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I am going to make a few comments concerning the Senate and then the energy bill that is pending, and maybe a couple of amendments that are pending as well.

I am very concerned, as an individual Senator who has been in the Senate for 22 years, about how the Senate is working—or, in some cases, not working. I am concerned about the pending bill and the fact that I have served on this committee for 22 years and I didn't have a chance to offer an amendment. I am also concerned about how the bill has grown. It started out at 400-some pages. The second bill, dated February 26, had 539 pages. The bill we have pending, dated March 5, has 590 pages.

This bill never went through committee and didn't have a committee markup. I didn't have a chance to amend it, to read it, or to improve it. The full Senate failed to have this opportunity as well. Twenty members of the Energy Committee didn't have that chance, either. So we now face the situation where we are amending on the floor; we are significantly rewriting it on the floor. There were provisions that didn't belong in the bill in the Energy Committee on CAFE. That belonged in the Commerce Committee, but they didn't mark it up there, either. We had to amend that on the floor and fight that battle. Those provisions on CAFE standards would have impacted every automobile user, consumer, every person in the country. It would have made automobiles less safe, and it would have cost thousands of jobs and thousands of dollars per automobile. But we didn't have that debate in committee. We didn't have a committee report to say what the impact would be.

We didn't have the committee report dealing with the energy bill, either. We didn't have minority views and majority views, which we usually do. Some people said it had been done before. It hasn't been done in the Energy Committee. I have been on the committee for 22 years. Every major substantive piece of legislation in the Energy Committee has been bipartisan and has gone through the legislative process. Deregulation of natural gas comes to mind. That was a very complicated, comprehensive bill. We had both Democrat and Republican support.

But we didn't take these steps this case. We find ourselves rewriting this, discussing it, and educating Members on the floor.

I noticed that Senator DASCHLE, when he was referring to the Judiciary Committee, made this quote in a news conference on March 6. I have it behind me:

> If we respect the committee process at all, I think you have to respect the decisions of every committee. I will respect the wishes and the decisions made by that committee, as I would any other committee.

Then he said on March 14: Committees are there for a reason, and I think we have to respect the committee jurisdiction, responsibility, and leadership, and that is what I intend to do.

That statement, I happen to agree with. It is just that we did not agree with it when it came to the energy bill. So we have been wrestling with this bill now for a couple of weeks. We may well spend another couple of weeks on it. It is because we didn't do it in the committee. And so for the majority leader to say he respects the process, we didn't respect the committee process when we dealt with the energy bill,

unfortunately. We didn't respect it when we dealt with CAFE standards, which would have gone through the Commerce Committee. Now we are not respecting the committee process in dealing with the Feinstein amendment. That didn't go through the Banking Committee or the Agriculture Committee.

I happened to listen to the debate by Senators GRAMM, ENZI, and FEINSTEIN. I concur that most Members don't know much about the issue. I put myself in that majority group of Members. When you start talking about derivatives and futures contracts, and so on, maybe your eyes glaze over and you say: Doesn't somebody else work on this issue? We are going to be deciding that on the floor of the Senate. We never had a committee hearing on Senator FEINSTEIN's proposal. Senator GRAMM says it has impacts of $75 trillion. That is a lot of money. That is a lot of contracts. That is a lot of issues.

Should we not have committee hearings on that in the Agriculture Committee, in the Banking Committee, where they deal with that issue and where they have expertise? I would think so.

We are going to be dealing with an issue of renewables. Senator KYL has an amendment on renewables. We had an amendment last week that Senator JEFFORDS offered, 20-percent renewables. He ended up getting 30-some votes. Did the renewable section pass out of committee? No. But we are going to pass a law that is going to mandate that every utility in the country has to come up with renewables of 10 or 20 percent? What is the impact of that? What does that mean to consumers on their utility bills? Is it even achievable?

What do you mean by renewables? When we look at the underlying definition that is in the Daschle-Bingaman bill, renewables doesn't count hydro. Most of the definitions I have seen of renewables count hydro. According to this amendment, we are not going to count it as a renewable. We are going to count solar, wind, biomass, and a few other things; and if you add that together, that is about 1.5 percent of our electricity production. We are going to waive a law, or a bill and say, bingo, you have to be at 10 percent, or maybe 20? What does that mean? How much does that cost?

Senator KYL has an amendment saying, hey, let's tell the States, do consider renewables, give them flexibility on how to do it, and count hydro when you define renewables, as does everybody else in the world. Every State counts hydro as a renewable. But it is not in this bill. Wow. That little amendment, the 10-percent mandate for States to have renewables—I have been trying to figure out how much it costs. I have checked with experts. I get one figure of $88 billion over 10 or 15 years. Other people are speculating since it simply depends on which renewable you are talking about. Is it hydro or wind? We subsidized some renewables—a lot.

Wind energy right now has a tax credit. I think it is about 1.7 cents per kilowatt. That is the equivalent of 40-some percent of the wholesale cost of electricity. That is a pretty large subsidy.

I guess wind energy could take up the balance. Can we take wind energy from .2 percent of energy production up to 10 percent? I do not know. We are going to have hundreds of square miles of windmills if we do. Is that the right thing for our country to do, and can we do it without massive subsidies—we being the taxpayers—paying a significant portion of the energy cost? I do not know, but we are getting ready to vote on an amendment in the next day or two that will mandate this 10 percent. Is it going to be wind energy? Is it going to be solar? A lot of people are getting ready to vote and do not have a clue how much it will cost or if it is even achievable.

I support Senator KYL's amendment, and I hope my colleagues will as well.

The Senate is not working and I am critical of the Energy Committee and I am offended because as a member of the Energy Committee, as someone who has invested a lot of time on that committee, for me not to have any input on the composition of this bill is offensive to the process.

I read Senator DASCHLE's comments. He said: I will respect the wishes and the decisions made by that committee as I would with any other committee.

The wishes of the committee were not respected when it came to the energy bill. We did not get that chance. We disenfranchised I know every Republican member on the committee.

I have only been on the Energy Committee 22 years. Senator MURKOWSKI has been on it 22 years. Senator DOMENICI has been on it 26 years, maybe longer, plus or minus. That is a lot of years not to have a chance to offer an amendment during a committee markup.

When Senator DASCHLE said he was going to respect the wishes and decisions of the committee, he did not respect the wishes of the committee when it came to this major legislation, one of the most important pieces of legislation we will consider all year long. He did not respect the wishes of the Commerce Committee when it came to CAFE standards because they did not get to mark up the bill. They did not get to vote on it.

And I look at some of the other committees. It came to the Agriculture Committee. The Agriculture Committee did report out a bill but, for the first time in my Senate career, it reported out a bill on an almost straight party vote. I think there was one member who crossed over. The committee came up with a very partisan agriculture bill for the first time.

In addition, we had a partisan Finance Committee bill. We did not get the stimulus package through. The Senate is not working.

The Judiciary Committee last week failed to approve the nomination—or send to the floor—of Judge Pickering who is now a district court judge. It is the first time in 11 years that the Judiciary Committee defeated a nominee in committee, and 11 years ago is when the Democrats controlled the Senate.

I know I heard my colleagues, the leaders on both sides, say: We want to treat all judicial nominees fairly and give them appropriate consideration. Circuit court nominees have not been treated fairly by the Democrats who are running the Judiciary Committee today. They have not been treated fairly.

There are 29 people President Bush has nominated for circuit court nominees. They have been nominated to be on the circuit court—29. Seven have been confirmed; two or three of those were Democrats nominated by the previous administration supported by Democratic colleagues. We have done 7 out of 29. One was defeated. We have now had a hearing on two. There are 19 who have never had a hearing—19.

There is a tradition in the Senate—maybe I should educate my colleagues—there is a tradition in the Senate that we give Presidents their nominations by and large. If there is a problem with the nomination, fine, let's hold it, discuss it and debate it, but, by and large, Presidents have the majority of their nominations through the Judiciary Committee and through the Senate in their first 2 or 3 years as President.

I have a chart that shows President Reagan in his first 2 years got 98 percent of his judges through, including 19 of 20 circuit court nominees. The first President Bush got 95 percent of his circuit court nominees, 22 out of 23. I might mention, that is when the Democrats controlled the Senate. Somebody said: No, Republicans controlled the Senate when Ronald Reagan was President. Yes, we did, but Democrats controlled the Senate when President Bush 41 was President, and he got 93 percent of his judges in the first 2 years and 95 percent of the circuit court nominees.

President Clinton in his first 2 years, with a Democratic Senate—got 19 of 22 circuit court judges, 86 percent of circuit court judges, and by the end of his second year, he got 90 percent of all of his judges confirmed. He got 129 judges. He got 100 judges confirmed in his second year.

Why all of a sudden now with President Bush we have only done 24 percent? We have done 7 out of 29 circuit court nominees—7 out of 29. That is pathetic. President Bush nominated nine on May 8 of last year. Nine. We have disposed of one—that was Judge Pickering—and seven were confirmed out of that nine. Eight have not even had a hearing.

Miguel Estrada, a Hispanic who immigrated to this country from Honduras when he was a young man—he immigrated, frankly, with nothing. He

could not even speak English. He graduated with honors from Harvard. He has argued 16 cases before the Supreme Court, and he has not even had a hearing. John Roberts argued 36 cases before the Supreme Court. He was nominated in May of last year. He has not even had a hearing.

We have only dealt with one-fourth of the circuit court nominees, while the three previous Presidents had 90-plus percent confirmed. 90-plus percent circuit court nominees in the three previous administrations, Democrats and Republicans, were confirmed, and now we have only confirmed 7 out of 29—that's one out of four.

That is not working. The Senate is not working. This institution I love is not working. The Energy Committee did not work. It did not mark up a bill. So now we have to rewrite the bill on the floor.

The Commerce Committee did not work. The Agriculture Committee is becoming partisan. We have never had a partisan agriculture bill in decades. The Finance Committee could not even report out a stimulus package. Eventually, we took half a package from the House and adopted it when in the past the tradition of the Senate has always been, whether you are talking about Bob Dole, Bob Packwood, or Russell Long, we had bipartisan tax bills almost every time, and we could not get it done this year.

Mr. President, I am critical of the process. I happen to love this institution. I want the Senate to work. I want Members to do what Senator DASCHLE said: Have the committee process work. It is not working, and it is not working in committee after committee.

I urge my colleagues that we lower the partisan rhetoric and do our job in committees and respect Members. I will also make a comment on Judge Pickering. It is unconscionable to me to believe that this fine judge was defeated. It is unbelievable to me to think Members would not confirm a nominee who is a close friend of the Republican leader.

I cannot imagine that we would do something like that to the Democratic leader. I cannot imagine that ever happening to Bob Dole. I cannot imagine it happening to George Mitchell. I cannot imagine it happening to Howard Baker.

The Senate has really stooped, in my opinion, pretty low. Maybe in a way I am afraid we are trespassing where we should not go. It is very important that we step back and we figure out what is the right way to legislate, what is the right way to consider nominees. If people are nominated to be a district court judge or a circuit court judge, they are entitled to a hearing, they are entitled to a vote whether Democrats are in charge of the Senate or Republicans are in charge of the Senate.

I am not saying we did it perfect either when the Republicans were in charge. I do think, by and large, we ought to let people have a vote certainly the first 2 and 3 years of a President's term. Maybe in the last year of their term it is understood they do not get a lot of judges: Let's wait and see how the election goes. Particularly if the judges are nominated in the last few months of a Presidential term, there are legitimate reasons to wait until after the election.

Let us come up with a little better understanding. We should not hold people in limbo and maybe hold careers in jeopardy or on hold when we have outstanding people who are willing to serve, and in many cases at a great financial sacrifice. The President has nominated good people and they cannot even get a hearing? Something is wrong. Something is wrong on the Sixth Circuit Court when they only have 8 out of 16 positions filled. In other words, they have half that circuit court vacant. Something is wrong. The Senate is not working.

President Bush has nominated several outstanding nominees to the Sixth Circuit and they should have a chance to have a hearing and to be voted on. I am confident that the overwhelming majority would be confirmed.

I saw Senator DASCHLE's comments when he said we ought to follow the Senate committee process. I agree with that. It is unfortunate we have not been doing it. What happened last week in the Judiciary Committee, where Judge Pickering was defeated, I hope people do not go down that road. Right now the Democrats are in control, but barely. My guess is Republicans—I have been in the Senate where the leadership has changed. I think this is the fourth time, and I am sure I am going to be in the Senate where it is going to change again, and maybe again and again. Who knows?

So people should recognize they can be in the majority, they can be in the minority. So to treat nominees the way they are being treated now, because they happen to be a circuit court nominee, is not right. I will also tell my colleagues on the Democrat side I will make the same statement when Republicans are in control. I do not think we should hold people indefinitely and not give them hearings. I do not think we should confirm 24 percent of the circuit court nominees. I think that is pathetic, and we need to do better. We need to do much better, and I hope and expect that the Senate will.

I ask unanimous consent that short biographies of the eight nominees who were nominated on May 9 for the circuit court of appeals be printed in the RECORD.

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

MAY 9TH NOMINEES

JOHN G. ROBERTS, NOMINEE TO THE COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

Mr. Roberts is the head of Hogan & Hartson's Appellate Practice Group in Washington, D.C. He graduated from Harvard College, summa cum laude, in 1979, from the Harvard Law School, where he was managing editor of the Harvard Law Review. Following graduation he clerked for Judge Henry J. Friendly of the United States Court of Appeals for the Second Circuit, and the following year for then-Associate Justice William H. Rehnquist. Following his clerkship, Mr. Roberts served as Special Assistant to United States Attorney General William French Smith. In 1982 President Reagan appointed Mr. Roberts to the White House Staff as Associate Counsel, a position in which he served until joining Hogan & Hartson in 1986.

Mr. Roberts left Hogan & Hartson in 1989 to accept appointment as Principal Deputy Solicitor General of the United States, a position in which he served until returning to the firm in 1993. Mr. Roberts has presented oral arguments before the Supreme Court in more than thirty cases.

MIGUEL ESTRADA, NOMINEE TO THE COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

Miguel A. Estrada is currently a partner in the Washington, D.C. office of Gibson, Dunn & Crutcher LLP, where he is member of the firm's Appellate and Constitutional Law Practice Group and the Business Crimes and Investigations Practice Group. Mr. Estrada has argued 15 cases before the U.S. Supreme Court. From 1992 until 1997, he served as Assistant to the Solicitor General of the United States. He previously served as Assistant U.S. Attorney and Deputy Chief of the Appellate Section, U.S. Attorney's Office, Southern District of New York.

Mr. Estrada served as a law clerk to the Honorable Anthony M. Kennedy of the U.S. Supreme Court from 1988–1989, and to the Honorable Amalya L. Kearse of the U.S. Court of Appeals for the Second Circuit from 1986–1987. He received a J.D. degree magna cum laude in 1986 from Harvard Law School, where he was editor of the Harvard Law Review. Mr. Estrada graduated with a bachelor's degree magna cum laude and Phi Beta Kappa in 1983 from Columbia College, New York. He is fluent in Spanish.

TERRENCE BOYLE, NOMINEE TO THE UNITED STATES COURT OF APPEALS FOR THE 4TH CIRCUIT BIOGRAPHY

Terrence Boyle is the Chief Judge of the United States District Court for the Eastern District of North Carolina. He was appointed to the bench in 1984 and was unanimously confirmed by the Senate. Chief Judge Boyle began his career working in Congress, where he was Minority Counsel for the House Subcommittee on Housing, Banking & Currency from 1970 through 1973. He later served as the Legislative Assistant for Senator Jesse Helms before going into private practice in 1974 in the North Carolina firm of LeRoy, Wells, Shaw, Hornthal & Riley.

Since joining the federal bench Chief Judge Boyle has been appointed twice by Chief Justice Rehnquist to serve on Judicial Conference committees. From 1987 to 1992 he served on the Judicial Resources Committee, and from 1999 to the present he has served as a member of the Judicial Branch Committee. Chief Judge Boyle has sat by designation on the United States Court of Appeals for the Fourth Circuit numerous times, and has issues over 20 opinions for that court.

MICHAEL MC CONNELL, NOMINEE TO THE UNITED STATES COURT OF APPEALS FOR THE 10TH CIRCUIT BIOGRAPHY

He is currently the Presidential Professor at the University of Utah College of Law. McConnell received a B.A. from Michigan State University (1976) and a J.D. from the University of Chicago (1979), where he was Order of the Coif and Comment Editor of the University of Chicago Law Review. Upon graduation, he served as law clerk to Chief Judge J. Skelly Wright on the United States

Court of Appeals for the District of Columbia Circuit, and then for Associate Justice William J. Brennan, Jr., on the United States Supreme Court.

Professor McConnell was Assistant General Counsel of the Office of Management and Budget (1981–83), and Assistant to the Solicitor General (1983—85), after which he joined the faculty of the University of Chicago Law School in 1985. He has published widely in constitutional law and constitutional theory, with a speciality in the Religion Clauses of the First Amendment. He has argued eleven cases in the United States Supreme Court. He has served as Chair of the Constitutional Law Section of the Association of American Law Schools, Co-Chair of the Emergency Committee to Defend the First Amendment, and member of the President's Intelligence Oversight Board.

PRISCILLA OWEN, NOMINEE TO THE UNITED STATES COURT OF APPEALS FOR THE 5TH CIRCUIT

Priscilla Owen is currently a Justice on the Supreme Court of Texas. Prior to her election to that court in 1994, she was a partner in the Houston office of Andrews & Kurth, L.L.P. where she practiced commercial litigation for 17 years. She earned a B.A. cum laude from Baylor University and graduated cum laude from Baylor Law School in 1977. She was a member of the Baylor Law Review. Thereafter, she earned the highest score in the state on the Texas Bar Exam.

Justice Owen has served as the liaison to the Supreme Court of Texas' Court-Annexed Mediation Task Force and to statewide committees regarding legal services to the poor and pro bono legal services. She was part of a committee that successfully encouraged the Texas Legislature to enact legislation that has resulted in millions of dollars per year in additional funds for providers of legal services to the poor.

JEFFREY SUTTON, NOMINEE TO THE UNITED STATES COURT OF APPEALS FOR THE 10TH CIRCUIT

Mr. Sutton is currently a Partner in the firm of Jones, Day, Reavis & Pogue of Columbus, Ohio. After graduating first in his class from the Ohio State University College of Law, Mr. Sutton served as a clerk to the Honorable Thomas Meskill, United States Court of Appeals, Second Circuit. The next year he clerked for United States Supreme Court Justices Lewis F. Powell, Jr., and Antonin Scalia. Mr. Sutton has argued nine cases and filed over fifty merits and amicus curiae briefs before the United States Supreme Court, both as a private attorney and as Solicitor for the State of Ohio. In his role as Solicitor between 1995 and 1998, Mr. Sutton oversaw all appellate litigation on behalf of the Ohio Attorney General, as well as state litigation at the trial level.

For the past eight years Mr. Sutton has held the post of adjunct professor of law at Ohio State University College of Law, teaching seminars on the constitutional law. In addition, Mr. Sutton teaches continuing legal education seminars on the United States and Ohio Supreme Courts to Ohio state court judges and develops curriculum for appellate judges on behalf of the Ohio State Judicial College. Mr. Sutton is a member of the Board of Directors of The Equal Justice Foundation and of the National Council of the College of Law, and is a four-time recipient of the Best Briefs award by the National Association of Attorneys General.

DEBORAH COOK, NOMINEE TO THE UNITED STATES COURT OF APPEALS FOR THE 6TH CIRCUIT

Justice Deborah Cook was elected to the Ohio Supreme Court in 1994 for a six-year term. She was reelected in November 2000. She served as a Judge of the Ninth District Court of Appeals in Ohio for four years prior to taking the Supreme Court bench. Following graduation from Law School until her election to the Court of Appeals, Justice Cook was a member of Akron's oldest law firm, Roderick Linton, and the firm's first female partner. Justice Cook received her Bachelor of Arts and her Juris Doctor degrees from the University of Akron. In 1996 the University of Akron presented her with an Honorary Doctor of Laws Degree. Justice Cook was president of Delta Gamma and president of her senior class at the University of Akron.

Justice Cook is a recipient of the Delta Gamma National Shield Award for Leadership and Volunteerism and the Akron Women's Network 1991 Woman of the Year. In 1997 she received the University of Akron Alumni Award. She and her husband founded a college scholarship program benefitting 23 underprivileged children from the 4th grade through graduation, with the guarantee of four years' college tuition. She has been called by the Cincinnati Post a ''clear-headed, intellectually rigorous jurist with a good grasp of the big picture . . . She has served with distinction.'' (October 8, 2000).

DENNIS SHEDD, NOMINEE TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Dennis Shedd has been a judge for the United States District Court for South Carolina since 1990. Judge Shedd graduated Phi Beta Kappa from Wofford College in 1975, received a juris doctor from the University of South Carolina in 1978, and received a Masters of Laws from Georgetown University in 1980. From 1978 through 1988, Judge Shedd served in a number of different capacities in the United States Senate including Counsel to the President Pro Tempore and Chief Counsel and Staff Director for the Senate Judiciary Committee. Upon leaving the Senate staff in 1988, Judge Shedd became of counsel in the firm of Bethea, Jordan & Griffin while simultaneously maintaining his own Law Offices of Dennis W. Shedd.

From 1989 to 1992, Judge Shedd was an adjunct professor of law at the University of South Carolina. While serving in his current capacity as a United States District Court Judge for the District of South Carolina, Judge Shedd has been a member of the Judicial Conference Committee on the Judicial Branch and its subcommittee on Judicial Independence. Judge Shedd is actively involved in community activities in his home of Columbia, South Carolina including his participation helping to organize and promote drug education programs in the local public schools.

Mr. NICKLES. I yield the floor.

The PRESIDING OFFICER (Mr. JOHNSON). The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent to lay aside the pending business for the purpose of sending an amendment to the desk.

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

AMENDMENT NO. 3038 TO AMENDMENT NO. 3016

Mr. KYL. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself, Mr. MILLER, Mr. WARNER, and Mr. MURKOWSKI, proposes an amendment numbered 3038 to amendment No. 3016.

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

(a) REQUIREMENT.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(14) GREEN ENERGY.—

''(a) Each electric utility shall offer to retail consumers electricity produced from renewable sources, to the extent it is available.

''(b) Renewable sources of electricity include solar, wind, geothermal, landfill gas, biomass, hydroelectric and other renewable energy sources, as may be determined by the appropriate state regulatory authority.''.

(b) PRESERVATION OF STATE AUTHORITY.—Nothing in this Act affects the authority of a State to establish a program requiring that a portion of the electric energy sold by a retail electric supplier to electric consumers in that State be generated by energy from any particular type of energy.

Mr. KYL. Mr. President, I have laid down an amendment to the underlying Bingaman amendment, which I think sets up a classic choice for our colleagues. We have been selling this energy bill and especially the electricity section of it as promoting competition, the market economy, and deregulation.

The underlying Bingaman bill is exactly the opposite of deregulation. It is reregulation by the U.S. Government in a new and extraordinary way. The amendment I have laid down is an attempt to move forward with deregulation, keeping the Federal Government out of the business of telling Americans what they have to do.

The Bingaman amendment reminds me of the old Soviet-style command economy, where the Soviet government told the people of Russia what it was going to have produced and they had to buy it. It did not allow choice of production or consumption. The United States understands that is a road to ruin, but the Bingaman amendment says the U.S. Government is going to mandate, to require, to compel that 10 percent of the electricity sold at retail in this country be produced with certain fuels, certain politically correct fuels.

They have been described as renewables, but not all renewables count because some renewables are more equal than others, to borrow the phrase from the animal farm. No, only those politically correct renewables will count toward the requirement that 10 percent of the electricity the people of this country buy in the future be from this particular energy source.

It does not matter how much it costs. It does not matter what good it does. It does not matter how hard it is to do. It does not matter how discriminatory it is among different people within the country. None of that matters. What matters is that people in Washington know best, and so the U.S. Government is going to tell people how much electricity they have to buy from these unique sources of fuel: Biomass, wind, solar, and geothermal. Other renewables such as hydropower, for example, do not count. There is something wrong with hydropower. That is the underlying Bingaman amendment.

The Kyl amendment says let us leave it up to the States. Fourteen States already require some percentage production of electricity with renewables, as

defined by the States. They are moving toward the production of power through this so-called green energy, and that is fine. My own State has a requirement that 2 percent of the energy sold at retail be produced in this fashion, all the way up to the State of Maine requirement that 30 percent be produced through this kind of renewable fuel, and that is fine.

What the Kyl amendment says is each electric utility shall offer to retail consumers electricity produced from renewable sources, to the extent it is available. Then it defines renewable sources to include solar, wind, geothermal, landfill gas, biomass, hydroelectric, and any others as the State may determine are appropriate. Then it says that nothing in the act affects the authority of the State to establish a program requiring that a portion of the energy source come from renewables. So we require the States to take a look at it, but we do not tell them what they have to do because I do not think we know best.

I know the conditions in the State of Arizona are a lot different from the conditions in New York, for example. I do not think that New Yorkers would be able to produce much solar electrical power, but we can sure do that out in Arizona.

I heard my colleague from North Dakota, Mr. DORGAN, say his State of North Dakota had been defined as the Saudi Arabia of wind. I say wonderful. Then let them produce electricity through wind power. I am not stopping them. Senator BINGAMAN is not stopping them from doing that. The State of North Dakota can produce 100 percent of its power from wind generation if it wants.

It is interesting to me that North Dakota is not in that list of States that requires any production of retail electricity from renewable fuels—Arizona, Connecticut, Hawaii, Illinois, Iowa, Maine, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, Pennsylvania, Texas, Wisconsin. Where is the Saudi Arabia of wind? It is not here.

The people of North Dakota who have all of this resource must have some reason why they are not taking advantage of it. And since we are providing a tax credit of a billion dollars a year to those who produce electricity through these renewables, one would think that would be a big incentive. As a matter of fact, that is how we are getting the renewable produced energy in the country today. We provide a carrot, a big tax credit. We just extended it for 2 more years in this bill at a cost of $2 billion. So there is a big incentive to produce electricity with taxpayer subsidy.

As I recall, the subsidy is something like 1.7 cents per kilowatt hour for wind generation, which is about 40 percent or so of the cost of producing the power. That is a pretty generous subsidy. So if a State such as North Dakota has that much capacity to produce it, then why does it not produce it? Why does the Senator from that State say, look, we have decided, or we have not decided, to require this in our own State, but we are going to require it for everybody else and then maybe it will work for us.

Maybe what they are saying is we can have a lot of production in our State if everybody else has to buy it from us. Maybe that is it.

As a matter of fact, it transpires that there are a couple of utilities that apparently have access to a lot of wind generation, and they are lobbying pretty hard to get this bill passed. The reason? They are going to get the U.S. Government to tell everybody else they have to buy power from these particular producers.

We have always been against oligarchy, monopolies, in this country. Why would the U.S. Government force people to buy a particular kind of energy knowing it is only produced by a very few sets of utilities today? Talk about a windfall. I suggest the Energy Committee ought to look at this very carefully, take a little inventory of who is producing this and who is not. My guess is there are a very few, very special people who are going to benefit from this big time. I would like to know who they are. I would like to know to whom they have contributed in their campaigns. I would like to know whom they have lobbied.

There has been criticism of energy people talking to Vice President CHENEY before he came up with the administration's energy plan. I would like to know who, on behalf of these particular utilities, has talked to whom and what kind of support there is to enrich this small group of utilities that would take advantage of this particular amendment. I would like to know that.

However, we did not have any markup in the Energy and Natural Resources Committee. That was taken away from the Energy and Natural Resources Committee on which I sit. We had no opportunity to get into that. We are going to be asking some of those questions. We never had a cost-benefit analysis. We have no idea whether this is going to do any good and, if so, how much good, and how you can quantify it, but we do know how much it will cost. On the order of $88 billion, for starters. That is only until the year 2020. After that, it is $12 billion a year. Who pays? The electric customers. Is it equal for all of the electric customers in the country? No, it turns out it is not. If you are fortunate enough to be a State that can produce this renewable energy electricity, it will not cost. You get to sell credits to the States that do not produce it. They have to buy the credits. What do they get for that? Nothing. They do not get any electricity. What they get is a pass from the Federal Government from having to build those renewable energy sources themselves.

What we are doing is creating a big new market in electric credits. This is a la Enron—not producing anything but creating credits. As a matter of fact, as I read the Bingaman amendment, it is not restricted to production in the United States. In fact, I believe it is contemplated British Columbia electrical production could be imported into the United States for the credits it would be provided. As a matter of fact, I don't understand why other countries would not get into this, too. The Three Gorges Dam in China might well qualify. Since the generators have not been put in the Three Gorges Dam, that would be incremental additional electrical production by hydro—the only way you can count hydro.

Since it is not limited by the current language, as I read the amendment, what we are doing is creating a trading market in electrical renewable energy credits which might well enrich not just a few special companies in the United States but some foreign countries as well. Who pays the tab? The electrical retail consumer.

I have this challenge for my friends who think it is a wonderful idea: How will they feel when somebody runs an ad against them in their next campaign that says: Are you sick and tired of high electric energy rates? You have Senator So-and-So to thank for that because he got a bill passed that required, by the authority of the U.S. Government, your electrical retail seller to buy 10 percent of the energy from these costly renewables or, if you do not buy that, to buy the credits. The credits, of course, will cost a lot of money. As a matter of fact, these credits probably will become a very valuable commodity.

The way the Bingaman amendment works, as I understand it, the generator does not get the credits. If I have an electrical generating facility in Arizona and I decide to create a lot of solar-powered generation and I know there is a big market for electricity in California, I sell a lot of this power to California so the folks in Los Angeles can air-condition their homes or for whatever they need the power. I don't get the credit for that. The retailer in Los Angeles is the one that gets the credit for whatever renewable fuel is used in the production of that electricity.

What does that mean? First of all, if I have any retail customers myself, I will try to keep that power. Although electricity is fungible, I will somehow try to allocate it to my retail customers. But if I have extra power, what I might do is, instead of applying it to my requirement, I might simply say I have this much on the market, and I will withhold it from the market, and I will see how much it would bring on the market.

Of course, our friends from California complained about the fact that Enron and others withheld energy from the market, thus driving the cost up.

A retail seller in Los Angeles is going to need a lot of renewable power in order to meet this mandate. Where is

that company going to get the renewable power? It will have to buy it from somebody. If that electricity or those credits are withheld from the market long enough, the cost of the credits will escalate substantially. There is nothing in the bill that prevents that.

There is no regulatory regime, although I am sure once we get going, there will be a very big regulatory regime. It is fraught with potential for fraud and abuse. Once we see all of that happening, we will have to have a director of this and that, with a big bureaucracy and a lot of law enforcement and penalties in order to enforce the law so it will not be abused. We will have the Enron situations, and there will be a big hue and cry, and we will all want to prevent that, so we will establish more bureaucracy. The Soviet survival command economy will march on as we have to enforce the policy we dictate.

What are we going to do? Are we going to force people to sell the credits they have accumulated? Are we going to say they can only sell them for a certain amount of money? As I read the Bingaman amendment, there is one other place you can buy the credits. You can buy them from someone who has already produced the power or, I gather, if it is not available, you can buy it from the Department of Energy. The Department of Energy, even though it does not produce anything, would be able to sell these credits at something like 200 percent their value or 3 cents a kilowatt hour. Actually, the Federal Government might make some money on this.

Who pays the tab? The retail electric customers. Is that what this is all about: Another way to tax the American people? It kind of sounds like it to me. As a matter of fact, there are two new taxes in this legislation. One is the tax of which I just spoke, and the other is a Btu tax by any other name. Remember when we defeated the Btu tax? It was a tax on coal-fired, oil-fired, gas-fired, and nuclear production of electricity. We said: That is not fair. That is what is embodied in the Bingaman amendment and the underlying bill. We are favoring some energy sources over others.

What are the ones in disfavor, out of favor? Nuclear, coal, hydro, oil, and gas. That is how we produce about 98 percent of the power in the country today. Those are out of favor. The people who get their electricity from those sources will pay a tax to those who are willing to pay for and generate the power through the renewable fuels or who buy the credits. There will be a tremendous transfer of wealth in this country. If you live in the State of New York and New York has a hard time producing wind power or solar-powered generation, then the retail seller in New York will have to somehow acquire credits to offset the fact that you cannot generate that kind of power in New York. Who is going to pay the cost of those credits? The retail customers of the New York utilities. And to whom are they going to be paying them? They are going to be paying them to the favored States, those that actually could produce this renewable fuel energy. This is the equivalent of a Btu tax. If you are going to get your power from coal or nuclear, for example, you are going to pay a big premium. Your customers are going to have to pay because you are not producing electricity with the favored fuels.

That is wrong. This legislation is costly, it is discriminatory, it walks away from deregulation, and imposes a massive new regulation of what we can buy in this country, it is anti-American, and it also will favor the few to the cost of the many. We don't even know who those few are. They know who they are. They are lobbying for this legislation. But I suggest we better know who they are before we vote on it or this is going to come around and bite folks.

I know some of my colleagues say, Oh, I need a green vote. I need to impress my environmentalists.

I have two responses to that. Vote your conscience. Do whatever you want to do. But if you are just trying to do this to impress some environmental constituents, think about all the rest of the constituents, the ones who have to buy electricity. Do they count? They are the ones who are going to have to pay the bill. I hope they remember at election time that they are just as important as this environmental community that wants a green vote out of some of my colleagues.

Why are you willing to impose a requirement on others that they buy a particular product that one of your friends has to sell? To me that is very unfair.

This is one more thing that makes this unfair. There was a point of order that lay against part of this amendment as it pertained to a mandate on the municipalities and State-owned and co-ops and others that are the political subdivisions that generate and sell power. Because it would have required a significant expense for them, it was an unfunded mandate and would have been subject to a point of order. So Senator BINGAMAN has wisely agreed to take the mandate out as it relates to those particular sellers of power and generators of power. I think that is a good thing.

The problem is, it creates a great disparity and distinction between those generators on the one hand and the investor-owned generators and sellers on the other hand. Now we have a massive discrimination. The municipals do not have to comply but the investor-owned utilities do have to comply. To their credit, the power association for the municipals, and many of the individual municipals and political subdivisions that are currently exempted, have taken the position that the underlying Bingaman bill is still a bad proposition. It is bad on principle, regardless of the fact they do not have to comply with it now. But they are also concerned that in the end they will have to comply, that they were only removed from its provisions because a point of order lay, and that there would be an attempt later to include them in it—among other things, because it is unfair for one group of utilities to be treated one way and another group to be treated another way.

I appreciate that they have not backed off their opposition to the bill notwithstanding the fact that temporarily they are not subject to its provisions.

I note the cosponsor of my amendment to leave this to the States, the Senator from Georgia, is present. For the purpose of allowing him to comment on this for a moment, I would like to yield to him and then, when he has completed all he wants to say, regain the time so I can make some more comments. I would like to yield to my colleague from Georgia, Senator MILLER.

Mr. MILLER. I thank the Senator from Arizona.

Mr. BINGAMAN. Mr. President, I will not object to this procedure, although it is a little unusual. I would like a chance to respond to the Senator from Arizona at some point here. So I do not want him yielding time to various people around the floor for the whole afternoon. I am glad to have the cosponsor, Senator MILLER, go ahead and speak and then, when the Senator from Arizona concludes, I will expect to speak at that point.

Mr. KYL. That is certainly acceptable to me, and I appreciate the sentiment of the Senator from New Mexico. I simply saw my colleague from Georgia and wanted him to have an opportunity to interrupt my presentation.

The PRESIDING OFFICER. Is the Senator from Georgia seeking recognition in his own right?

Mr. MILLER. I ask to be recognized for up to 5 minutes to speak on the legislation.

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

Mr. MILLER. I thank the Senator from New Mexico. I will be very brief.

I rise in support of the Kyl/Miller amendment on the renewable portfolio standard. As a Governor and now a Senator, I have always been sensitive to the real-world effects of policy. I want to tell you about some of the real-world effects of the issue before us today, the issue of renewable fuels.

I commend the majority leader and the Senator from New Mexico for including the subject of renewable fuels in the debate on the comprehensive energy bill. I think it is very important for us to be able to enjoy the comfortable life we all expect and still leave a clean planet to our children and our grandchildren. Using renewable fuels helps our society to fulfill these goals.

But when I read the original provisions on renewable fuels in S. 517, they give me pause. I understand Senator

BINGAMAN's intent in putting a renewable standard in this bill. I think that is good. With all due respect, however, I believe he is going about it in the wrong way.

Perhaps it is because of my previous life, but I trust State governments. I trust the people who run them, and I think we need to trust the States to create a renewable standard that meets both their needs and their capabilities. We do not need to hand them an expensive Federal standard that they will not be able to meet.

Fourteen States already have renewable programs in place, and this amendment would preempt them. It would be saying to them: We are smarter. We know better.

States would be forced to pass renewable legislation to meet conditions mandated by the Federal Government. I don't think that is how it should work.

These blanket conditions do not take into account the needs and requirements of each individual State, and they are different. What works in Georgia might not work in New Mexico, and vice versa.

My State of Georgia, I am proud to say, has been a leader in the production of reliable low-cost energy. If the underlying amendment is enacted, consumers in Georgia could end up paying for credits to subsidize renewables in other parts of the country. Georgia would be forced to pay for a benefit that it will never receive, and I do not think that is right.

In my State of Georgia, the Governor has commissioned an energy task force to examine current and future needs for energy generation in the State. This will include a formal study and recommendations for how to use renewable fuel sources, and how to best take advantage of Georgia's available natural resources.

The task force will also assess the demand for renewable energy to determine if the cost and benefit will be supported by electricity users in the State. These are the people who know and understand Georgia's energy needs and capabilities. These are the people who should be in charge of regulating Georgia's renewables. That is why Senator KYL and I have introduced this amendment. That is why I urge my fellow Senators to support it. Our amendment encourages the use of renewable fuels, but it lets the States decide how to do this.

This Nation can attain the goal of cleaner energy, but we must do it in the right way. We must let the States decide for themselves the level of renewable fuel that works best for each of them.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. KYL. I would like to say to the Senator from Alaska, I have a couple more points I want to make before I conclude as does, I know, Senator BINGAMAN.

I ask unanimous consent to have printed in the RECORD numerous letters in support of the Kyl amendment.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN PUBLIC POWER ASSOCIATION,
*Washington, DC, March 19, 2002.*

Hon. JON KYL,
*Senate Hart Building,*
*Washington, DC.*

DEAR SENATOR KYL: On behalf of the American Public Power Association (APPA), an association representing the interests of more than 2,000 publicly owned electric utility systems across the country, I would like to express support for your amendment regarding renewable portfolio standards (RPS) which is expected to be offered during consideration of S. 517, the Energy Policy Act of 2002.

While APPA has consistently supported efforts to expand the use of renewable energy, we nevertheless oppose the use of federal mandates as a mechanism to achieve that goal. APPA has always maintained that decisions of this type are best made at the local level.

Your amendment would shift the RPS program to Section 111(d) of the Public Utility Regulatory Policies Act of 1978. This would, in effect, remove the federal mandate and leave decisions related to a RPS to the discretion of State and local regulatory bodies. Further, your amendment preserves the ability of States and local governing bodies to create and implement their own renewable energy programs. This will enable a balanced approach, which takes into account the unique and diverse characteristics of regions and customer bases, to promoting renewable energy sources. For these reasons APPA supports your amendment.

While APPA continues to have major concerns with the current language in Title II—Electricity of the bill, I commend you for taking a leadership role on this critical issue.

Sincerely,

ALAN H. RICHARDSON,
*President & CEO.*

---

NATIONAL ASSOCIATION OF MANUFACTURERS,
*Washington, DC, March 14, 2002.*

Hon. JON KYL,
*U.S. Senate, Senate Hart Office Building, Washington, DC.*

DEAR SENATOR KYL: On behalf of the National Association of Manufacturers and the 18 million people who make things in America, I urge you to oppose federal mandated renewable portfolio standards, and support the amendment to be offered by Senator Jon Kyl (R–AZ) to the Energy Policy Act of 2002 (S. 517). The NAM represents 14,000 members (including 10,000 small and mid-sized companies) and 350 associations serving manufacturers and employees in every industrial sector and all 50 states.

The NAM will consider any votes that may occur on the renewable portfolio standards as possible Key Manufacturing Votes in the NAM Voting Record for the 107th Congress. The NAM strongly urges you to support the renewable portfolio amendment that will be offered by Senator Kyl, and oppose the amendments to continue the federal mandates (using different levels) that will be offered by Senator Jeff Bingaman (D–NM) and Senator James Jeffords (I–VT).

Now is not the time to raise electricity rates by mandating construction of renewable (mostly wind) technologies to generate electricity—mandates that may not be achievable and may threaten electricity reliability.

A one-size-fits-all national standard is not in the best interests of the economy and energy security. States that do not have adequate wind resources, or have already invested heavily in renewable energy that will not be counted toward meeting the mandates, will suffer disproportionately under the Jeffords and Bingaman amendments.

Senator Kyl's amendment will encourage the various states to tailor renewable portfolios to meet the needs and wishes of their citizens, instead of having the federal government dictate which energy sources each state must use to generate electricity.

Congressionally mandated renewable portfolio increases will have negative consequences for manufacturers and consumers, while doing little to address our nation's energy security goals. As the manufacturing sector struggles out of its 18-month recession, it is vital that the Senate help—not hurt—America's economy.

The nation needs a balanced energy policy that will serve as the foundation for economic growth. Please support Senator Kyl's amendment to eliminate the federal renewable mandate, which will dramatically improve S. 517 and help to further that goal.

Sincerely,

MICHAEL E. BAROODY,
*Executive Vice President.*

---

MARCH 5, 2002.

Hon. JON KYL,
*U.S. Senate, Senate Hart Office Building, Washington, DC.*

DEAR SENATOR KYL: We are writing to express our deep concern over the economic impact of the renewable electricity portfolio mandates contained in the Substitute Amendment (the Energy Policy Act of 2002) to S. 517. This renewable portfolio standard would require that 10 percent of all electricity generated in 2020 must be generated by renewable facilities built after 2001. The renewable portfolio standard would become effective next year, and the amount of renewable generation required would increase every year between 2005 and 2020. While we believe that renewable sources of generation should have an important, and growing, role in supplying our electricity needs, the provisions contained in the Substitute Amendment are not reasonable and cannot be achieved without causing dramatic electricity price increases. This in turn would have the unintended consequence of reducing the competitiveness of American businesses in the global economy and, thereby, reducing economic growth and employment.

Today, according to the Energy Information Administration, non-hydro renewables placed in service over past decades make up only about 2.16 percent of the total amount of electricity generated in the United States. However, even this modest existing renewable capacity will not count under the Substitute Amendment toward satisfying the renewable portfolio requirement. Generally, under that Amendment, renewable facilities that can be used to meet the 10 percent minimum must be placed in service in 2002 or thereafter. Therefore, compliance with the Substitute Amendment's 2.5 percent renewable mandate for 2005 would require doubling the amount of non-hydro renewables that we now have in just three years—even though it took us more than 20 years to get to where we are today.

In addition, because the Substitute Amendment requires that 10 percent of all electricity generation, not capacity, must come from renewables, vast numbers of renewable electricity-generating facilities will have to be built. Wind energy, perhaps the most promising non-hydro renewable technology, operates effectively only between 20 percent to 40 percent of the time. Solar is also intermittent. Therefore, the actual

amount of newly installed capacity needed to generate enough electricity to meet the Daschle Amendment's requirements could well exceed 20,000 negawatts by 2005. To put this into context, according to the American Wind energy Association, we currently have less than 5,000 megawatts of installed wind capacity in the United States.

Simply imposing an unreasonably large, federally mandated requirement to generate electricity from renewables will not guarantee that enough windmills and other renewable facilities can be built on schedule; that the wind (or sun or rain) will cooperate; or that the generating costs will be as low as would be the case from a more diverse, market-dictated portfolio of conventional, as well as renewable and alternative fuels. If retail supplies do not comply with the mandate, they would face a 3 cent per kilowatt hour civil penalty. Some may suggest that this penalty would operate as a ''cap'' on the inevitable run up of electricty costs under the Amendment. Even if this penalty were effective at limiting skyrocketing electricity costs—and experience with similar ''penalties'' indicates that it will not—the penalty still would constitute an almost doubling of current wholesale electricity prices for renewable power. Clearly, electricity rates will substantially increase if the Substitute Amendment becomes law.

The federal government's past record in choosing fuel ''winners and losers'' is dismal. The Powerplant and Industrial Fuel Use Act of 1978, which prohibited the use of natural gas in electric powerplants and discouraged its use in many industrial facilities, was essentially repealed less than a decade later when its underlying premises were conceded to be wrong. While holding back the use of natural gas, the federal government spent billions of dollars attempting to commercialize ''synthetic fuels,'' including oil shale and tar sands, with little to show for its efforts.

While we believe that the federal government has an important role to play in encouraging the development of renewable and other energy technologies, we are troubled when that role turns to mandates and market set-asides for one particular fuel or technology. Mandates and set-asides usually don't work, and create unintended consequences far more severe than the underlying problem being addressed.

For these reasons, we respectfully request that you support efforts to modify the language in section 265 of the Substitute Amendment to S. 517, in order to eliminate or mitigate the harmful economic consequences of the renewable fuels portfolio mandate.

Sincerely,

Adhesive and Sealant Council, Inc.
Alliance for Competitive Electricity.
American Chemistry Council.
American Iron and Steel Institute.
American Lighting Association.
American Paper Machinery Association.
American Portland Cement Alliance.
American Textile Manufacturers Institute.
Association of American Railroads.
Carpet and Rug Institute.
Coalition for Affordable and Reliable Energy.
Colorado Association of Commerce and Industry.
Edison Electric Institute.
Electricity Consumers Resource Council.
Independent Petroleum Association of America.
Industrial Energy Consumers of America.
International Association of Drilling Contractors.
Interstate Natural Gas Association of America.
National Association of Manufacturers.
National Lime Association.
National Mining Association.
National Ocean Industries Association.
North American Association of Food Equipment Manufacturers.
Nuclear Energy Institute.
Ohio Manufacturers' Association.
Oklahoma State Chamber of Commerce & Industry.
Pennsylvania Foundry Association.
Pennsylvania Manufacturers' Association.
Texas Association of Business and Chambers of Commerce.
U.S. Chamber of Commerce.
Utah Manufacturers Association.
Westbranch Manufacturers Association.

---

MARCH 19, 2002.

Hon. JON KYL,
*U.S. Senate, Senate Hart Office Building, Washington, DC.*

DEAR SENATOR KYL: The undersigned associations urge you to support the ''renewable portfolio standards'' (RPS) amendment expected to be offered today by Senator Kyl and Senator Miller to S. 517, the Energy Policy Act of 2002.

The Kyl/Miller RPS amendment will preserve the ability of each State to decide for itself and its own citizens which appropriate mix of renewable and alternative energy sources is optimal for their own preferences and needs. In addition, the amendment will ensure that businesses and homeowners alike will have more affordable and reliable electricity supplies in the future, with renewable energies being an important and appropriate part of the energy mix.

The Senate should not adopt a one-size-fits-all national mandate for an arbitrary quota for renewable energy use in producing electricity, such as is currently in section 265 of S. 517. Sen. Bingaman's amendment attempts to make the mandates in S. 517 more technically feasible, but his amendment still mandates an aggressive, nationwide renewable portfolio standard that will raise costs, threaten electricity reliability and create inequities among not only energy sources, but also among States and electricity generators.

Many States do not have access to optimal wind energy locations or large volumes of inexpensive biomass. Under Sen. Bingaman's amendment, consumers in these States would have to pay for electricity generated in other States that have more access to renewable energy. In addition, the Bingaman amendment treats electricity generators differently—large private utilities are covered, but, inexplicably, public electricity generation is exempt, at least for the present.

Finally, adopting a mandated federal renewable quota will establish a framework for additional market interference in the future, such as by raising the percentage of the portfolio or extending the mandate to other electricity generators or other energy users. Such portfolio mandates fly in the face of the goals of reasonable electricity policy—to increase competition and efficiency in the electricity market and to lower consumer costs.

We urge you to vote for the Kyl/Miller amendment to eliminate mandated federal renewable portfolio standards and replace them with a provision that encourages the States and their citizens to determine their own goals for renewable energy sources. Please support the Kyl/Miller amendment to forge a sound energy policy that will promote economic growth and prosperity for all Americans.

Sincerely,

The Adhesive and Sealant Council, Inc.
American Chemistry Council.
American Iron and Steel Institute.
American Paper Machinery Association.
American Petroleum Institute.
American Portland Cement Alliance.
American Textile Manufacturers Institute.
Association of American Railroads.
Edison Electric Institute.
Electricity Consumers Resource Council.
National Association of Manufacturers.
National Electrical Manufacturers Association.
National Lime Association.
Naitonal Mining Association.
Natural Gas Supply Association.
U.S. Chamber of Commerce.
National Restaurant Association.
US Oil & Gas Association.

Mr. KYL. Second, if I could, I would like to make a couple of points in conclusion and then respond to any questions or comments that Senator BINGAMAN would like to make, and I also want to hear what our ranking member, Senator MURKOWSKI, wants to say because I know he and I were both looking forward to having an opportunity to work on this issue in the Energy Committee. As I noted, we didn't have that opportunity.

I appreciate what the Senator from Georgia just said. As a former Governor of the State, he appreciates, probably more than most of us, the responsibilities of the publicly elected officials and the need to know what works and what does not work in any given State and what is fair for the people within their State. That is really the basis for the Kyl-Miller amendment: to allow the States to determine what is in their best interest.

I note that in more than 90 utilities across the country there is already a green pricing policy, what they call green pricing, which allows consumers to request and pay for the cost of this green power. In other words, they can say, I want 50 percent of my power to come from renewable sources, or whatever it is, and whatever the cost of that is, the utility is required to provide that power to them and charge that cost to them. That is a customer's option.

That is one of the specific provisions in the Kyl-Miller amendment. Obviously, this would be preempted, as with the other State programs, with the underlying Bingaman amendment.

I also make the point that I did not make earlier, which is that the administration, Secretary Spencer Abraham specifically, has told me he is supportive of the Kyl amendment and not supportive of the Bingaman proposal.

Another thing I want to do is make the point that section 263 of the bill allows the Federal Government to purchase a percentage of its electricity from renewable sources—I am quoting now—''but only to the extent economically feasible and technically practicable,'' and the minimum required purchase is 7.5 percent, while section 265 imposes a 10-percent mandate on private utilities, and it does not include the ''economically feasible and technologically practicable'' waiver. So again, there is another double standard here. The Federal Government is not required to do as much as

the private utilities are required to do and has a special waiver that it can exercise. If this is such a great idea, why wouldn't we apply it to the Federal Government just as much as we would to the private sector? I do not really have an answer to that.

I make a point, too, that with respect to the cost-benefit analysis, one of the concerns I have had is that the ability of States to provide power through renewables is not without tradeoff. I will show you a couple charts that illustrate this point.

In the case of the Southwest, where we have a lot of sunshine, maybe this is the ''Saudi Arabia for solar power,'' but it is at significant cost. This chart illustrates the fact that you are going to have to have an enormous quantity of desert covered with these reflective mirrors, about 2,000 acres of solar panels, it is estimated, to produce the energy equivalent to 4,464 barrels of oil per day. Two thousand acres of ANWR would produce a million barrels of oil a day. So for the equivalent 2,000 acres: In one case, you get a million barrels of oil, and in the other case you get the equivalent of 4,400 barrels of oil.

It would take 448,000 acres, or two-thirds of the entire State of Rhode Island, of solar panels to produce as much energy as the 2,000 acres of ANWR that are available for energy production here.

I do not know exactly how many square miles, but one of the assessments was it would take 2,000 square miles to produce the same amount of energy that would be produced by a nuclear generating facility. If that is true, you would have a corridor 5 or 10 miles wide on either side of the highway all the way from Tucson to Phoenix with these reflective mirrors. I have not done the environmental analysis of that. I know it would not be very attractive. I do not know what the other costs to the environment would be. But that is the problem. We have had no environmental analysis.

The same problem exists with respect to wind generation. Wind generation, we understand, has certain environmental consequences. It is not very friendly to birds, although with more and more of the Federal subsidy, they have been working on ways to design the propellers so they turn more slowly and therefore give the birds a little bit better chance.

But 2,000 acres of wind generators produce the energy equivalent to only 1,815 barrels of oil each day; again, compared to a million barrels of oil that would be produced out of the same number of acres in ANWR. It would take 3.7 million acres of wind generators, or all of the States of Connecticut and Rhode Island combined, to produce as much energy as just 2,000 acres of ANWR.

Now the 2,000 acres, we have said before, is roughly the equivalent of Dulles International Airport. So you can get an idea, if you take Dulles Airport on the one hand and the States of Connecticut and Rhode Island on the other hand, you get a little bit of an idea of some of the tradeoffs involved. I do think there has been adequate consideration of the kind of tradeoffs that would be required to produce the massive amounts of energy that are called for under this legislation as a substitute for other ways of producing power.

As I understand it, the way the Bingaman amendment works is that each public power, or, that is to say, investor-owned utility supplier, would be annually required to report to the Secretary of Energy several facts: One, how much their electric retail load is; what percentage of that was produced by renewable fuels; how they acquired that renewable fuel—was it by production purchased through a wholesaler or renewable credit, or in whatever form it was—and then there would be an audit done. In the first year, it would be 1 percent required, the year 2005; and it would escalate to 10 percent by the year 2019.

You would exclude the eligible renewables, municipal waste, and hydro from that, and the credits would have to be from sources other than existing hydro. The only way you could get additional hydro, or any hydro credit, would be if you did something such as rewinding the generators or, in some other way, added to the efficiency of a particular unit.

As I said earlier, you could acquire, at a 200-percent market cost, a credit from the Department of Energy as well, even though energy would not be producing any new power. What would the cost of this be?

According to the Energy Information Administration of the Department of Energy, you are looking at a cost, starting in the year 2005, of about $2 billion, escalating, by the year 2020, to a cost of about just a little bit under $12 billion per year. And most of that would be from production. There would be a small amount through penalty payments because of the assumption not a whole 100 percent of the production could actually be achieved at that point. Every year thereafter, for the next 10 years, you would be paying $12 billion a year. So you are talking about $88 billion of gross cost, in addition to $12 billion each year thereafter until the year 2030. That is a lot of money that would have to be paid by the retail customers of the utilities.

Just a couple questions, and then I will give Senator BINGAMAN a chance to respond and perhaps answer some of these questions.

I made the point before that it does not appear to me the generation of the renewables is required to be within the State in which the electricity is sold. So, presumably, you would have a credit trading system throughout the United States. And I do not even see a limitation to power produced in the United States. As a matter of fact, as I understand it, as drafted, incremental hydro from B.C. Hydro would count, and then a retail supplier from the United States could use that as a required percentage to be achieved under the legislation.

One of the concerns—I guess another question I would have—is whether there is actually a reverse incentive not to produce power with renewables. I know that is the intention of the sponsors of the amendment. But I think it could quite work in exactly the opposite direction. Because of the tradeable credits that are being created under this legislation, you would actually have an interest in withholding those credits from the market and even preventing the siting of any new generation.

Here is the concern I have for those of us who are in the West where there is some potential for some new generation. In my State of Arizona, in the State of Nevada, in the State of New Mexico, and others, a very large percentage of the land is owned by the U.S. Government. In the State of Arizona, only 12 percent or 13 percent of the land is privately owned. Another 12 or 13 percent is owned by the State. The rest is held in trust by the U.S. Government. In Nevada, it is approximately 90 percent.

You would have to have a lot of permits to cross Nevada Federal lands for either the generation or the transmission. Every action is a Federal action. They have to have an environmental impact statement. And the opportunities to prevent the establishment of energy generation and transmission throughout the Western United States are substantial.

I suspect there would be an incentive on the part of those who have a monopoly on the generation of this power right now to maintain that monopoly by finding ways to throw roadblocks in the way of the production of this power, especially those States, as I said, where there is substantial Federal land-ownership such as my State of Arizona. Both because there would be an incentive to withhold the credits from the market in order to enhance their value and because there would be the natural tendency to use the Government yet again to advance economic purposes by withholding approval of competitive generation, I suspect there could be actually a diminution in renewable generated power than an enhancement of that power.

I am especially sensitive to the concerns of those from California who charge that there was a deliberate attempt to withhold energy from the California market which jacked up the prices there. And we all know that California consumers suffered as a result of much higher prices just 1 year ago.

These are some of the concerns and questions I have. I am anxious to understand how the amendment is intended to work and how it could be made to work in such a way that it would not be as costly as I indicated; how it would not be discriminatory;

how it would not preempt the States that already have programs such as this, that I indicated; how it wouldn't impact the environment in a negative way; how it would not result in the trading of credits to the detriment of the retail purchasers in States that would have to buy those credits; and, in fact, how it would work in States such as Maine where you already have a very high percentage of renewable energy required, 30 times the amount that is required in my own State of Arizona. Yet there would not be any credit for the sale of that to other States, notwithstanding their high production from renewable energy.

To cite an analogy, one of my staff members said he didn't quite understand why this was such a great idea. I tried to explain it to him. He said: I still don't understand. Grapefruit is really good for you, but I don't quite understand. Should the Federal Government then pass a law that mandates 10 percent of all the fruit sold in the country be grapefruit?

He said: That might help my State of Arizona because we grow a lot of grapefruit. I guess we could set up a trading deal where people in New York would have to buy a credit since they couldn't actually produce grapefruit. Since it is so good for you, if I am in a preferred position politically, I might have the clout to pass a law that says that 10 percent of the fruit has to be grapefruit. That might be a good idea.

I really don't think that it is any business of the Federal Government to impose that on the American people. Let the free market work. Let's get back to deregulation. That is what this whole electric section of the energy bill was supposed to be about in the first instance: To deregulate, to reduce cost; not to reregulate and increase costs; to provide more local control of the situation, not more Federal control.

This underlying Bingaman amendment goes exactly in the wrong direction, which is why Senator MILLER and I have proposed an amendment to require the States to look at this but not require them to impose any particular percentage mandate. Let's let each State decide what is best for their local retail electrical customers. If after a period of years that we carry these significant tax credits, where we are promoting renewables, we still haven't gotten to the point where people think we need to be, we can take another look at this.

My guess is we are going to continue to march on to produce as much of this energy as we can in an economic and feasible way, and the percentage is going to increase over time. And we can at that time determine whether we want to replace some of the existing generation with this kind of new generation.

Now is not the time to be imposing this kind of requirement on the country with its additional costs, with its discrimination, and with so many questions that could have been answered, had we done this in committee, that obviously have not been answered.

I ask my colleagues to support the Kyl amendment. Let's lay this Bingaman amendment aside, see how things work for a while before we try to regulate the market with a brandnew, very costly and discriminatory Federal mandate.

Mr. MURKOWSKI. Mr. President, I wonder if the Senator will yield for a question.

Mr. KYL. I am happy to yield.

Mr. MURKOWSKI. I didn't hear all the debate. Do I understand that there is nothing in the Bingaman-Daschle bill that would prohibit a scenario that would suggest that maybe the Three Gorges dam, which is in the process of being completed and would classify perhaps as an incremental renewable, could theoretically sell credits to U.S. firms that would need credit in order to comply with a 10-percent mandate by the year 2020; so this is not limited to just encouraging U.S. construction and development of new renewables that would give them credit?

Mr. KYL. Mr. President, I asked the question of the staff people, who have read and reread and reread the underlying bill and the Bingaman amendment, if there was any limitation on from where the credits came. And they told me they could find none. There is no State limitation, no border between the United States and Canada, or other border, so that indeed you could end up with a worldwide credit system, not just one as among the different States of the United States.

Mr. MURKOWSKI. And a follow-up to that: As an example, I have been over to the Yangtze River. I have seen the construction of the Three Gorges dam. It is truly one of the largest construction projects in the history of the world, much like the projects that occurred on the Columbia River in the 1930s where we attempted to reduce flooding and combat the tremendous source of energy.

But my question is, With the potential credits available to them because of the size of that project, wouldn't it be attractive to acquire these credits at a relatively inexpensive price rather than putting in renewables that would be mandated by the amendment?

Mr. KYL. I say to the Senator, I think he is on to something here. That is really a third reason why there would be a disincentive to produce new renewables here in the United States. The Senator is quite right. There would be an incentive to acquire those credits from abroad because you could undoubtedly do it much cheaper because there would be so much hydroenergy produced out of this dam.

Of course, Senator BINGAMAN can answer this question, but under his amendment, if we were—obviously, we will not be able to do this—able to build a dam here in the United States, you would not be able to get any renewable credit from that. The only way you get any credit from hydro would be if you went back in and made the generator more efficient. Then all you would get is that incremental improvement in output in terms of renewable credit.

As I understand it, the Three Gorges dam is essentially constructed, but the generation equipment has not yet been embedded in it. Therefore, if that is the situation when the bill becomes effective, that would qualify as incremental electrical generation above and beyond what the dam produced on the effective date of the act.

Mr. MURKOWSKI. That is something I think we should bring out in the debate, and perhaps we can get enlightenment. Clearly, I am sure that is not what it was designed to do. The obvious objective was to try to encourage renewables being built and not to acquire credits that might be relatively inexpensive.

I thank the Senator.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I will be very brief. I rise to make a couple of comments in response to the presentation by the Senator from Arizona. He has clearly thought through this and done a fair amount of homework. He brought some charts with him and gave some examples of why he thinks this is bad legislation.

I think he makes a terrible mistake by suggesting that this is not national in scope. The implication of the proposal by the Senator from Arizona is to say: If it is to be done, let's let the States do it. This is not something that ought to be a matter of national policy.

Let me make a couple of comments about that. We would have had the same kind of discussion over 20 years ago when we first discussed the Clean Air Act in Congress. People said: Let's leave it to the States. This isn't something we ought to do nationally. This is not a national responsibility or a national goal. Let the States do it.

We didn't do that. We said: As a matter of national purpose, this country deserves clean air. We passed clean air standards. Why? Because the Congress demanded it and said: This is a matter of national purpose and a matter of developing national standards, and national aspirations for our country.

On the issue of energy, the question is: Are we going to write a national energy bill and have an energy policy that turns the corner and moves us in a different direction in certain areas—Yes or no? It is not a question of can we do it. We can. The question proposed by the Senator from Arizona is, Should we do it? He says no.

Now, can we do it? Let me show you this chart. This is from the U.S. Department of Energy's National Renewable Energy Laboratory. This chart shows the biomass resources in this country. The dark shades of green represent the potential kilowatts per county in America. Solar, geothermal,

and wind resources: all of these represent real potential to extend America's energy supply with renewable energy.

Now, it is perfectly reasonable for someone to say, I don't think we ought to do it. I don't think it is a matter of national policy. It is a perfectly reasonable position—wrong, but reasonable.

If we are going to address energy policy in the Senate, then we have to begin describing a new policy, and we have to begin describing it as a sense of national purpose.

I recall a story about Mark Twain being asked to debate. He said he would be happy to debate as long as he could be on the negative side. They said: You don't even know the subject yet. He said: The negative side requires no preparation.

The affirmative proposal that is offered by Senator BINGAMAN is to develop a renewable portfolio standard. That is an affirmative proposal. Why? Because it will advance the interests of this country, extend America's energy supply, reduce our reliance on foreign energy, and improve America's security.

What are the consequences of doing nothing? My colleague mentions the free market. The free market has allowed us to import 57 percent of our oil supply from overseas, largely from Saudi Arabia. Is that the free market that helps this country? I don't think so. I think it makes our country and our economy more dependent on an oil supply that comes from one of the most unsettled areas in the world.

What if, God forbid, tomorrow morning a terrorist should shut off that supply of oil from Saudi Arabia and Kuwait to the United States? Our economy would be flat on its back. If we wake up tomorrow morning at 6:30 and turn on the morning news and discover that, God forbid, somebody has interrupted this flow of energy from the Middle East, our country's economy is going to be flat on its back. We all know that this puts America's economy in jeopardy. That is why, as we develop a new energy policy, it is incumbent upon us to look at these new approaches.

The renewable portfolio standard can be controversial, yes, I understand that. Every new idea is controversial. But it is essential to pull this new policy along and to say that it is good for our country, good for our economy, and good for American security. That is our requirement in the Senate.

Now, my colleague from Arizona said that the State of North Dakota doesn't have a renewable portfolio standard. That is true. It should. I am not in the State legislature. If I were, I would propose it. But North Dakota doesn't have an RPS. That is precisely why we need a national policy. Some might have an RPS at the State level; some states might not. Some might care about it; some might not. Some might think it would be fine to go from a 57-to a 70-percent reliance on foreign oil. Some might think that is fine because the cheapest oil in the world comes from the Persian Gulf. But it is not fine. We all understand that. It puts our economy in jeopardy. It imposes on our national security in a very significant way.

So the question is not, Do we understand these things? The question is, Are we as a Congress going to do something about it? Are we really going to decide there are certain national energy goals and aspirations that we have as a country?

Let me end as I began. We have had this debate before. We had this debate on clean air and clean water standards over two decades ago. We had people who didn't want those standards. ''Don't you dare impose these burdens on State and local governments,'' they said. Good for those policymakers. Good for them for having the courage to say, let's do this as a country, let's make progress in addressing this national issue.

That is exactly what the Bingaman renewable portfolio proposal in this energy bill is designed to accomplish. It says, let's address this issue, let's aspire to higher goals, let's understand that energy comes not just in a pipe or by digging it out of the ground. It comes from the sun, wind, biomass, and geothermal resources. There isn't any reason that this country ought not aspire to do more in these areas. That is what this standard is about.

As I said, it is easy to take the opposing side. It is more difficult to assume the responsibility to be on the affirmative side. But the affirmative side here is saying, let's do this as a country. That is the right side.

I hope when the Senate finishes this debate, it will say, yes, this is the right thing to do—not State by State, but as a nation. This is what we aspire to do as a nation, to extend our energy supply, to make us less dependent upon Middle East oil, and to use limitless and renewable sources of energy to help strengthen our country.

I yield the floor.

Mr. MURKOWSKI. I wonder if my good friend will yield for a question.

Mr. DORGAN. I am happy to yield for a question.

Mr. MURKOWSKI. I appreciate that. We have had a long relationship on energy matters. I look with interest at the chart the Senator has displayed. The one thing that strikes me is the areas. Obviously, the areas that can generate solar relatively efficiently is the South and Southwest, as indicated by my colleague, with the red concentrated area, including Arizona and New Mexico. To some extent, that leaves the rest of the country without the same potential advantage.

I find it rather curious, in looking across from the solar down to geothermal, most of that is on the west coast, in California. There is not much on the east coast. The wind, on the far right of the chart, suggests that the northern areas along the Canadian border, and other areas, have a predominance of wind. Of course, the green is the biomass.

If we address the combination of circumstances on how we resolve our energy crisis and address renewables, there seems to be a tradeoff, because I am sure the Senator from North Dakota would agree that the biomass concepts suggest burning carbon, and we can address that through technology. Nuclear, of course, would not show any significant emissions.

The problem I have is that portions of this bill do not really get us there from here. For example, in this bill, we are prohibited from using any timber products from public land sales, with the exception of preconditioned thinning. So I can refer to the language specifically. It says:

> With respect to material removed from national forest systems land, the term biomass means fuel and biomass accumulated from preconditioned, thinning slash and brush.

So I take that to mean there would be a very narrow use of any of the products from public lands. In my State, we are all public lands, so we could not develop biomass because we can't use the slash, the bark, any of the remains for biomass. I think that is an effort in this legislation. I ask if my colleague agrees with me or not, where clearly we have an oversight, because that doesn't allow some States that really have no private or State timber to utilize the waste for biomass production. Is that not kind of an inconsistency?

Mr. DORGAN. My colleague from New Mexico will speak next and will describe some of the policies with respect to public lands.

I say this to the Senator from Alaska. If you take a look at this chart—the import of this chart—it shows a fairly balanced representation across the country, to be able to achieve limitless, renewable sources of energy that we don't really aspire to harness these days. We are trying to see if we can pull the country along with a national standard to actually harness energy from these renewable resources.

I understand there are some concerns about certain areas of the portfolio standard, and we can have some discussion about those concerns. But I do believe that the principle here to aspire to have the country using more renewable energy.

The Senator from Arizona, I think, toward the end of his presentation, described his real objection. It is not with some problems over resources on public lands.

His problem is he believes that we ought not to mandate anything and that the free market ought to help increase our use of renewables. That is the underlying objection.

I do not know whether the import of the question of the Senator from Alaska is——

Mr. MURKOWSKI. In my State of Alaska, for example, I am precluded by

this language, and I am going to have to go out——

Mr. DORGAN. Let me finish my thought. I have the floor, Mr. President.

Mr. MURKOWSKI. I am going to have to go out and buy credits which is not——

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

Mr. DORGAN. My point was this: If the Senator from Alaska is saying he has some concerns about timber, but he believes there ought to be a renewable portfolio standard, that is one thing. My point is the author at the end of his presentation said: I do not think we ought to impose a mandate on the States. This should be left to the States, No. 1, so it is not a national policy to embrace. Second, let's let the free market handle this.

My response to that is, the free market has gotten us to the point where over 50 percent of our oil is imported, mostly from Saudi Arabia. If you think it strengthens national security, good for you. I am not saying you believe that. No one believes we are in the position of increasing our national security by increasing the amount of oil that comes from the most unstable part of the world.

That is the point and the reason we need a renewable portfolio standard.

Mr. MURKOWSKI. I assume the Senator from North Dakota is aware that some of the predominant wind areas are in my State of Alaska in the high Arctic. I suggest there is little enthusiasm for putting up windmills associated with the Arctic National Wildlife Refuge where there is lots of wind. We have inconsistencies in this. We expended $7 billion in renewables, and now we are talking about a mandate that is going to cost the consumers of this country a considerable amount of money. The problem I have with the bill is we have not had this kind of conversation, as the Senator knows, in the committee process. We are doing this on the floor, and that is difficult.

The problem I have with this particular application of the chart is the inequity associated with what is good for the Southwest does not necessarily address what is good for the east coast or the South.

The PRESIDING OFFICER. Senators are advised that the Senator from North Dakota has the floor.

Mr. DORGAN. Mr. President, let me make a final point that I think is important. The mandate here is going to strengthen this country's national security and energy security. We can decide to do nothing. We can decide, as my colleague from Arizona has, that we ought to essentially ignore this and let State-by-State judgments be made. We can decide that whatever the free market determines is our future. But that, in my judgment, does not resolve the need for a national energy policy that stretches this country and moves it in a different direction—one that I believe will strengthen national security by reducing our reliance on foreign oil.

Does anybody in the Senate want to stand at their desk in the Senate and say: We really think it is good for the country, we really believe it strengthens America's national security to have 57 percent of our oil coming from the Middle East or from foreign sources? Is anyone missing what is happening in the Middle East these days? Does anybody believe it does not injure our national security to be so dependent on that source of oil?

If you believe—and I think almost everyone in this Chamber does believe—it actually hurts our national security to be that dependent, then we ought to strive as a nation to find ways to change that. I am not talking about Arizona, Alaska, North Dakota, or New Jersey by themselves. The Nation ought to strive to back away from that dependency.

If my colleagues believe that, the question is, What is the menu of changes that allows us to reduce our dependence on foreign oil?

One answer is the Bingaman proposal in the energy bill that aspires to have a renewable portfolio standard of 10 percent; 10 percent coming from renewable, limitless sources of energy.

Mr. REID. Mr. President, will the Senator yield for a question?

Mr. DORGAN. I would be happy to yield.

Mr. REID. The Senator is aware, I am sure, that out of all the petroleum reserves in the world, the United States has 3 percent, and the rest of the world has 97 percent. Is the Senator aware of that?

Mr. DORGAN. Yes.

Mr. REID. Is it pretty fair to state it is very difficult for us to produce our way out of the problem we have with petroleum products?

Mr. DORGAN. I say to my colleague from Nevada, that is the case. We cannot produce our way out of this problem. We certainly can produce. We had a vote in the Senate about production in the Gulf of Mexico. I supported that. I also support incentives to increase production of oil and natural gas.

Yes, I do think we have to increase production and do it in an environmentally sensitive way. We have to do a lot of other things and do them well as a matter of national policy. That is the point of having an energy policy debate on the floor of the Senate.

If, in fact, the result of an energy policy debate is to say let the States do whatever they want to do, that is a kind of yesterday-forever strategy. Members of the Senate will, 25 years from now, be having the same debate. The suits will have changed, the names will have changed, and the people occupying the desks in the Senate will have changed, but nothing else will have changed.

Mr. MURKOWSKI. Will the Senator yield for another question?

Mr. DORGAN. I will be happy to yield.

Mr. MURKOWSKI. I wonder if the Senator can explain to me how any of the examples he has given on that chart will significantly reduce our imports of oil from foreign nations? He is talking about the generation of electricity from these sources, but we do not move out of Washington, DC, on hot air. It takes oil. There is no oil associated with those particular examples.

We have to be careful in our definition of energy. There are many kinds of energy. The Senator is absolutely right, those are important alternatives. But to suggest somehow this is directly related to reducing our dependence on imported oil, I think the Senator would agree with me there is very little coalition there because we are talking about two different things.

Mr. BINGAMAN. Will the Senator yield for another question?

Mr. DORGAN. Let me say, I do not agree with him, but I will be happy to yield for a question.

Mr. BINGAMAN. Will the Senator from North Dakota acknowledge one reason why we are interchanging these various issues of wind power, solar power, and oil is because the Senator from Alaska has been using charts for the last 2 weeks that try to equate the two and try to make the point that we have to keep drilling more and more of Alaska in order to avoid using wind power?

Mr. DORGAN. Not just the Senator from Alaska, but the Senator from Arizona, in the points he made toward the end of his presentation, specifically talked about the size of the devices to gather solar energy that would be required to offset X amount of oil. I believe it was 2,000 acres, something the size of Dulles Airport.

He said: Here is the amount of wind energy; here are the number of wind turbines it would take to offset a certain amount of oil.

The point is, when we talk about a renewable source of energy, we are talking about electricity. That is the case. How do you generate electricity? You generate it through electric generating plants. We can put coal in them, use natural gas—there are a number of ways to generate electricity.

Our colleague, for example, from Utah, now drives this hybrid car I saw parked in front of the Capitol yesterday. His car uses less petroleum, because it runs, in part, on battery-powered electricity.

Renewable and limitless sources of energy will help us reduce our supply of imported oil. I am not suggesting, and I would not suggest, that doing all we can on renewables takes us far down the road in relieving us from the substantial amount of oil we now receive from abroad. I am not suggesting that at all.

I do believe, especially in the area of production of electricity, we have opportunities to do things in a different way. The question in the Senate is, Do you want to do that or don't you?

Some say, no. The same attitude prevailed, as I mentioned, on the clean air and clean water debates about 20 years ago with respect to this energy debate.

My hope is that at the end of the day on the Kyl amendment we will vote no and say we really do want to be involved in a different way with respect to production of electricity.

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

Mr. DORGAN. I will be happy to yield.

Mr. REID. Just a few miles out of Las Vegas—I explained this to the Senator, and I want to see if he remembers this—we are going to build a wind site at the Nevada Test Site. We have permission from DOE to do that. Within 2½ years, that will be producing 260 megawatts of electricity, enough to satisfy the needs of 260,000 people in Las Vegas.

Will the Senator agree that is a pretty good step in the direction for wind energy?

Mr. DORGAN. A leading question, but of course I agree. Take a quarter of an acre of land, put on it a 1-megawatt, new, very efficient wind turbine, and produce electricity that is used to power 1,000 homes. Pretty good deal? I think so. With 160 acres of land, especially with the new turbines, you can produce electricity for nearly 160,000 homes in this country.

My point is, this is the right thing to do. Let's do it as a matter of national policy. Let's establish a national renewable portfolio standard.

Let me finally say, as I conclude, I understand it is controversial. I understand why some people do not want to do it. In fact, there are some people who have never wanted to do anything for the first time. I understand that, too. But if we are talking about national energy policy, and we end the day in the Senate having done nothing that is new, then we have only postponed for another 25 years a debate that is identical to the one we are having today, and we will find ourselves in exactly the same situation. Let's hope between now and then we do not encounter some dramatic circumstance that really shuts off the supply of energy that is critical to our country.

Mr. REID. Will the Senator yield for one last question?

Mr. DORGAN. Yes.

Mr. REID. The Senator's predecessor, Quentin Burdick, I remember once when he came back from North Dakota in February. I read in the papers and saw on the news there was a terrible storm in North Dakota. I said to him: That must have been a bad weekend, Senator Burdick.

He said: Bad weekend? It was a good weekend. I love that weather. The wind blows there all the time, and we like the wind.

I say that to remind the Senator from North Dakota, as he said earlier today, the Saudi Arabia of wind is North Dakota. I can see that from the map. I never realized, even though Senator Burdick told me the wind blew there all the time, he was really right.

I have said in this Chamber, if one looks at geothermal resources, the Saudi Arabia of geothermal is Nevada. So I would hope Nevada—we have a lot of wind. We do not nearly match what happens in North Dakota, but it is not bad. I hope when we complete this legislation there are some goals set whereby the potential of Nevada with geothermal and the potential of North Dakota with wind can be realized.

Is that what the Senator is saying, simply that we should set some marks and guidelines and try to reach them?

Mr. DORGAN. That is exactly the case. We have the potential to do things in a different way, and we ought to use that potential. Now we can decide to ignore it, as my colleague from Arizona would have us do, or we can decide to embrace it, believing it will strengthen this country and move us toward greater energy security.

I believe it makes sense to take the natural, renewable resources that exist and produce energy from them. I do not want the Senator from Nevada to leave this Chamber somehow describing to others that North Dakota has bad weather. That certainly should not be a conclusion that is left. North Dakota is a wonderful State. It has perhaps more sunshine than the State of Nevada. We have a little bit of a breeze, and it is fairly constant. That is why it ranks well in wind energy. It is a great State, with a great temperature, and a great climate, and the Senator from Nevada should visit it more often.

The point is, we also have the opportunity to, from that general breeze I have described, capture the energy and use it to extend America's energy supply, just as is done with geothermal in the Southwest, biomass in the East, and solar resources in much of the country, especially the Southwest.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I think the expectation was I would speak at this point in response. I know Senator JEFFORDS from Vermont has been waiting to speak, and I will allow him to go ahead at this point. Then Senator VOINOVICH will follow Senator JEFFORDS, and then I will respond after Senator VOINOVICH.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I listen to this debate and at times it gets discouraging because I was around 27 years ago when the cars were lined up trying to get gasoline and the people of this country were absolutely ballistic about the fact that we were hostage to the oil suppliers in the Middle East.

We did some authorization in the hopes we would build an energy supply and this Nation would make it so that those kinds of situations would never occur again. Here we are, with the recognition of the volatility in the Middle East, again ignoring the possibility of moving forward to ensure we do not become subject to that kind of control by the Middle East.

So I oppose very strongly the practical effect of Senator KYL's amendment. The practical effect will be to remove all renewable energy production from this bill. It would strike the modest 10 percent provision in the underlying Daschle bill and leave us with effectively nothing. It would strike the 10 percent renewable energy standard, even though most recent studies by the Department of Energy estimate that a 10 percent national renewable energy standard would cause consumer energy prices to decline by almost $3 billion by the year 2020. It is hard to understand why we would not want to encourage clean energy, energy which causes our consumer costs to go down.

The amendment before us, however, says no to clean energy, no to reducing carbon dioxide, no to reducing smog and acid rain, and no to assisting our American companies to expand domestically and to compete in the thriving international market.

I cannot support this amendment. It simply is not an option for me to go home to my State of Vermont and tell them I have done nothing to try to slow the flow of emissions from fossil fuel powerplants into Vermont's air and water. Remember, this is an air pollution problem as well.

As chairman of the Environment and Public Works Committee, it is not an option for me to ignore the fact that electricity production is the leading source of carbon dioxide emissions in this country, accounting for over 40 percent of that total. I cannot be blind to the fact that the powerplants contribute significantly to emissions of sulfur dioxide, nitrogen oxide, and mercury. These pollutants greatly increase asthma, lung cancer, and other health risks, and contaminate our air and our water. We must enhance production of clean, domestically produced, renewable energy in this country, and we can.

The amendment offered by my colleague from Arizona would reject all Federal renewable energy standards and instead require utilities to offer consumers energy from renewable resources. It would also allow States to continue to establish State standards for renewable energy.

States already are establishing State renewable energy standards, and utilities are already offering consumers green energy. Federal legislation along that line is already happening. It is not necessary. Even if such legislation were needed, it would not be enough. We would still have a national renewable energy shortage. We would have no standard.

A nationwide standard would address the reality that electricity is generated on a regional basis. Many State standards require that renewable energy credits come from energy generated from within State boundaries. A national renewable standard would enable

utilities to meet requirements by purchasing and selling renewable energy outside of the State boundaries. A national renewable standard would therefore guarantee broad, long-term, and cross-regional renewable power generation.

To date, only 12 States have established State renewable energy mandates, although others are actively considering them. A national standard would increase renewable energy production, thereby expanding environmental and health benefits and facilitating greater market entry of renewables into the energy sector.

As is indicated by this chart, public opinion polls constantly show that an overwhelming majority of voters nationwide favor requiring power companies to generate electricity from alternative energy sources. A 2002 survey conducted by the Mellman Group found that 70 percent of those surveyed favor requiring power companies to generate 20 percent—that was my amendment awhile back, which received a pretty good vote—from renewable sources, even if it would raise their monthly electricity bills by $2 or more.

Polls conducted by Texas utilities show consumers are willing to pay as much as $5 per month to receive energy from renewable sources. This is almost five times as much as the Department of Energy has found that the national renewable energy standard of 20 percent would cost consumers.

Without a strong provision to expand the use of renewable fuels, I have to question why we are here at all. If all we are doing is continuing business as usual, we might as well finish up and go home. We do not need massive new legislation simply to preserve the status quo. Before we do that, however, I think we need to remember that renewables will not only help clean our environment and provide countless new high-tech jobs, they will also diversify our energy use. In our current security conscious environment, that is worth doing.

Mr. President, I ask unanimous consent to have printed a letter written to myself and other Members by several former national security experts regarding a contribution of renewable portfolio standards to our national energy security.

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

SEPTEMBER 19, 2001.

Senators THOMAS A. DASCHLE, TOM HARKIN, ROBERT C. BYRD, CARL LEVIN, JEFF BINGAMAN, JAMES M. JEFFORDS, MAX BAUCUS, JOSEPH R. BIDEN, JR., TRENT LOTT, RICHARD LUGAR, TED STEVENS, JOHN W. WARNER, FRANK H. MURKOWSKI, ROBERT C. SMITH, CHARLES E. GRASSLEY, JESSE HELMS.

DEAR SENATORS: Americans are aware of the enormous and complicated tasks ahead in dealing with the consequences of the unprecedented September 11th attack against our Nation.

There are many corrective actions that require lead-times that could be months or even years. But, there are actions that can and must be taken now. One of those critical actions is to advance America's energy security. The Congress will soon act on that issue.

It is not enough just to ensure uninterruptible supplies of transportation fuels and electricity. We must also act to advance the security of those supplies, and the nation's ability to meet its needs in all corners of the country at all times. Our refineries, pipelines and electrical grid are highly vulnerable to conventional military, nuclear and terrorist attacks.

Disbursed, renewable and domestic supplies of fuels and electricity, such as energy produced naturally from wind, solar, geothermal, incremental hydro, and agricultural biomass, address those challenges. Fortunately, technologies to deliver these supplies have been advancing steadily since the Middle East fired its first warning shot over our bow in 1973. They are now ready to be bought, full force, into service.

But, while the U.S. Government has committed intellectual and monetary resources to developing these technologies, the status quo marketplace is unwilling to accommodate these new supplies of disbursed and renewable fuels and electricity. Speedy action by the Administration and the Congress is critical to establish the regulatory and tax conditions for these renewable resources to rapidly reach their potential.

Fortunately, such actions are under consideration by the Energy, Environment, and Finance Committees. We urge the Energy Committee to immediately adopt the Renewable Portfolio Standard (for electricity) as well as provisions to ensure ready interconnection access to the electric grid, and cost-shared funds to the state public benefit funds to continue essential support for emerging technologies and the provision of electricity to the truly needy. We urge the Environment Committee to immediately adopt the Renewable Fuels Standards in conjunction with measures to deal with environmental issues. Finally, we urge the Finance Committee to immediately adopt residential solar credits and renewable energy production tax credits, including a provision for fuels (liquid, gaseous and solid fuels), or their Btu equivalent, similar to the fuel provision tax credit made available in Section 29 of the Internal Revenue Code.

These actions will also develop new industries and jobs, strengthen communities, enhance the environment, and assist in the stabilization of greenhouse gases. On the transportation fuels issue, ethanol, biodiesel and other biofuels will slow the flow of dollars to the Middle East, where too many of those dollars have been used to buy weapons and fund terrorist activities.

Consequently, we also recommend a major and concerted effort to assemble the talent and resources needed to launch a ''Liberty Ship'' type program to convert agricultural wastes and cellulosic biomass into biofuels, biochemicals and bioelectricity. The technology to do so is in place; all that is lacking is the political will to deploy it.

Sincerely yours,

R. JAMES WOOLSEY,
*Former Director, Central Intelligence.*

ROBERT C. MCFARLANE,
*Former National Security Advisor to President Reagan.*

Admiral THOMAS H. MOORER, USN (Ret),
*Former Chairman, Joint Chiefs of Staff.*

Mr. JEFFORDS. On September 19, shortly after the attacks on the World Trade Center and the Pentagon, James Woolsey, former Director of the CIA, ADM Thomas H. Moorer, former Chairman of the Joint Chiefs of Staff, and Robert C. McFarlane, former National Security Adviser to President Reagan, sent a letter urging in the strongest possible terms that we must take immediate action to address our energy security.

One portion of the letter reads:

Americans are aware of the enormous and complicated task ahead in dealing with the consequences of the unprecedented September 11 attack against our nation. . . . There are actions that can and must be taken now. One of these critical issues is to advance America's energy security. . . . We urge the Energy and Natural Resources Committee to immediately adopt the renewable portfolio standard.

Mr. President, I urge my colleagues to join with me in heeding this advice from the great leaders of our Nation who know best why we should do this. I strongly disagree with the amendment offered by Senator KYL.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. I rise today in support of the amendment offered by my colleague, Senator KYL. I ask unanimous consent I be made a cosponsor of this amendment.

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

Mr. VOINOVICH. Mr. President, I applaud the efforts of my colleagues on the other side of the aisle to encourage the use of renewable electricity generation. I agree that renewable energy is an important part of the future and should be developed. I also strongly believe renewable energy sources are vital as this country seeks to diversify energy supplies and decrease our dependence on foreign sources to meet our energy needs.

However, I cannot support the renewable portfolio standard included in the underlying amendment because it mandates unrealistic levels of renewable usage in a short period of time at the virtual expense of all other sources of electricity generation. Instead, I believe the amendment of the Senator from Arizona is a reasonable approach to making renewable energy a greater piece of our overall energy mix. One point that seems to get lost in the debate over the use of renewables is America relies very little on renewable sources of energy right now and will for the foreseeable future.

This chart shows a breakdown of how our electricity is generated today. Coal contributes 52 percent; nuclear energy is 20 percent; natural gas is 16 percent. For all electricity generation by renewables nationwide, and that includes geothermal, hydro, biomass, as well as wind and solar, the total generation is only 9 percent. When that is broken down, hydro is 7.3 percent of the renewables; biomass, wood, waste, and others is 1.1 percent; geothermal is .4 percent; and wind and solar is .2 percent.

This last number is important, since a number of my colleagues have put

quite a bit of faith in solar and wind power. However, the American consumer does not appear to share that enthusiasm which is evidenced by the fact that wind and solar combined make up only .2 percent of our current electricity generation. Another startling but little known fact is, if you do not include existing hydropower as renewable, which the underlying amendment does not, again, renewables are only 1.7 percent of our electricity generation.

Although the amendment includes incremental hydropower prospectively, it still will make up a very small portion of the electricity generation in our country.

Now, when you factor what the Department of Energy believes our electricity usage will be over the next 20 years, you see that the use of coal will continue to rise, natural gas will rise dramatically, nuclear fuel remains fairly level and hydropower remains steady. At the bottom is petroleum, and just above that, non-hydro renewables increase slightly. These projections show, renewables will make up a very small portion of the production of energy in this country for the next 15 to 20 years.

However, the underlying amendment says, regardless of market forces, America is going to dramatically increase its use of renewables. In fact, the underlying amendment stipulates we must develop a mandatory minimum standard for renewable energy of 10 percent for our electricity generation by the year 2020. The only way I can see that we can accomplish this mandate, if it is implemented, is for energy-producing companies to take a dramatic turn toward using renewables. That means they have to cut back on clean coal technology, put the brakes on natural gas, which is the current energy source of choice in America, and restrict the further development and use of nuclear power. This will have a particularly dramatic impact on energy producers in regions of our country that do not currently rely on a tremendous amount of renewable resources.

For example, in my home State of Ohio, our use of renewable energy is much lower than the national average. Renewables, including hydropower, generate 1 percent. Remove hydro from this number and the State of Ohio generates less than .4 percent of its electricity from renewable sources. This is predominantly biomass power which comes mostly from wood-burning boilers in woodworking and paper manufacturing industries.

However, there are many other States which rely on renewable sources for electricity generation. According to 1998 data from the Energy Information Administration, at least 10 percent of the electricity generated in 16 States comes from renewable power sources. Of these 16 States, 5 States receive more than 50 percent of their electricity from renewable sources, and the primary source is hydroelectric power. Four of the five States—Idaho, Oregon, South Dakota, Washington—rely on hydroelectric power for more than 60 percent of their electricity.

Maine is the only State east of the Mississippi to rely on more than 50 percent of electricity generation from renewables, 30 percent coming from hydro and 30 percent coming from other renewable fuels. Regions, and even individual States, that currently have a high percentage of renewable energy sources would be less impacted by the requirements of the underlying provisions. However, forcing a mandatory minimum will unduly burden States such as Ohio.

I don't want my colleagues to misunderstand me. I do believe we need to continue to invest in renewable forms of energy. They are environmentally friendly and contribute to meeting the requirement of national energy self-reliance, and as the technology gets better, have the potential to become inexpensive.

Right now, electricity from renewable energy sources is very expensive. However, we need to realize that the current research and development costs make a practical national application of a mandatory minimum renewable standard very difficult. Renewables simply do not have the capacity to meet our needs in the timeframe established in the underlying amendment. Their growth will come, however, and we should support research funding that will get us to the point where renewables are a viable energy option.

In fact, over the past 5 years, Congress has provided more than $7 billion in tax incentives and other programs to assist renewables. Recently, we extended a renewable energy tax credit for $1 billion, and the Finance Committee has reported legislation that provides an additional $3 billion.

However, I believe it is not prudent for the Senate to mandate a renewable standard. The amendment offered by the Senator from Arizona, on the other hand, lets the free market decide.

If the demand for energy derived from renewable sources exists, then I have no doubt that energy suppliers will respond to their customers and satisfy the demand, just as they are doing in Cleveland, OH.

Last year, the Northeast Ohio Public Energy Council made an agreement with Green Mountain Energy Company in Texas to supply customers in eight northeast Ohio counties with electricity. Green Mountain Energy Company uses a blend of sources including wind, water, and solar energy. Customers in these counties were able to make the decision themselves if they wanted to purchase the power instead of being mandated to purchase green power.

Having spent 10 years as Mayor of Cleveland, and as mayor I ran a municipally-owned utility, and 8 years as Governor, I have developed some very strong beliefs regarding federalism and the role of our various levels of government.

The Kyl amendment lets the States decide whether a mandatory renewables program is something they would want to implement for their residents. Right now, 14 States have already implemented mandatory RPS programs. This is consistent with the policy of the National Governors' Association, which states that any Federal legislation should:

> . . . allow a State to decide what mix of renewable technologies should be included in any renewable portfolio package implemented in a State.

The amendment offered by the Senator from New Mexico does eliminate the original language which would require that larger municipally owned utilities meet the RPS standard, but it still does not address the fact that this mandate will ultimately be paid for by ratepayers. In Cleveland, and in many of our cities and communities nationwide, a lot of these ratepayers are poor and a lot of them are elderly and it would be hard for them to afford the cost of this standard.

If you look at this chart, the people who seem to be left out are the ratepayers. They seem to be left out so often from debates we have here on the floor of the Senate. These are the least of our brethren, the ones who were the most affected a year ago when the demand for natural gas in this country went way up and their utility bills skyrocketed.

If you look at people with annual income under $10,000, you see that almost 30 percent of their income goes for energy costs. If you are in an income bracket between $10,000 and $24,000, you spend 13 percent on energy costs; and of course if you make over $50,000, only 4 percent of your income is spent on energy. There are a lot of people in this country who can afford that. But I have to tell you, there are a lot of people in this country who cannot afford it.

Last winter, in the midst of the heating cost increase, I held a meeting in Cleveland with Catholic Charities, Lutheran Housing and the Salvation Army and heard first-hand the effects of the high energy costs were having on the people who could least afford it. Many of them were just hanging on trying to stay in their own homes.

I am concerned about them and I think that the Senate should be concerned about them as well.

I honestly believe if the decision to implement a Renewable Portfolio Standard is left to the discretion of the Governors in the States, many of them will go forward with it. Some states will not go as fast as other ones, but overall we will probably achieve the goal of the sponsors of the Bingaman amendment, but do it without mandating it throughout the country in each and every State.

Renewables and conservation need to be a bigger part of our energy policy—

I agree with that. But we have to be realistic about our challenge. These two strategies do not have the capacity to meet our growing energy needs in the timeframe mandated in the underlying amendment.

I have to say, anyone who says renewables are going to take care of the energy needs of this country by the year 2020 just is not being intellectually honest in terms of what renewables can do.

We are going to need more coal, we are going to need more nuclear power, we are going to need more natural gas, we are going to need more hydropower and other renewables, we are going to need more conservation. We are going to need it all.

I think the Senator from Arizona is on the right track with his amendment and I urge my colleagues to support his amendment. It encourages the use of renewable power without mandating it and meets our energy, environmental and economic needs in a responsible way.

I yield the floor.

Mr. WELLSTONE. Will the Senator yield for a moment?

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I ask unanimous consent I be allowed to follow Senator CANTWELL, since we are both in the Chamber.

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

Mr. BINGAMAN. Mr. President, I have heard the discussion by the two sponsors of the amendment, Senator KYL and Senator MILLER, and, of course, now Senator VOINOVICH and my colleague, Senator MURKOWSKI, who is the ranking member of the Energy Committee. I want to try to respond to some of the points that were made and put this issue in some kind of perspective as I see it.

First of all, why are we even proposing this amendment? Why does my underlying amendment that Senator KYL would propose to eliminate—why does my underlying amendment try to move us in the direction, as a country, of using more renewable energy to produce electricity? Why is that a priority for the country?

I have essentially the same chart as that to which my good friend from Ohio referred. and it has the same basic information on it.

This chart points out that when you look ahead—we do now depend primarily on coal. We do now depend heavily on nuclear. We do now depend heavily on natural gas. And renewables are not a major part of our energy mix, particularly the nonhydro renewables are not a major part of our energy mix.

One of the purposes we have in this energy legislation—and in this particular renewable portfolio standard provision—is to diversify the sources from which we generate power, so when we get to 2020 the chart I show you in this Chamber does not look exactly like it looks now as I am pointing to it here.

Today, in 2002, about 69 percent of the electricity we generate in this country is produced from coal and natural gas. If we do not adopt something such as this renewable portfolio standard, the expectation is that by 2020 it will be 80 percent produced by those two fuels. That is too much concentration. That is not smart.

The Presiding Officer is familiar with investment strategies. One of the simplest, most basic investment strategies is to diversify so you are not too dependent on what happens to one particular thing. We are too dependent today on what happens to the price of natural gas.

My colleague from Ohio was citing the terrible plight which many people in this country faced when natural gas prices went up 100 percent, 200 percent 18 months ago. I certainly saw that in my State. Many of the people I represent were very adversely affected. That is what we are trying to get away from with this renewable portfolio standard.

We are trying to say some of this electricity that is produced in the country—some modest amount of it—I would be the first to admit that this amendment to require up to 10 percent by the year 2020 is a modest amendment. I think it is very doable. It is a movement in the right direction, but it is a modest requirement. We are saying, let's at least do that. Let's at least require utilities to do the best they can, wherever they are located, to generate some of the electricity they sell from renewable sources. So that is what we are about here.

This chart I have shown before on the Senate floor. It tries to make the point that as compared to other countries, particularly in Europe—that is what is reflected on the chart—the United States has done much less in the way of trying to generate energy from renewable sources. It shows on the chart that Spain has had a 300-percent increase from the years 1990 to 1995; Germany, over 150 percent; Denmark, nearly 150 percent; the Netherlands, over 50 percent; France, a substantial amount. The United States is the one shown on the chart with the yellow circle around it. We have been moving ahead at a very, almost imperceptible, rate.

So what we are trying to do with this legislation is incentivize and require that some action be taken to move toward more production of energy from renewable sources.

My friend from Arizona, in his zeal, referred to this as ''Soviet style command and control.'' This proposal, which we brought to the Senate floor, is essentially the same as President George W. Bush signed into law in Texas. We all know how sympathetic he is to Soviet style command and control. It has worked tremendously in Texas. In fact, there are all sorts of articles being written about how successful that State has been in increasing the use of renewables, and increasing the generation of power from renewables, and how the rest of the country ought to learn something from Texas. What we are trying to do here is learn something from Texas.

I see the majority leader in the Chamber. If he has comments or a statement to make, I would be glad to yield to him at this point.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. I thank the distinguished Senator from New Mexico for his kindness.

Mr. President, I make an announcement that there will be no more rollcall votes tonight. We will pick up, hopefully, on the Kyl amendment tomorrow and have a vote on it at some point shortly after we reconvene.

TECHNICAL AMENDMENTS NEGOTIATIONS

Mr. President, I also announce that it appears it is unlikely we are going to reach an agreement with regard to the so-called technical amendments that have been the subject of a good deal of discussion and negotiation over the last several days. I appreciate the effort made by many of our colleagues. That will, as we have all understood, necessitate the cloture vote tomorrow.

My expectation is that we will come in late morning and then have the cloture vote and begin the debate on the campaign finance reform bill. Perhaps we still may reach some agreement with regard to the technical amendments, but at least as of this hour no agreement has been reached.

Senator MCCAIN has indicated to me he is not in a position to agree to the amendments that have been discussed. As a result, while I encourage further discussion, I do want people to know that it is very likely, I would say, we could have that cloture vote as early as late tomorrow morning. So I want to inform my colleagues of that.

I would be happy to yield to the Senator from Kentucky.

Mr. MCCONNELL. If the leader will yield, I must say that I am somewhat frustrated. The leader may or may not know that Senator MCCAIN and I have had three meetings on this subject. My staff and his staff, and others on the other side of that issue, worked for 3 weeks to resolve six very small items. There were 10 meetings between the staffs of Senator MCCAIN and FEINGOLD and mine, several phone conversations daily when staff was permitted to speak to each other, phone conversations late at night and over the weekend. Late last night, Senators MCCAIN and FEINGOLD provided a draft incorporating two technical changes of their own, to which we immediately agreed. In fact, we agreed to all of Senator MCCAIN's and Senator FEINGOLD's provisions and their changes. And I have been representing to my colleagues for over a week now we were almost there.

I was hoping we would be able to end this debate with everybody feeling good about the situation, but I must say I am not sure I have been dealt with in good faith, having worked on

this now for 3 weeks, and every time I am told we are almost there, we are never there.

So I think the majority leader is correct. That is where we seem to be. But I am going to say, I am astounded. This is my 18th year in the Senate. I have been involved in a lot of negotiations—never one so painful over so little: six rather small items.

So I do think we are going to wrap this bill up tomorrow. It is too bad we will not, apparently, be able to pass a technical package that would benefit both sides because of our inability to bring this to conclusion.

But I say to the leader, as I have said repeatedly over the last week, we are anxious on this side, those of us who oppose this bill, to complete it. And, hopefully, we can wrap it up tomorrow, not only the cloture vote but final passage, and the resolution that I believe we have agreed upon, which is separate from the technical amendments. It is really regretful that we negotiate for 3 weeks over relatively small items and cannot seem to get there.

So let me say to the leader, we look forward to wrapping this bill up tomorrow—we know it is essentially over—and hope we can do it in a minimal amount of time.

Mr. DASCHLE. I thank the Senator from Kentucky. I appreciate all of his efforts. I said a moment ago, I still hold out the possibility that some agreement can be reached. And, of course, the cloture vote does not preclude that. So we will keep talking.

I think Senators should be on notice that the cloture vote will take place, and, hopefully, we can then reach some kind of unanimous consent agreement with regard to the time required for further debate on the bill prior to the time we have a final passage vote.

I thank my colleagues and yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 3038

Mr. BINGAMAN. Mr. President, let me just speak for a few more minutes and conclude my comments. I know there are others waiting to speak on this Kyl amendment.

One of the issues that was raised by the Senator from Georgia was a concern about whether or not this preempted States from doing what they wanted to do about renewable energy generation. It does not do that. There is no way that we in any way preempt a State from taking action.

There are many States that have taken action which far exceeds the standards to which we would be holding them. So this is not in any way an effort to preempt States. It is an effort to move them along this road, and some of them are already a great deal of distance down this road.

Let me also discuss the idea of wealth transfer. My colleague from Arizona has said repeatedly that this is a terrible thing because some States are at such a terrible disadvantage. The truth is—and the various maps that my friend from North Dakota showed earlier make the point very clearly—we do not specify in this legislation which type of renewable resource be used. Instead, we allow each State to use whatever is available to them. There are a great many different resources available.

Finally, let me talk about cost. There has been a real concern that the cost of this provision would be substantial for ratepayers, for various individuals.

I have the Energy Daily, which is a well-known publication in town and around the country. This is dated March 12. There is an article entitled ''EIA Sees RPS Having Little Impact On Prices.''

What that means is that the Energy Information Administration was asked by my colleague, Senator MURKOWSKI, to do a study on what would be the impact of this provision on prices?

Mr. VOINOVICH. Mr. President, will the Senator yield for a question?

Mr. BINGAMAN. I am pleased to yield.

Mr. VOINOVICH. You have just stated that many States have already implemented greater RPS standards than required in your amendment. In my statement, I said 14 already have RPS standards. But this bill does mandate a 10-percent renewable requirement on all the States. In a State like Ohio, we are currently generating less than four-tenths of 1 percent of our electricity with non-hydro renewable power sources. We are also facing some dramatic increases in electric generation costs to reduce the pollution from coal-fired plants by using clean coal technology. About 85 percent of our plants use coal today.

I can't believe an RPS in Ohio will reach 10 percent because in all probability, the utilities that serve my State, if this goes in as a mandate, will buy credits and then the cost of those credits will be passed on to Ohio ratepayers.

Mr. BINGAMAN. Let me respond: There clearly are some challenges for some States in this legislation, but I am persuaded that there are ways for them to meet those challenges through coal-fired generation, using biomass. That is one way to do it. We are glad to work with the Senator to be sure that the legislation has the flexibility in it so that this is a goal that can be achieved in his State by utilities operating in his State. I think it can be.

If I could just conclude the description of this study, this is the study by the Energy Information Administration, it concludes:

> . . . that the retail price impacts of a requirement that electricity generators provide at least 10 percent of their output from renewable sources by 2020 ''are projected to be small because the price impact of [the program] is projected to be relatively small when compared with the total electricity costs and to be mostly offset by lower gas prices.''

Then they go on to say:

> The study, which was requested by Sen. Frank Murkowski of Alaska . . . concludes that increased electricity generation from renewables would have the biggest impact on natural gas-fired prices, which EIA said would drop as a result of competitive pressure from renewables.

So the chart my friend from Ohio put up showing gas prices going through the ceiling, as they did 18 months ago, that would be less likely if there were other sources from which energy was being generated.

Mr. President, I have other points I can make. I know there are several Senators who have been waiting quite a while to speak. I may have an opportunity later on before the vote to conclude my comments.

Mr. President, I have a series of letters in support of the underlying Bingaman amendment that Senator KYL would wipe out with his amendment. I ask unanimous consent those letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL HYDROPOWER ASSOCIATION,
*Washington, DC, February 20, 2002.*

Hon. JEFF BINGAMAN,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR BINGAMAN: The National Hydropower Association (NHA) writes to ask you to support Majority Leader Tom Daschle and Energy & Natural Resources Committee Chairman Jeff Bingaman for their inclusion of ''incremental hydropower'' in the Renewable Portfolio Standard (RPS) contained in S. 517, the ''Energy Policy Act of 2002.'' Additionally, we ask that you oppose any efforts to modify or remove incremental hydropower from the RPS when the bill is considered on the Senate floor and to support S. 517's RPS in the event of an ''up-or-down'' vote.

Both Democrats and Republicans have recognized the importance of hydropower—our nation's leading renewable technology—in meeting future energy demands. What's more 93 percent of registered voters overwhelmingly support an important role for hydropower in the future, and 74 percent favor incentives for increased hydropower production at existing facilities.

With the inclusion of incremental hydropower in the RPS, approximately 4,000 Megawatts (MWs) of new hydro generation could be developed meeting today's environmental standards at existing hydropower facilities—none of which would require the construction of a new dam or impoundment. This is enough power for four million homes—clearly a significant contribution to our nation's energy supply.

The most commonly used definition of incremental hydropower, including that of S. 517, allows new hydro generation to be achieved from increased efficiency or additions of new capacity at an existing hydroelectric dam. This concept is based on extensive discussions and a general agreement between the hydropower industry, a segment of the environmental community and other members of the renewable energy community.

NHA strongly supports Senators Daschle and Bingaman for their inclusion of incremental hydropower in S. 517 and hope you will do the same. What's more, we hope you'll support the RPS when it is debated on the Senate floor as it will allow America to rely more on clean, renewable energy.

If you have any questions, please contact Mark R. Stover, NHA's Director of Government Affairs, at 202–682–1700 x-104, or at mark@hydro.org.

Sincerely,

LINDA CHURCH CIOCCI,
*Executive Director.*

---

FLORIDA POWER & LIGHT COMPANY,
*Washington, DC, March 14, 2002.*

Hon. JEFF BINGAMAN,
*Chairman, Energy and Natural Resources Committee, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR CHAIRMAN BINGAMAN: Please consider this letter an endorsement of the compromise Renewable Portfolio Standard (RPS) contained within S. 517, the Energy Security Policy Bill.

As you may know, FPL Group, comprised of its two major subsidiaries, Florida Power & Light (FPL) and FPL Energy (FPLE), is one of America's cleanest, most progressive energy companies. Our commitment to the environment is manifested by FPL's diverse generation mix and by FPLE's largely renewable energy portfolio. FPLE operates the two largest solar projects in the world, over 1,000 megawatts of hydroelectric power, a number of geothermal projects, and a number of biomass plants. And, significantly, with over 1,400 megawatts of net ownership in wind energy, FPLE is the nation's largest generator of wind power.

FPLE plans on adding up to 2,000 megawatts of new wind generation over the next two years. Due to the wind energy production tax credit (IRC Sec. 45(c)(3)) and the industry's success in reducing production costs, wind energy has become economically feasible. A long-term extension of the credit combined with your RPS will allow wind generation—and, hopefully, other renewable sources—to contribute to America's energy independence and security. Ultimately, such an aim should be the keystone of any American energy policy.

We appreciate your leadership on this important issue, and we strongly support your efforts to enact a fair and balanced RPS. Please do not hestitate to call on me should you require any assistance in your endeavor.

Sincerely,

MICHAEL M. WILSON,
*Vice President.*

---

CALPINE CORP.,
*Washington, DC, March 14, 2002.*

Hon. JEFF BINGAMAN,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR BINGAMAN: On behalf of Calpine Corporation, I am writing to convey our support for the Renewable Portfolio Standards (RPS) amendment that I understand you plan to offer.

We support a reasonable RPS that will provide a market-based incentive for increasing the amount of energy that is produced by renewables. Your amendment is a significant improvement over both the existing Senate energy bill language and the Jeffords amendment to be offered on this subject. We particularly support the fact that your amendment treats all types of renewable energy the same.

We also believe that an RPS is only workable when it is coupled with tax incentives for the production of renewable energy and we strongly support the production tax credit for basic renewables that is contained in the underlying energy bill.

As the world's largest producer of geothermal energy, we are concerned, however, that only new renewable capacity will be eligible to receive tradable credits under the RPS. While I understand your desire it to encourage new capacity rather than reward past behavior, it seems that there should be some recognition for early action. Perhaps when this issue comes to conference, you might consider a system whereby existing renewable capacity is eligible for credits that phase out over time. We would certainly be willing to work with you on such a proposal.

Finally, I want to thank you for your leadership in guiding this energy legislation through the Senate. The bill contains some important features that will help to promote more competitive markets and we appreciate everything you have done to maintain these features and oppose amendments that would turn away from open access and competition.

Sincerely,

JEANNE CONNELLY.

---

MIDAMERICAN
ENERGY HOLDINGS COMPANY,
*Omaha, NE, March 14, 2002.*

Hon. JEFF BINGAMAN,
*Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR CHAIRMAN BINGAMAN: I am pleased to write in support of your efforts to include provisions to promote the development of renewable energy resources for electric generation in the Senate's comprehensive energy bill. MidAmerican Energy Holdings Company is one of the world's largest developers of renewable energy, including geothermal, wind, biomass and solar.

MidAmerican has been a long-time proponent of both a production tax credit for electricity generated by renewables and a federal government purchase standard for renewable electricity. We strongly support these provisions in the comprehensive energy bill before the Senate, as well as recent modifications to the bill's renewable portfolio standard (RPS) section that will ensure that implementation of the RPS is achievable and affordable.

Renewable electricity can play a critical role in diversifying the nation's fuel mix and providing emissions-free electricity for American consumers. By including both supply and demand side components in the comprehensive energy package, your legislation will benefit the environment and American energy security.

Thank you again for your leadership in promoting renewable energy.

Sincerely,

DAVID L. SOKOL,
*Chairman and Chief Executive Officer.*

---

AMERICAN WIND ENERGY ASSOCIATION,
*Washington, DC, March 13, 2002.*

Hon. JEFF BINGAMAN,
*Chairman, Senate Energy and Natural Resources Committee, U.S. Senate, Washington, DC.*

DEAR CHAIRMAN BINGAMAN: I write on behalf of the Board of Directors and member companies of the American Wind Energy Association (AWEA) in support of the Renewables Portfolio Standard (RPS) contained in the proposed substitute to S. 517, the Energy Policy Act of 2002.

While we believe that all of America's renewable energy technologies—wind, solar, geothermal, biomass, and hydropower—are capable of contributing higher levels of electricity generation than would be required by the proposed RPS, the provision is a significant step forward in meeting America's growing energy needs.

In 2001 alone the wind energy industry installed close to 1,700 megawatts of new generating capacity, enough to meet the needs of about 475,000 households. More than half of this new wind power development (915 megawatts) was produced in Texas—a state with the most effective renewable energy requirement law in the nation. In addition to producing electricity without emitting any pollutants, each megawatt of wind power creates at least $1 million in economic activity.

The wind industry is proud to support the RPS contained in S. 517, aimed at diversifying America's energy production while also enhancing our effort to secure cleaner air and a more sustainable energy future. Thank you.

Sincerely,

RANDALL SWISHER,
*Executive Director.*

---

GEOTHERMAL ENERGY ASSOCIATION,
*Washington, DC, March 14, 2002.*

DEAR SENATOR: This afternoon, Senator Bingaman plans to offer a substitute for the RPS provisions in S. 517 that the geothermal industry urges you to support.

While we believe that significantly more renewable energy could be brought on-line over the next twenty years, the Bingaman amendment would establish an important national minimum requirement for new renewable development. This will help ensure the continued growth and health of renewable industries and will have positive economic and environmental benefits for our Nation.

Moreover, the Bingaman proposal would preserve the essential market-based approach that is at the heart of a renewable portfolio standard. This proposal—together with the provisions proposed by the Senate Finance Committee that would equalize renewable tax treatment by expanding the production tax credit to include geothermal energy—will stimulate market forces to develop reliable and cost-effective renewable technologies to help meet our country's energy needs.

On behalf of the geothermal industry, I strongly encourage you to support the Bingaman amendment and the renewable energy tax provisions reported by the Senate Finance Committee.

Sincerely,

KARL GAWELL,
*Executive Director.*

The PRESIDING OFFICER. Under a previous order, the Senator from Minnesota is recognized, followed by the Senator from Washington.

Mr. WELLSTONE. What I can do is—I would be pleased to speak for myself; I know Senator MCCAIN wants to speak—if I could get 10 minutes before the vote tomorrow to speak, I would be pleased to relinquish the floor last.

Mr. BINGAMAN. Mr. President, I am not in a position to commit to that without the assistant majority leader, floor leader, to talk about that. I don't know what the procedure is. Since we are jumping from the energy bill to the campaign finance reform bill and back every few minutes, it is very difficult for me to commit to that.

Mr. MCCAIN. May I just ask my friends from Minnesota and from New Mexico—three of us are on the floor. We would take about 2 minutes to kind of clear up a problem that has arisen. If I could ask unanimous consent that we could take a maximum of 3 minutes, 1 minute each.

Mr. WELLSTONE. Mr. President, that would be fine. I ask unanimous consent that I just immediately follow them.

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

Mr. WELLSTONE. And then I would be followed by Senator CANTWELL as in the original agreement.

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

The Senator from Arizona.

TECHNICAL AMENDMENTS NEGOTIATIONS

Mr. MCCAIN. Mr. President, I will take less than 1 minute. We have been working with the Senator from Kentucky, the Senator from Wisconsin and I have, and our staffs. We have come up with a package of technical amendments with which we are in agreement. We are ready to move that package. There seems to be a problem with another Member, a very senior Member. I hope we can get that worked out.

I do have it worked out. I think we should be ready to move forward tomorrow. I think we have had good-faith negotiations.

I yield to either one of my colleagues.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I said before the Senator from Arizona had arrived that I was totally frustrated. I recounted all the meetings he and I and our staffs had had, and I was exasperated that we seemed to have gotten so close and not been able to complete it. I confirm what the Senator from Arizona said, that we have reached an agreement among the three of us on this technical package. We would like to be able to move it, and we would plead with our colleagues on both sides of the aisle to give us a chance. I don't think there are three Members of the Senate who know any more about the subject than we do. Our positions are pretty well established. We have actually reached agreement, and we would hope that the Senate would let us act on it in some kind of consent arrangement sometime tomorrow.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, there have been good-faith negotiations. I agree with the Senators from Arizona and Kentucky that we have finally reached agreement on the technical amendments package. There is a different Member of the Senate who has a concern about it. Because we are operating on the basis of a unanimous consent, we have to deal with that. But we have finally reached the point where the actual provisions are something we can agree on, and we are hoping we can work this out.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I assume we will have time to talk about campaign finance reform.

AMENDMENT NO. 3038

As a matter of fact, I think I can do it in just a couple of minutes. Last week when we had the debate on the Jeffords amendment, to increase the renewable portfolio to 20-percent electricity, I spoke at some length. I just want to pick up on a couple of points that Senator BINGAMAN made, and probably my colleague from Washington can speak about this with more eloquence. Nobody, to respond to the Senator from Ohio, is making the argument that, by 2020, we will be totally independent from fossil fuels. No one is making that argument. It's really a ''straw man'' argument.

I think the question is whether or not we will, no pun intended, continue to barrel down the fossil fuel energy path. Will we continue to rely primarily on oil, coal, or on other fossil fuel? Or do we want to take a new direction. I, frankly, think this is going to be a test vote for a new direction in energy policy. I think the Senator from New Mexico agrees that this is going to be a test vote on this bill. This 10-percent renewable energy portfolio, which is from my point of view too little, makes this legislation a reform bill—it makes this an energy bill that is sensitive to how we produce energy in connection with the environment. It takes us down a different energy path.

The different path is significant for many States. For example, in Minnesota, we produce enough wind to produce all of our electricity through wind, when the technology is there. In fact, Minnesota, South Dakota, and North Dakota, Nebraska and Kansas could produce enough energy through wind generation to produce electricity for the whole country.

So there is enormous potential here. In addition to wind, we have biomass to electricity, solar, and geothermal. When my colleague from Ohio was giving some projections, I think he missed the point about the potential of efficient energy use and where that figures in. Again, one more time, it is a marriage ready to be made between being much more respectful of the environment, clean technology, many more small business opportunities, keeping dollars and capital in our States and our communities, national security, and less dependent on Middle Eastern oil.

Look at what happened last year with natural gas prices. We would be much less dependent on a few giant energy conglomerates for energy.

This is pro-environment, pro-consumer, pro-small business, pro-clean technology, and is going to be a huge growth industry in our country. Frankly, the only folks who are really opposed to this renewable portfolio standard are some Senators are opposed because they think it is a mistake to have a mandate or a subsidy. Although I have to tell you, the oil and gas industry have gotten huge subsidies over the years. Last year the House passed a bill with over $30 billion in tax breaks, most of them going to oil, coal, and the nuclear industry. Now that is a government subsidy. If I were to look back over the last 50 years of energy policy, it would be a massive amount of money we have given to the fossil fuel energy industry. We don't want to stack the deck against renewables. We want to nurture and promote energy policy for all of the good reasons I have tried to outline.

Frankly, if we can't hold on to this 10 percent renewable energy portfolio, then I don't think we have much of a form bill here at all.

This is a key vote. That is why I wanted to speak briefly about it. I hope we will get a strong vote against the Kyl amendment, and I think we will. I think it should be defeated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I rise to speak in opposition to the Kyl amendment. We are debating this energy bill against the backdrop of one of the country's most severe energy crises, which has definitely impacted ratepayers in my State and in many parts of the West.

After September 11, the war against terrorism even more underscores the need for us to develop a national energy policy that helps create more independence. It is clear that the time has come for us to enact a 21st century energy policy. But we will fail if this bill is simply about the extent to which we should increase oil production or determine the best route for pipelines. We will fail if we do not learn from the lessons of the past and recognize that we are on the cusp of a revolution of energy technology that could be as significant as the revolution in computing technology.

We are faced with a clear choice: We can go down the path of debating false choices of conservation versus production, regulation versus deregulation, nuclear versus fossil. But I think it is time that we recognize what is at the core of the debate is this 21st century energy policy; about developing a new policy that will lead us to a system of cleaner, more efficient, distributed power, located closer to the homes and businesses that it is built to serve.

Mr. President, the renewable portfolio standard we are debating today is the centerpiece of our effort of a 21st century energy policy marked by environmentally responsible sources of energy. An aggressive renewables portfolio standard will help this Nation diversify its energy, level the playing field for renewable resources, and encourage investment in clean energy technology. A transition to clean, renewable sources of energy will help stabilize increasing and volatile fossil fuel prices, ease energy supply shortages and disruptions, clean up dangerous air pollution, and reduce emissions of greenhouse gases.

Again, arguments in favor of a strong Federal renewables portfolio standard are straightforward. An RPS will spur more environmentally responsible generation, diversify electricity sources, and that is enhancing and helping to protect our economy from price spikes; and, three, create a national market

for renewables and clean energy technology, spurring innovation and reducing their cost—potentially for international export.

Today, less than 2 percent of the Nation's electricity is generated by nontraditional sources of power such as wind, solar, and geothermal energy. This has to change. By putting a renewables portfolio standard in place, we will set the Nation down a path toward a more independent, sustainable, and stable power supply.

I want to emphasize just how important it is to diversify our generating resources. As many of my colleagues are aware, last year the Pacific Northwest suffered the second worst drought in the history of our State. In Washington State, about 80 percent of our generation comes from hydroelectric sources. So because of this drought, consumers in my State were exposed far more directly to the pervasive market dysfunction activity that happened in the West. As a result, many of our utilities have had to raise their retail rates by as much as 50 percent.

So I believe we must diversify our resource portfolio, but to accomplish this goal, many of our utilities are making a tremendous investment in new generation. Much of it is from ample renewable resources. We realize the investment in renewables is affordable and a perfect complement to our hydroelectric base. For example, I visited, in our State, the Stateline Wind Project last August, which is located in Walla Walla, WA. The wind farm, which went into operation December 13, consists of 399 turbines and has a capacity to produce 263 megawatts of electricity. That is enough energy to serve almost 70,000 homes. So this is working.

The Bonneville Power Administration, which supplies about 70 percent of the power consumed in Washington State, has set a goal of obtaining a total of a thousand megawatts of energy.

Many of our small and rural utilities are banding together to invest in wind projects, and the Yakima Tribe is also exploring similar options.

As we consider the renewables portfolio standards provisions of this bill, I think it is important to recognize the tremendous untapped potential that these renewables represent. Washington State and the Pacific Northwest have begun to make this investment. With the construction now underway, our regional renewable resources, excluding most hydropower, will soon approach 4 percent—far surpassing the national average. But I believe we can still do better.

A strong renewables portfolio standard will create the market certainty that companies and utilities need to continue down the path toward resource diversification and technological innovation. Specifically, increasing our supply of renewable resources makes not just environmental sense but also economic sense. A study released last November, sponsored by a group of Northwest utilities and interest groups, estimated that the international market for clean energy technologies will grow to $180 billion a year over the next 20 years—that's right, $180 billion a year over the next 20 years.

It is in our national economic interest to set policy that will ensure the United States captures a major part of this market.

Already the Northwest has a $1.4 billion clean energy industry that is on track to grow to $2.5 billion over the next several years, creating 12,000 new jobs in our region. That is right, 12,000 new jobs in our region.

With the right public policies in place, we can attain 3.5 percent of the worldwide market for clean energy technologies, including not just generation but smart-grid transmission technologies needed to bring power to market more efficiently and create as many as 35,000 new jobs in the Northwest.

Developing the clean energy technology industry on a national level means job creation. We need a Federal renewable portfolio standard both to break our century-old reliance on traditional fossil fuels and to create predictable markets for renewable technologies and lay the groundwork for even greater innovations.

Last week, the Senate was unable to make meaningful progress on the important issue of corporate average fuel economy standards for our Nation's vehicles. We had an opportunity before us to alleviate threats to our national energy and economic security posed by our dependence on imported oil. Nonetheless, it is important that we make progress today in this particular area and make sure that we make a renewable standard an important part of this legislation.

The renewable portfolio standard is one of the thresholds that will determine whether the Senate really does create an energy policy that sets itself apart from the 19th century focus of digging, burning, and drilling and focuses more importantly on these 21st century technologies.

Now is the time to enact an energy policy that will help us meet these goals. A strong renewable portfolio standard will encourage use of renewable sources and reduce harmful air and water pollution from coal and fossil fuels. It will help ensure a sustainable, secure energy supply and protect our environment for future generations. It will create the investment, income, and jobs in our communities, especially our rural areas.

These are the characteristics that I think should be part of our 21st century energy policy. I ask my colleagues to support a strong renewable portfolio standard and, most importantly, oppose any efforts to strip from this bill or in any way undermine this measure which I believe is critical. I urge my colleagues to vote against the Kyl amendment and to vote instead for a strong renewable portfolio standard.

I yield the floor.

The PRESIDING OFFICER (Mr. DAYTON). The Senator from Arizona.

Mr. KYL. Mr. President, I wish to respond to some of the comments made relative to my amendment by various Senators who have spoken since I laid that amendment down earlier this afternoon.

First, I ask unanimous consent to print in the RECORD two letters from the Public Service Commission of the State of Florida, both dated March 18, 2002, one to the Honorable BILL NELSON and the other to the Honorable BOB GRAHAM, the two Senators from the State of Florida.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF FLORIDA,
PUBLIC SERVICE COMMISSION,
*Tallahassee, FL, March 18, 2002.*

Re: Energy Legislation (Substitute Amendment 2917 to S. 517).

Hon. BILL NELSON,
*U.S. Senator, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR: The purpose of this letter is to let you know that the Florida Public Service Commission has major concerns with the 400-page Substitute Amendment currently being addressed by the Senate. It is extremely preemptive of State Commission authority. If legislation moves forward, we ask that it provide a continuing role for States in ensuring reliability of all aspects of electrical service-including generation, transmission, and power delivery services and should not authorize the FERC to preempt State authority to ensure safe and reliable service to retail customers. Also, we support the Kyl amendment on the renewable portfolio standard.

In particular, our concerns are:

(1) Electric Reliability Standards.

The substitute amendment would limit the States' authority and discretion to set more rigorous reliability standards than the Federal Energy Regulatory Commission (FERC) over transmission and distribution. In fact, the Substitute Amendment appears to provide no role for States at all on transmission reliability. Yet, the Florida Legislature has carefully set cut statutory authority for the PPSC over transmission.

If legislation moves forward, Congress should expressly include in the bill a provision to protect the existing State authority to ensure reliability transmission service. We note that the Thomas amendment passed. The amendment appears to strengthen state authority. In that regard, the amendment is better than the overall bill under consideration. Our interpretation is that the amendment will not restrict state commission authority to adopt more stringent standards, if necessary.

(2) Market Transparency Rules.

The section is silent on State authority to protect against market abuses, although it does require FERC to issue rules to provide information to the States. State regulators must be able to review the data necessary to ensure that abuses are not occurring in the market.

(3) Public Utilities Regulatory Policy Act (PURPA).

The FPSC supports lifting PURPA's mandatory purchase requirement, but States should be allowed to determine appropriate measures to protect the public interest by

addressing mitigation and cost recovery issues. Thus, we do not support preempting State jurisdiction by granting FERC authority to order the recovery of costs in retail rates or to otherwise limit State authority to require mitigation of PURPA contract costs. States that have already approved these contracts are better able to address this matter than the FERC.

(4) Federal Renewable Portfolio Standards.

This requires that beginning with 2003, each retail electric supplier shall submit to the Secretary of Energy renewable energy credits in an amount equal to the required annual percentage to be determined by the Secretary. For the year 2005, it will be less than 2.5 percent of the total electric energy sold by the retail electric supplier to the electric consumer in the calendar year. For each calendar year from 2006 through 2020, it shall increase by approximately .5 percent.

The Secretary will also determine the type of renewable energy resource used to produce the electricity. A credit trading system will be established. While a provision is established to allow states to adopt additional renewable programs, we continue to have concerns. Thus, we strongly support the Kyl amendment which provides some flexibility to the States.

The FPSC believes that States are in the best position to determine the amount, the time lines, and the types of renewable energy that would most benefit their retail ratepayers. This is particularly true in the case of States without cost-effective renewable resources. A one-size-fits-all standard will likely raise rates for most consumers.

(5) Consumer Protection.

The FPSC is concerned with language in Section 256 that requires that State actions not be inconsistent with the provisions found in the bill. While the FPSC favors strong consumer protection measures, preempting States by Federally legislating retail consumer protections is not necessary. States are better positioned to combat retail abuses. States are partners with federal agencies in these efforts to ensure consumer protection.

The critical role of State Commissions in the analogous area of implementing the Federal Telecommunications Act provision against slamming (the unauthorized switch of a customer's primary telecommunications carrier) serves as a good example. The Federal Communications Commission saw the benefit of having State Commissions carry out the anti-slamming program. State Commissions are simply better situated and have a more in-depth understanding of the abuses in the consumer protection arena. As a result, Florida's slamming rules are actually more strict and provide better remedies to the consumers than the FCC rules. We would like to retain the ability to take similar steps in the energy area if warranted.

It is our understanding that there are now 100–200 amendments. We are in the process of reviewing all of them. In the meantime, please call us with questions on them. We appreciate that your staff has been in frequent contact with FPSC staff.

In conclusion, we request that you take these points into consideration as energy legislation progresses. Please do not hesitate to call if we may be of further assistance.

Sincerely,

LILA A. JABER,
*Chairman.*

STATE OF FLORIDA,
PUBLIC SERVICE COMMISSION,
*Tallahassee, FL, March 18, 2002*

Re Energy Legislation (Substitute Amendment 2917 to S. 517).

Hon. BOB GRAHAM,
*U.S. Senator, Hart Senate Office Building, Washington, DC*

DEAR SENATOR GRAHAM: The purpose of this letter is to let you know that the Florida Public Service Commission has major concerns with the 400-page Substitute Amendment currently being addressed by the Senate. It is extremely preemptive of State Commission authority. If legislation moves forward, we ask that it provide a continuing role for States in ensuring reliability of all aspects of electrical service—including generation, transmission, and power delivery services and should not authorize the FERC to preempt States authority to ensure safe and reliable service to retail customers. Also, we support the Kyl amendment on the renewal portfolio standard.

In particular, our concerns are:

(1) Electric Reliability Standards.

The substitute amendment would limit the States' authority and discretion to set more rigorous reliability standards than the Federal Energy Regulatory Commission (FERC) over transmission and distribution. In fact, the Substitute Amendment appears to provide no role for States at all on transmission reliability. Yet, the Florida Legislature has carefully set out statutory authority for the FPSC over transmission.

If legislation moves forward, Congress should expressly include in the bill a provision to protect the existing State authority to ensure reliable transmission service. We note that the Thomas amendment passed. The amendment appears to strengthen state authority. In that regard, the amendment is better than the overall bill under consideration. Our interpretation is that the amendment will not restrict state commission authority to adopt more stringent standards if necessary.

(2) Market Transparency Rules.

This section is silent on State authority to protect against market abuses, although it does require FERC to issue rules to provide information to the States. State regulators must be able to review the data necessary to ensure that abuses are not occurring in the market.

(3) Public Utilities Regulatory Policy Act (PURPA).

The FPSC supports lifting PURPA's mandatory purchase requirement, but States should be allowed to determine appropriate measures to protect the public interest by addressing mitigation and cost recovery issues. Thus, we do not support preempting State jurisdiction by granting FERC authority to order the recovery of costs in retail rates or to otherwise limit State authority to require mitigation of PURPA contract costs. States that have already approved these contracts are better able to address this matter than the FERC.

(4) Federal Renewable Portfolio Standards.

This requires that beginning with 2003, each retail electric supplier shall submit to the Secretary of Energy renewable energy credits in an amount equal to the required annual percentage to be determined by the Secretary. For the year 2005, it will be less than 2.5 percent of the total electric energy sold by the retail electric supplier to the electric consumer in the calendar year. For each calendar year from 2006 through 2020, it shall increase by approximately .5 percent.

The Secretary will also determine the type of renewable energy resource used to produce the electricity. A credit trading system will be established. While a provision is established to allow states to adopt additional renewable programs, we continue to have concerns. Thus, we strongly support the Kyl amendment which provides some flexibility to the States.

The FPSC believes that States are in the best position to determine the amount, the time lines, and the types of renewable energy that would most benefit their retail ratepayers. This is particularly true in the case of States without cost-effective renewable resources. A one-size-fits-all standard will likely raise rates for most consumers.

(5) Consumer Protection.

The FPSC is concerned with language in Section 256 that requires that State actions not be inconsistent with the provisions found in the bill. While the FPSC favors strong consumer protection measures, preempting States by Federally legislating retail consumer protections is not necessary. States are better positioned to combat retail abuses. States are partners with federal agencies in these efforts to ensure consumer protection.

The critical role of State Commissions in the analogous area of implementing the Federal Telecommunications Act provision against slamming (the unauthorized switch of a customer's primary telecommunications carrier) serves as a good example. The Federal Communications Commission saw the benefit of having State Commissions carry out the anti-slamming program. State Commissions are simply better situated and have a more in-depth understanding of the abuses in the consumer protection arena. As a result, Florida's slamming rules are actually more strict and provide better remedies to the consumers than the FCC rules. We would like to retain the ability to take similar steps in the energy area if warranted.

It is our understanding that there are now 100–200 amendments. We are in the process of reviewing all of them. In the meantime, please call us with questions on them. We appreciate that your staff has been in frequent contract with FPSC staff.

In conclusion, we request that you take these points into consideration as energy legislation progresses. Please do not hesitate to call if we may be of further assistance.

Sincerely,

LILA A. JABER,
*Chairman.*

Mr. KYL. Mr. President, what those two letters say is that the Kyl amendment should be adopted and the Bingaman amendment should lose. They are echoing the sentiments of a lot of other groups both in the private and public sectors. I have put in the RECORD some other letters from the public sector and associations that strongly support the Kyl amendment.

I wish to respond to some of the comments from colleagues that have been made in response to my presentation. My colleague from North Dakota made the point that we should have a national energy policy just like the Clean Air Act and that is why we need a national energy bill.

There is a difference between a national policy and a Federal policy. We do have national problems, but not all national problems are best solved by a Federal solution.

In this case, we have a combination because we have clearly decided that the Federal Government does need to be directly involved in the national energy policy debate, but we do not say —none of us says—the Federal Government should take it all over; it is a

Federal problem; therefore, we have a Federal solution.

Most of what we do as a nation we do as private sector operatives, as State and local governments, and then, of course, the U.S. Government does a fair amount of directing and financing of programs, but clearly we cannot run everything from Washington, DC.

The Bingaman amendment does deviate from this otherwise pretty commonsense approach to American life by saying: This is not just a national problem; we do not need just a national solution, we need a Federal solution to the point that we are going to mandate, compel, require, under penalty of law, that you will produce 10 percent of your power through renewable sources or else.

I actually misstated that a little bit. It is not produce, it is sell. We are requiring that the retailer account for 100 percent of the power sold so that you can prove to the Department of Energy that 10 percent of that power sold came from renewable sources. You do not have to produce it yourself. You either have to buy it from somebody who produced it or you have to buy credits from somebody who produced it or you have to buy credits from the Department of Energy that does not produce anything. But if you are willing to assess your retail customers for that, then you can get away without producing it yourself.

Either way, the energy is going to cost you something; it is going to cost them something. In one case, you actually have to buy it from somebody, and, in the other case, you have to buy it from somebody or the Department of Energy. There is a big difference between having a national policy and having a Federal mandate.

There are a lot of items in this bill that are OK, and they have national scope to them. There are a lot of items in the President's plan that are national in their scope, but they do not all provide for Federal mandates, and that is a distinction we need to make.

As a matter of fact, the Senator from Washington just talked about the need for Federal encouragement. In fact, her exact statement was: We need a policy to encourage the use of renewable energy as part of a 21st century national plan. I agree we need to encourage, but there is a big difference between encourage and require.

The encourage part we already have in the law. As a matter of fact, under this bill we are actually extending and expanding the tax credit that we currently provide for renewable energy sources to encourage greater production of that renewable energy. In fact, it would not make any economic sense to produce this without the Federal Government subsidy of 1.7 cents per kilowatt hour, for example, for wind generation. One could not compete in wind generation without this Federal tax credit which provides roughly 40 percent of the cost of the production of the power.

We do encourage, in a big way. We are already doing the encouraging part. The question is whether we should have both a carrot and a stick. I am all for the carrot approach, but I do not think the Federal Government should be taking a stick to people who buy electricity and say you have to buy 10 percent renewable power or we are going to make you pay for it. That is exactly what the Bingaman amendment does.

What the Kyl-Miller amendment says is, let the States decide. If we are going to have a national policy for this national problem, then let's let all the States within the country decide what is best for them.

I am intrigued by the chart that is on the easel behind the distinguished chairman of the Energy Committee. The Senator from North Dakota used that chart to illustrate that we have potential renewable resources throughout the country.

He demonstrated that by pointing to four different kinds of renewable energy power source. Biomass and solar, I guess that is the one that is very bright red down in my part of the country. Then geothermal in the lower left, and wind power in the lower right, and certainly in the State of North Dakota there is a bright red color, the Saudi Arabia of wind power in North Dakota, and in South Dakota, it seems.

What one can see from those four charts is the renewable opportunities are very divergent around the country. They are distributed not fairly in one sense but in a very disparate way.

The distinguished Presiding Officer does not have much of a shot, it seems, for wind power or geothermal power or solar power, but there might be some good biomass opportunities. I certainly hope so, because it is going to have to be produced or credits are going to have to be bought from somebody else who can produce it.

The real story behind these four charts is not the disparity and the fact there are winners and losers and there will have to be trading among the States, but according to the EIA report dated February 2002—that is the Energy Information Agency of the Department of Energy—on page 16, and I am quoting, only wind capacity is projected to make significant change between the renewable portfolio standard and the baseline, or the status quo.

In other words, of all of these renewables—solar, geothermal, biomass, and wind—that have been examined by the Department of Energy, the only one projected to make a significant change is wind power. There are a couple of reasons for that. The amount of the subsidy that has been used to develop the wind power industry and the general efficiencies with respect to wind power make it the only one economically viable, even close to being economically viable, as a producer of mass amounts of energy of the four basic renewables.

As much as we would like to produce it from solar power in the Southwest, the economics are not there, even with the substantial Federal subsidies. The same is true with respect to geothermal and biomass. I would like to burn more biomass in the State of Arizona. It is not an efficient way to produce power. The Btu content is not there.

So of these four basic energy sources, only wind power, the Department of Energy says, can really make a significant difference. That is a fact.

What is the importance of that fact? Well, first of all, the Senator from South Dakota and the Senator from North Dakota are sitting pretty good when it comes to production of electricity from wind power, it would seem, and maybe a couple of other States which I cannot quite see on that chart. Maybe northern Idaho, it looks like, and it looks like a little piece of Oklahoma. I hear the wind blows pretty well there, and I think there is a red dot where Oklahoma is, but that is about it. The rest of us do not appear to have a great deal of capacity to generate by wind power.

What does that mean? That means a transfer of wealth from all of the other parts of the country into those regions.

I am not suggesting the proponents of the legislation all are from those particular States. That is not true. But it is true that those who would utilize that resource in those areas would stand to gain the most. That is why I ask my colleagues to consider the discrimination that exists in this legislation. If we left it to the States to decide what percentage to set and how to define the renewable so as to take advantage of what is available in their locales, and how to set the timeframe so they could achieve some reasonable level, that would be one thing. That is what we have done. Fourteen of the States, including my State of Arizona, do have a renewable requirement. If we mandate at the Federal level, we are saying in Washington we know best for the entire country and this is a one-size-fits-all proposition now, we are going to define what counts as renewable and, by the way, hydropower does not. That is the first big difference.

We know full well going into this that only one of these sources, wind power, has a chance to really make a significant difference anytime in the foreseeable future. So the reality is we are not talking about renewables, we are talking about wind.

As I said before, I would kind of like to know who the winners and losers are if we are going to pass this bill. I do not want to buy a pig in a poke.

There was a lot of talk about Enron investing in certain kinds of energy and then trying to get the Federal Government to make everybody else trade in that particular energy or to make it easier to trade in that energy, and there were a lot of us in the Senate and elsewhere who criticized a Federal policy that would have favored a particular entity or group of entities within our economy. That should not be

what the use of Federal power is all about.

If we are going to talk about deregulation as the goal in this legislation, why would we be imposing a brandnew kind of regulation over the market that mandates that fully 10 percent of the energy has to come from a particular source—in this case, the reality, wind? That is what the Department of Energy says is the only renewable that can make a significant difference as part of a renewable portfolio. It only exists in a few parts of the country in abundance, apparently. So who are the winners and losers? What are the people in other parts of the country going to have to pay to the producers in this limited area of the United States for the privilege of continuing to generate power from oil or gas or coal or nuclear or hydro?

What are we going to have to pay to those areas that have the benefit of a lot of wind in their State? Nobody knows for sure. The Department of Energy calculates the gross cost at about $88 billion for the first 15 years; $12 billion each year thereafter. Of what is that cost comprised? It is the equivalent of credits or penalties. In other words, one is either going to have to produce it or they are going to have to buy a credit—and they estimate what that credit will cost—or they will pay a penalty because they did not do one of those two things. They calculate the cost of that at $88 billion, plus $12 billion a year thereafter after the first 15 years, after the year 2020. That is a huge cost passed on to the retail consumer.

There is also some evidence that if that much of the market replaces other energy sources, and there is a big footnote here, the question is: Will it replace or will it be providing additional energy because the energy needs of the country will grow over time? Let us assume we remain static, stagnant, and therefore the universe is exactly what we can envision today; we actually replace some natural gas or coal. The idea is the cost of that fuel will then go down because there is not as much demand for it, and so the people who get generation from those sources will be paying less because there will be lower fuel. As a theoretical proposition, that cannot be argued.

I suggest we have done no cost-benefit analysis. The committee has not looked at this. We really do not know what might happen 25 years out into the future in terms of the market price of these various kinds of fuels, but we do have pretty good numbers as to what the penalties and the credits are going to cost because they are fixed in the statute.

As a matter of fact, one could buy the credits from the Department of Energy at a very specific 200 percent of market or certain kilowatts per hour. So the costs are going to be significant to the retail purchasers of power. There is going to be discrimination from one part of our country to the next because the only real renewable that can be utilized under this legislation, according to the Department of Energy, is wind power, and the opportunities for that are somewhat limited.

As a result, to those who say we need a national policy, I say, yes, we need a national policy, not a Federal policy, one that takes into account all of these differences. So let us stick with the State option that currently exists.

Tomorrow our colleague from Texas, Senator GRAMM, is going to address the allegation that this bill is, after all, patterned after the Texas legislation, so what could possibly be wrong with it? Well, somebody from Texas can explain what the Texas legislation does, and I will let Senator GRAMM do that, but I would note the first point, which is that Texas did something on its own for the State of Texas does not mean therefore that the Senate should say everybody else has to do the same thing. I daresay, as much as I like Texas and Texans—I did not say how much; I said ''as much as I do''—I am not willing to say whatever Texas does is what everybody else in the country should be mandated to do. So bully for Texas.

Arizona has a standard as well. I am not really keen on mandating that the rest of the country do exactly what Arizona did. So I am not much impressed by the fact that part of this is patterned after what Texas did. The Senator from Texas will point out why it really is not that much like the Texas plan.

Leaving that aside, it is irrelevant. The fact that one State did it a certain way suggests to me that the State found a way to make it work for itself and other States ought to look at it, too. But the State of Maine did not copy Texas. Maine has a 30-percent requirement. Should we pick Maine instead of Texas as the great example to follow and require everybody to have 30 percent? If 10 percent is good, why not 30 percent? I ask my friends, if the object is to diversify, if 10 percent is good, why not 30 percent?

One of my colleagues said the United States is too dependent on coal and natural gas. I have an answer. We can drill for oil at ANWR and produce more nuclear power. That is a great way to diversify.

There is a problem. One of my colleagues from Washington State said: We need to diversify because in the Northwest, where we rely so much on hydro, we are getting killed by the drought. And it shows there won't be as much hydro available, so we need to diversify.

Let's examine that. We get some hydropower in the State of Arizona, but we have diversified by relying a lot more on nuclear, oil, and coal. We know there can be a drought and therefore that renewable is not as much of a sure thing as our coal supply, our natural gas supply, or our nuclear energy supply.

How about wind? Can you get wind power when the wind does not blow? No. How about solar? Can you get solar power when the Sun does not shine? No. That is why with all of the so-called renewables, because they are not as sure a thing as the other sources—which is why we use the other sources—we have to combine them with some other source. We have to combine them with a storage capacity or some other source so when the Sun is not shining, where the wind is not blowing, or the water is not flowing, you have stored the energy or you have an alternative source to provide that energy. That is one of the reasons these are not part of the baseline energy production in the country.

Think about it. It is why you would not want to have too much dependence on these unreliable resources. We call them renewable because we know there will always be wind, sun, and water, but you do not know exactly when or where.

We have an almost inexhaustible supply of coal in this country and we have spent millions to generate clean coal technology. We are producing a very large percentage of power in this country on clean coal. We added scrubbers. We demand all kinds of things that take the pollution out of the air. We now produce very clean power with coal.

Natural gas is even cleaner. It is available where we are able to provide the exploration. Today we have an abundant supply of natural gas. And, of course, nuclear is virtually inexhaustible. We can produce nuclear power energy for centuries to come. It is the cleanest burning fuel, in effect. It produces no pollution whatever. Its supply is virtually inexhaustible.

To those who say we should diversify in order not to be dependent upon a particular source of energy, and use the example of hydropower, I say you are absolutely right; that is why we do not rely upon these renewables. They are not dependable, as are the other major sources of electrical generation in the country today.

Why should the Federal Government be mandating unreliable sources for generation if we want to become more energy dependent and diversify our capacity and have greater ability to be assured of power production in the future? This is folly. This is like going back to the 18th century. Windmills are great. If you are in the middle of ranch country, you have to have a windmill to pump the water. It is a great way to do it. But it is not a great way to generate thousands of megawatts of power to serve our great cities in the United States in the 21st century. At best, it is a supplemental source of power and we encourage it. We provide tax credits for it.

The Kyl amendment will permit customers to say this is what we want, and if they want it, the States let them buy it at cost. I don't think we should be mandating all sellers of electricity have to provide more and more and more of their power from less and less

and less reliable sources—all in the name of diversification and a new energy policy that is going to make us ''safer'' and less reliant upon others? It does not make any sense.

There was a suggestion that the Federal mandate is not a preemption of the State plans. I beg to differ with my colleague. It certainly preempts the States that have decided to have no renewable portfolio and preempts those that want a different kind of standard than the Federal standard. There may be some things in common with some of the States that provide a requirement but only to the extent is it not preemption. To a far greater extent it is preemption.

To say it does not transfer wealth from one part of the country to another clearly is erroneous. It will result in that disparity and differential treatment.

I also pointed out other discriminatory features: this does not apply to governmental entities such as Bonneville and TVA or other governmental producers but investor-owned utilities. Why? What is the policy rationale for that? I happen to know, so I will explain.

If it had applied to the governmental entities, that part of the bill would have been subject to a point of order because it constitutes an unfunded mandate, imposing huge costs on those governmental subdivisions which under our law, now at least, we cannot do without subjecting that proposal to a point of order by the Members of the body. To avoid that point of order, the sponsor of the amendment wisely removed those utilities from the requirement of renewables. That creates a great imbalance. The investor utilities have to comply.

The public sector utilities do not have to comply. That is not fair. I guarantee we will see the customers of one screaming because they have higher utility bills.

I take my hat off to the municipal power producers that have written letters saying, notwithstanding the fact we are temporarily out of this bill, we still think it is a bad idea. It is not fair for our competitors that we have an advantage over them. And besides that, we are not too sure you will not try to come back and do it to us at a later time.

I appreciate their willingness to help out their competitors. There is probably some self-interest in it, but it does not matter. They are right.

There is also discrimination with respect to States such as Maine that have a huge hydro generation right now. They call that a renewable. But the Bingaman amendment does not. Maine says hydro is good; This is a renewable source and we count it toward our 30-percent requirement. The Bingaman amendment says, no, we do not let you count that for this Federal standard. The only thing you can count is if you somehow rewind the generators there and get a little more capacity out of this hydrodam in the future. We will let you count that incremental savings, that economy that you effected or the additional production, as going toward the renewable. Why do we discriminate in that way? Why do we count solar twice as much as geothermal? Why do you get twice as much credit on an Indian reservation? It looks as if there was a lot of looking at special interests and politics and issues such as dealing with the point of order issue rather than sound policy.

They talk about national energy policy. This looks to me as if it is a lot more than a national energy policy. There are a lot more different considerations than would go into a real national energy policy.

I hope my colleagues who have already said to some folks—and I acknowledge this—I need a green vote, I need to show I am pro-environment, that being for renewable energy will demonstrate that, I hope they ask themselves the following questions: What are all of my constituents who buy power going to think about that? I suggest that is almost everybody who is eligible to vote. You might want to please an energy company here or there or some environmental group here or there. But you are going to have to be accountable to all of the people who use electricity in your State.

For those who are going to have to buy credits from elsewhere, it is going to cost and they are going to wonder why their power bills have gone up. If that is the way you are inclined to vote, you are going to have to be prepared to explain that to them. I daresay there are probably going to be some political opponents or people in the media who are going to remind the folks about how this happened. So that is the first thing I think you are going to have to answer; you are going to have to answer to the people who buy the power at greater cost because you needed to have an environmental vote.

Second, there is the matter of discrimination. How are you going to be able to explain that it is going to cost you, but it doesn't cost somebody else in the country, just because of where you happen to live and where the wind happens to blow? You are going to have to explain that.

Frankly, to the extent solar power could be produced in my State, I could say I am really for this and I might benefit. The problem is, we don't have that much wind potential, as a result of which we are still going to be losers, so it wouldn't matter anyway.

I don't want to make somebody else suffer to buy a product I produce except at the marketplace. If people need to buy what I can make available because they need it and the market is open to their purchase of it, then that is great and I am willing for Arizona companies to make some money on that. But I don't want to use the Federal Government as my hammer, as my agent, to say I have something I want to sell and I can't figure out a way to make people buy it. I know, I will get the Federal Government to pass a law to say people have to buy it. That is the way I will take care of my investment.

That is wrong and that is what a few people are urging us to do. I am not talking about people in the body here, of course. I am talking about some folks on the outside. They have the good fortune of having a resource they would like to be able to sell. They would like to make some money on it and they haven't been able to do it that well yet because it is not that economical. The way they get it done is to have Congress pass a law to say you have to buy it. I don't think that is what the Federal Government should be all about.

We are going to be taking up campaign finance reform tomorrow and my colleague, Senator MCCAIN, has made a point that I totally agree with him on, that the real problem here ultimately is that the Federal Government has become so powerful now that everybody comes running to the Federal Government to seek special benefits because the Government can grant those benefits. It becomes very valuable after a while, so people decide they want to spend money influencing governmental policy.

In the abstract that is fine. We understand that is the way it is in a democracy, and there is nothing wrong with spending money to influence Government policy. But when you have a lot of money and you can influence the Federal Government to make people buy something that you have to sell that you could not sell to them otherwise, that is wrong. It is an abuse of power. Frankly, it is something that we as Senators should not countenance.

We should say to those people: Look, go develop a product that can sell. We have already given you a big tax break. If you can't sell it based upon that and you can't convince the State utility commissions or Governors or legislators to mandate a particular level of renewable energy resource in your own State, don't come to the Federal Government and ask us to do your work for you by forcing everybody to buy your product.

That is wrong. That is what creates the problem with the campaign finance issue—we make the Government so powerful that it can make or break businesses and therefore they all come rushing to us to get us to change Federal policy and to use it as a hammer rather than as an inducement.

I hope my colleagues will be able to answer these questions when they vote and that they will conclude we are really better off at this point in our history saying: We are not ready for an absolute Federal mandate. It is better to let the States decide this. With the encouragement that we provide through the tax incentives, we will see what kind of progress we can make toward the goal that we want. Then we

will reevaluate it to see if we really want to impose something on the American purchaser of electricity.

As I said before, we have to be very careful about mandating the use of unreliable energy sources. The renewables, with all due respect to those who think they are the great wave of the future, renewables provide some capacity for diversification, some ability to produce power in the future, but they should not be considered a good idea for baseload or for any significant portion of power requirements as a mandate because they are simply not that reliable.

I hope colleagues will consider supporting the Kyl amendment, and, as a result of that, it will eliminate the underlying Bingaman amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I have a unanimous consent request, that amendment No. 3023 be modified with the language that is at the desk. This modification is technical in nature.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (No. 3023), as modified, is as follows:

(Purpose: To expand the eligibility to receive biodiesel credits and to require the Secretary of Energy to conduct a study on alternative fueled vehicles and alternative fuels)

On page 185, strike lines 9 through 14 and insert the following:

**SEC. 817. TEMPORARY BIODIESEL CREDIT EXPANSION.**

(a) BIODIESEL CREDIT EXPANSION.—Section 312(b) of the Energy Policy Act of 1992 (42 U.S.C. 13220(b)) is amended by striking paragraph (2) and inserting the following:

''(2) USE.—

''(A) IN GENERAL.—A fleet or covered person—

''(i) may use credits allocated under subsection (a) to satisfy more than 50 percent of the alternative fueled vehicle requirements of a fleet or covered person under this title, title IV, and title V; but

''(ii) may use credits allocated under subsection (a) to satisfy 100 percent of the alternative fueled vehicle requirements of a fleet or covered person under title V for 1 or more of model years 2002 through 2005.

''(B) APPLICABILITY.—Subparagraph (A) does not apply to a fleet or covered person that is a biodiesel alternative fuel provider described in section 501(a)(2)(A).''.

(b) TREATMENT AS SECTION 508 CREDITS.—Section 312(c) of the Energy Policy Act of 1992 (42 U.S.C. 13220(c)) is amended—

(1) in the subsection heading, by striking ''CREDIT NOT'' and inserting ''TREATMENT AS''; and

(2) by striking ''shall not be considered'' and inserting ''shall be treated as''.

(c) ALTERNATIVE FUELED VEHICLE STUDY AND REPORT.—

(1) DEFINITIONS.—In this subsection:

(A) ALTERNATIVE FUEL.—The term ''alternative fuel'' has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(B) ALTERNATIVE FUELED VEHICLE.—The term ''alternative fueled vehicle'' has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(C) LIGHT DUTY MOTOR VEHICLE.—The term ''light duty motor vehicle'' has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

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

(2) BIODIESEL CREDIT EXTENSION STUDY.—As soon as practicable after the date of enactment of this Act, the Secretary shall conduct a study—

(A) to determine the availability and cost of light duty motor vehicles that qualify as alternative fueled vehicles under title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.); and

(B) to compare—

(i) the availability and cost of biodiesel; with

(ii) the availability and cost of fuels that qualify as alternative fuels under title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.).

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(A) describes the results of the study conducted under paragraph (2); and

(B) includes any recommendations of the Secretary for legislation to extend the temporary credit provided under subsection (a) beyond model year 2005.

Mr. BINGAMAN. Mr. President, I know my colleague from Nevada is here to speak on this amendment, so I yield the floor to him.

The PRESIDING OFFICER. The Senator from Nevada.

## UNANIMOUS CONSENT AGREEMENT—H.R. 2356

Mr. REID. Mr. President, I have a unanimous consent request I would like to propound to the Senate. I see my friend from Kentucky, who has spent so much time allowing us to arrive at this point. I hope we can work this out for everyone's benefit.

Mr. President, I ask unanimous consent that at 10 a.m. tomorrow, that is Wednesday, the Senate resume consideration of H.R. 2356, the campaign finance reform bill, with the time until 1 p.m. equally divided between the leaders or their designees prior to the vote on the motion to invoke cloture, with the mandatory live quorum under rule XXII being waived; further that, if cloture is invoked, there be an additional 3 hours of debate equally divided between the two leaders or their designees, that upon the use or yielding back of time, the Senate vote on passage of the act with no amendments or motions in order, with no intervening action or debate; further, if cloture is not invoked this agreement is vitiated.

I further ask unanimous consent that immediately after final passage of the bill, the Senate proceed to the immediate consideration of a Senate resolution, the text of which is at the desk, and that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? The Senator from Kentucky.

Mr. MCCONNELL. Reserving the right to object, and I am not going to object, I say, once again, that what is missing from this consent agreement is a technical corrections package which Senator MCCAIN, Senator FEINGOLD, and I have agreed to. This is the first time in the history of this debate, over all of these years, that the three of us have actually agreed to something.

Regrettably, it has now been objected to by someone else on that side of the aisle. I say to my friend, the assistant majority leader, I hope at sometime during the course of the day tomorrow we can get that objection cleared up and hopefully Senator MCCAIN, Senator FEINGOLD, and I will offer a unanimous consent agreement tomorrow related to this technical package which the three of us have agreed to and hopefully we can work out some way tomorrow to clear that as well.

But I have no objection to this package as far as it goes. The only caveat I issue is that we hope to be able to achieve yet another consent agreement tomorrow, to move a technical package out of the Senate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. REID. Mr. President, I am grateful to the Senator from Kentucky for his work on this issue. It has been a very difficult thing for him, but he has persevered and we have gotten to the point where we are now and look forward to trying to work on the other problem that he mentioned today.

I will be very brief. I know the hour is late. I say to the Republican manager of this legislation that at such time as the Senate gets back on this legislation, the first thing that will be done is move to table this Kyl amendment. I explained that to the floor staff. I have explained that to Senator KYL. But we thought, rather than doing that today—we had the right to do that earlier today—that there was interest in this. Even though we had the right to do that, we wanted to make sure everyone had an opportunity to speak on this. People can speak as long as they want on this tonight.

But I do say that as soon as we get back to this legislation, unless there is some kind of an agreement that we will vote on this motion where we would have 10 minutes equally divided or 20 minutes equally divided, something reasonable, the majority leader will seek recognition to move to table because we have spent enough time on renewables.

AMENDMENT NO. 3038

Mr. President, I feel very strongly we need to diversify the Nation's energy supply by stimulating the growth of renewable energy.

America's abundant and untapped renewable resources are essential for the energy security of the United States, for the protection of our environment, and for the health of the American people.

We should 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.