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No. 38

Senate

The Senate met at 9:16 a.m. and was called to order by the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God of Hope, we praise You that You have vanquished the forces of death and given those who believe in Your resurrection power the assurance that this life is but a small part of eternity. We join with the British people in profound gratitude for the long life and encouraging inspiration of Queen Elizabeth, the Queen Mother. Her death came as no conqueror in the end; she rose to meet You, her Eternal Friend. She bestrode the twentieth century with charm, and virtue, and principle, and vibrant faith in You. We will never forget her smile, her inclusive affirmation of each person she met, and her courage through the sea of trouble that engulfed a century of two world wars.

Thank You for her wit, steeliness of character, and the way she lived life to the fullest, one day at a time, with un-failing trust in You. May the example of this loyal Scot, Queen Mum, a truly great woman encourage us all as we join with people everywhere in honoring the memory of this woman who royally expressed a common touch and a genuine enjoyment of life. Through the One who is the Resurrection and the Life, now and forever. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DANIEL K. AKAKA led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 10, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DANIEL K. AKAKA, a Senator from the State of Hawaii, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. AKAKA thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

SCHEDULE

Mr. REID. Mr. President, shortly we shall return to debate on the Feinstein derivatives amendment. That debate will take place until a quarter of 10 today. At that time, the Senate will proceed to vote on the motion to invoke cloture on Senator FEINSTEIN's amendment.

We expect Senator CRAIG this morning we have been told—will offer an amendment relating to the renewables section of the underlying bill. We hope as soon as that measure is fully debated we will vote in relation thereto.

There will be votes during today's proceedings. As has been indicated by the majority leader, he has every hope we can finish this bill soon. This is now the 16th day we have been on this legislation. I certainly hope we can move to conclusion at an early date.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 517, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 517) to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 and 2006, and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917, in the nature of a substitute.

Feinstein modified amendment No. 2989 (to amendment No. 2917), to provide regulatory oversight over energy trading markets and metals trading markets.

Kerry/McCain amendment No. 2999 (to amendment No. 2917), to provide for increased average fuel economy standards for passenger automobiles and light trucks.

Dayton/Grassley amendment No. 3008 (to amendment No. 2917), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

Lott amendment No. 3028 (to amendment No. 2917), to provide for the fair treatment of Presidential judicial nominees.

Landrieu/Kyl amendment No. 3050 (to amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment.

Graham amendment No. 3070 (to amendment No. 2917), to clarify the provisions relating to the Renewable Portfolio Standard.

Reid modified amendment No. 3081 (to amendment No. 2989), in the nature of a substitute. (By 40 yeas to 59 nays (Vote No. 60), Senate earlier failed to table the amendment.)

The ACTING PRESIDENT pro tempore. Under the previous order, the

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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time until 9:45 a.m. shall be equally divided and controlled in the usual form.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I yield myself 5 minutes from the time on this side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, the majority leader and the distinguished majority whip have often mentioned the fact that we have not called up the ANWR amendment yet. I am here to say we are almost ready to do that. The reason we have not brought it forth so far, of course, is the stated objective of Members of the other side of the aisle to filibuster this amendment and to require us to have 60 votes in order for its adoption. We will lay it down right now if the leadership will agree we can have an up-or-down vote on the amendment.

This is not a normal procedure where the leader states categorically that there is an intention of the majority to require 60 votes for an amendment to pass.

I intend later today to distribute to every desk a copy of a letter of July 3, 1980 that was signed by Senator Henry M. Jackson, chairman of the Interior and Insular Affairs Committee, and Mark Hatfield, ranking minority member, concerning the Alaska lands bill that was before the Senate at that time.

These two Senators were leaders of the Senate on the Alaska lands legislation and it is important for the Senate to read this letter. I will read a portion of it at this time. The portion I will read concerns the amendment which gives us the right to proceed with development of the Arctic plain. They wrote:

While the bill is a gigantic environmental accomplishment, it also is crucial to the nation's attempt to achieve energy independence. One-third of our known petroleum reserves are in Alaska, along with an even greater proportion of our potential reserves. Actions such as preventing even the exploration of Arctic Wildlife Range, a ban sought by one amendment, is an ostrich-like approach that ill-serves our nation in its time of energy crisis.

They went on to write:

Instability of certain nations abroad repeatedly emphasizes our need for stronger domestic supply of strategic and critical minerals. Each of the five proposed amendments would either restrict mineral areas from development or block access to those areas. Four of the seven world-class mineral finds in Alaska would be effectively barred from development by this amendments. That is simply too high a price for this nation to pay.

Further from the letter:

We urge you to focus on the central fact that the Alaska lands bill is not just an environmental issue. It is an energy issue. It is a national defense issue. It is an economic issue. It is not an easy vote for one constituency that affects only a remote, far-away area. It is a compelling national issue which demands the balanced solution crafted by the Energy and Natural Resources Committee.

Seven years earlier my colleague, Senator Gravel, and I presented an amendment to authorize the immediate construction of the Alaska pipeline. That amendment first ended up in a vote of 49-48. We had won that amendment. On a reconsideration, the vote was 49-49, and the then Vice President cast a "yea" vote, and the amendment was finally agreed to on the second vote.

I yield myself 2 more minutes.

My point in raising this before the Senate this morning is that on the Alaska pipeline there was no threat of a filibuster. Despite the fact that the then majority leader, Senator Mansfield, and the chairman of the committee, Senator Jackson, opposed our amendment for the immediate construction of the pipeline, there was no filibuster.

We should not have a filibuster on the amendment that is going to be offered by my colleague Senator MURKOWSKI and myself on this bill to proceed now to the exploration and development of the 1.5 million acres on the Arctic plain. It is still a national defense issue. I hope to raise that again and again. In times of national security crisis, there should not be a filibuster against a proposal to make available to this Nation additional oil and gas resources.

I ask unanimous consent that the letter I cited of July 3, 1980 and the CONGRESSIONAL RECORD showing the affairs of the Senate on July 17, 1973 on those two votes, 295 and 296, be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL
RESOURCES,
Washington, DC, July 3, 1980.

DEAR COLLEAGUE: In this year of sharply heightened national concern over the economy, energy and national defense, the Senate is about to consider Alaska lands legislation—an issue which would have a profound effect on each of these vital subjects.

We write to ask for your full support of the Alaska lands bill approved by the Energy and Natural Resources Committee. After extensive hearings, study and mark-up, the Committee approved this bill by an overwhelming and bi-partisan vote of 17-1.

The Committee bill is a balanced, carefully crafted measure which is both a landmark environmental achievement and a means of protecting the national interest in the future development of Alaska and its vital resources. The bill more than doubles the land area designated by Congress as part of the National Park and National Wildlife Refuge systems; it triples the size of the National Wilderness Preservation system. It protects the so-called Crown Jewels of Alaska. At the same time, it preserves the capability of that mammoth state to contribute far beyond its share to our national energy and defense needs.

A series of five major amendments to the bill and an entire substitute for it will be offered on the Senate floor. The amendments in total would make the bill virtually an equivalent of the measure approved last year by the House. Each amendment in its own way would destroy the balance of the bill.

While the bill is a gigantic environmental accomplishment, it also is crucial to the nation's attempt to achieve energy independence. One-third of our known petroleum reserves are in Alaska, along with an even greater proportion of our potential reserves. Actions such as preventing even the exploration of the Arctic Wildlife Range, a ban sought by one amendment, is an ostrich-like approach that ill-serves our nation in this time of energy crisis.

Instability of certain nations abroad repeatedly emphasizes our need for a stronger domestic supply of strategic and critical minerals. Each of the five proposed amendments would either restrict mineral areas from development or block effective access to those areas. Four of the seven world-class mineral finds in Alaska would be effectively barred from development by the amendments. That simply is too high a price for this nation to pay.

Present and potential employment both in Alaska and in the other states would be significantly damaged if the committee bill is amended. Cutting off development of the four mineral finds discussed above would alone cost thousands of potential jobs, many of them in the Lower 48 states. The amendment on national forests would eliminate up to 2,000 jobs in the southeast Alaska timber-related economy.

We urge you to focus on the central fact that the Alaska lands bill is not just an environmental issue. It is an energy issue. It is a national defense issue. It is an economic issue. It is not an easy vote for one constituency that affects only a remote, far-away area. It is a compelling national issue which demands the balanced solution crafted by the Energy and Natural Resources Committee.

We look forward to your support.

Cordially,

MARK O. HATFIELD,
Ranking Minority Member.
HENRY M. JACKSON,
Chairman.

EXCERPT FROM THE CONGRESSIONAL RECORD
OF JULY 17, 1973

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska (Mr. GRAVEL) No. 226, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON) is necessarily absent.

I further announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

The yeas and nays resulted—yeas 49, nays 48, as follows:

[No. 295 Leg.]

YEAS—49

Biden	Cotton	Hollings
Baker	Curtis	Hruska
Bartlett	Domenici	Huddleston
Beall	Dominick	Inouye
Bellmon	Eastland	Johnston
Bennett	Ervin	Long
Bentsen	Fannin	McClellan
Bible	Fong	McGee
Brock	Goldwater	Nunn
Brooke	Gravel	Randolph
Byrd, Harry F., Jr.	Griffin	Saxbe
	Hansen	Schweiker
Byrd, Robert C.	Hartke	Scott, Pa.
Cannon	Helms	Scott, Va.

Sparkman	Talmadge	Weicker
Stevens	Thurmond	Young
Taft	Tower	

NAYS—48

Abourezk	Haskell	Moss
Aiken	Hatfield	Muskie
Bayh	Hathaway	Nelson
Biden	Hughes	Packwood
Buckley	Humphrey	Pastore
Burdick	Jackson	Pearson
Case	Javits	Pell
Chiles	Kennedy	Percy
Church	Mansfield	Proxmire
Clark	Mathias	Ribicoff
Cook	McClure	Roth
Dole	McGovern	Stafford
Eagleton	McIntyre	Stevenson
Fulbright	Metcalf	Symington
Gurney	Mondale	Tunney
Hart	Montoya	Williams

NOT VOTING—3

Cranston	Magnuson	Stennis
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The VICE PRESIDENT. On this vote, the yeas are 49, the nays 48. The amendment is agreed to.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the galleries.

Mr. FANNIN. Mr. President, I move to lay that motion on the table.

The VICE PRESIDENT. The galleries will be in order.

The question is on agreeing to the motion to reconsider (putting the question). The yeas appear to have it.

Mr. CASE. Mr. President, I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. HUMPHREY. Mr. President, are we voting on a motion to table or on the motion to reconsider?

The VICE PRESIDENT. The Senate is voting on the motion to reconsider.

Mr. HUMPHREY. On the rollcall vote?

Mr. LONG. Mr. President, are we voting on the motion to reconsider or on the motion to lay on the table?

The VICE PRESIDENT. The Senate is voting on the motion to reconsider.

Mr. LONG. Mr. President, I move to table the motion to reconsider.

The VICE PRESIDENT. The question is on agreeing to the motion to table the motion to reconsider.

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

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion to table the motion to reconsider. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Washington (Mr. MAGNUSON) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON) would vote "nay."

The yeas and nays resulted—yeas 49, nays 49, as follows:

[No. 296 Leg.]

YEAS—49

Allen	Bennett	Byrd, Harry F., Jr.
Baker	Bentsen	
Bartlett	Bible	Byrd, Robert C.
Beall	Brock	Cannon
Bellmon	Brooke	Cotton

Curtis	Helms	Schweiker
Domenici	Hollings	Scott, Pa.
Dominick	Hruska	Scott, Va.
Eastland	Huddleston	Sparkman
Ervin	Inouye	Stevens
Fannin	Johnston	Taft
Fong	Long	Talmadge
Goldwater	McClellan	Thurmond
Gravel	McGee	Tower
Griffin	Nunn	Weicker
Hansen	Randolph	Young
Hartke	Saxbe	

NAYS—49

Abourezk	Haskell	Muskie
Aiken	Hatfield	Nelson
Bayh	Hathaway	Packwood
Biden	Hughes	Pastore
Buckley	Humphrey	Pearson
Burdick	Jackson	Pell
Case	Javits	Percy
Chiles	Kennedy	Proxmire
Church	Mansfield	Ribicoff
Clark	Mathias	Roth
Cook	McClure	Stafford
Cranston	McGovern	Stevenson
Dole	McIntyre	Symington
Eagleton	Metcalf	Tunney
Fulbright	Mondale	Williams
Gurney	Montoya	
Hart	Moss	

NOT VOTING—2

Magnuson	Stennis
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The VICE PRESIDENT. On this question, the yeas are 49, and the nays are 49. The Vice President votes "Yea." The motion to lay on the table is agreed to.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Nevada.

Mr. REID. Mr. President, I say to my friend, there is not a Senator in the Senate I have more respect for than the senior Senator from Alaska. I consider him a friend and certainly always a worthy advocate. On this issue relating to the energy bill now before the Senate, however, to have my friend and his colleague, the junior Senator from Alaska, say that they are interested in going forward, that they would have had a vote on this immediately if, in fact, we didn't use the rules of the Senate, of course, the rules of the Senate are what have guided this institution for so many years. I really don't know how many votes there are. Each side has around 50 votes. That is the way this will turn out, if there is a vote on the ANWR issue.

Regarding his logic that there should be, in a time of national crisis, nothing done to prevent the Congress from thwarting anything that would bring us more oil, the way to do that would have been to support the CAFE standards legislation we debated on this legislation. That would have brought certainly millions of barrels of new supply to this country by not having us use this oil.

As we have discussed many times, the United States cannot produce its way out of the crisis we are in. We should do everything we can to increase the natural gas and other drilling oil supplies. There is no question about that. But there is a real debate taking place in this country as to whether or not we should drill in the Alaskan wilderness. Although I am from Nevada a State that is very sparsely populated, I think the Senator from Alaska raised some interesting

points about certain promises that were made to the Senator from Alaska and the Alaskan delegation many years ago. It is something we all need to take a look at.

But we have a debate that has been ongoing for many years. This isn't something that just came up during this bill. I look forward to the debate on ANWR. I think there are people who honestly have not made up their minds yet. It is a handful of people, but some have not made up their minds yet. So I hope that the Alaskan delegation will offer this amendment as quickly as possible. I think that is the main thing holding up the final movement of this legislation.

I spoke to the junior Senator from Alaska yesterday, and I don't think it would be appropriate for someone else to offer the ANWR amendment—for example, a House version, or some other comparable version. I think it should be done by the Senators from Alaska or Senators with whom they want to join.

So I hope that in the next little bit—whether it is tonight or tomorrow, but in the immediate future—this amendment will be offered. Otherwise, it is my understanding that others who may not be advocates for ANWR will offer it just to move the debate along.

Mr. President, it is my understanding that the vote will occur at 9:45. That will be on the Feinstein amendment.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. I see the Senator from California is here.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

AMENDMENT NO. 2989

Mrs. FEINSTEIN. Mr. President, I rise to urge my colleagues to support the cloture motion on the amendment that is now pending. This amendment essentially would close what I call the Enron loophole, which allows certain areas of trading to go without any oversight or regulation. The amendment has been out there for 5 weeks now. Hopefully, that was more than enough time for Senators to give it due consideration. There has been lobbying for the amendment on both sides.

This is what the amendment does. It essentially provides antifraud and antimanipulation authority to the Commodity Futures Trading Commission for all energy trades online, when there is no physical delivery. The amendment subjects all energy platforms—trading platforms—to the same levels of oversight they had before the 2000 Commodity Futures Modernization Act, which was changed at the final hour by Enron to include an exemption for energy trading. This means these trades exchanges would, once again, have to file with the CFTC. They would have to provide price transparency, maintain capital commensurate with risk, as decided by the CFTC. All the things that Enron did online essentially provided this giant loophole.

Mr. President, if I trade natural gas to you and deliver it to you, we are

covered by the Federal Energy Regulatory Commission. But if I don't deliver the gas to you but a number of trades take place in the interim, none of these trades are covered by anybody. There is no antifraud; there is no antimanipulation oversight; I don't have to keep any record; there is no audit trail; and I don't have to have sufficient capital based on the risk I am taking. All of these things are covered by this amendment.

This amendment essentially closes a loophole, and that loophole is that if you trade online, there is no oversight, or there is no antifraud or antimanipulation authority. So it is my hope that the Senate will provide cloture. It is my hope that we will be able to close this loophole.

The amendment is supported by a number of groups. It is fair to say there is intense lobbying on both sides. I view this amendment as being on the side of the angels. It is very hard for me to understand why because you trade derivatives on an electronic platform—meaning online—that you are able to escape any form of oversight. I think this kind of situation does not breed security in the marketplace, does not give confidence to investors. So I hope there are 60 votes present for this amendment.

I reserve the remainder of my time and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I have limited time and I am not going to get into a dispute about facts, or about what is and what isn't a loophole, or whether these instruments have ever been regulated because they have not. But the reason that debate should not be brought to an end here is about as simple as any argument could be for continuing to try to find a compromise. The entire financial sector of the American economy—every bank, every securities company, every insurance company in America—is opposed to this amendment. The Federal Reserve Board and Chairman Alan Greenspan are opposed to this amendment; not to what the Senator is trying to do, but to what the amendment does.

The Securities and Exchange Commission Chairman has spoken out adamantly in opposition to this amendment. The Chairman of the Commodities Futures Trading Commission—the very agency that would be empowered with new authority under this amendment—has spoken out and written letters and argued that these areas represent very complicated financial transactions, and that we need to take a look at unintended consequences.

What I hope will happen today is that we will deny cloture. There has been no filibuster on this amendment. We have continued to process other amendments. There have been two good-faith efforts to reach a compromise. Alan Greenspan has sent a letter to every Member of the Senate saying that he

believes the ability to hedge risk through derivatives has been a major factor in preventing our downturn from becoming a recession. He said that this market is a major factor in the underlying strength of the economy, and he believes it could be jeopardized by this amendment.

So I believe we should sit down and try to work out an amendment that Alan Greenspan believes is safe for the American economy. I don't know who we are putting under the heading of angels, in the words of the Senator from California, but when we are talking about jobs, growth, opportunity and responsibility in America, if Alan Greenspan doesn't fall under the heading of angel, I don't know who does. The point is, this amendment needs more work.

Let me tell you what everybody involved in the debate agrees on: Number one, they agree that the CFTC should have access to data, that data should be maintained to allow the reconstruction of individual transactions for up to five years. That is what is required under the Commodity Futures Trading Commission jurisdiction under current law. Everybody agrees that the Commission ought to be able to intervene if there is evidence of fraud or price manipulation. Where the disagreement and differences occur—and these three points represent 95 percent of the things that the proponents of this amendment say they are—are in other areas that are generally unintended. I understand that this is a very complicated issue. There is one member of this chamber who claims to know what a derivative is. I do not claim to know what a derivative is. I have tried, as former chairman of the Banking Committee, to understand these transactions. But when you have a \$75 trillion market out there for very complicated financial instruments, you don't want to tamper with it unless you know what you are doing.

You do not want unintended consequences when you are dealing with \$75 trillion of economic underpinning that holds up the very structure of the American economy. That is what this amendment is putting at risk.

I urge my colleagues to vote against forcing a vote on this amendment and give us an opportunity to try to write something that Alan Greenspan, the Chairman of the SEC, and the Chairman of the CFTC—the people we have entrusted to make these decisions—are comfortable with and can support.

I believe we can achieve 95 percent of the objectives of the Senator from California without endangering the very financial underpinnings of the American economy. But I believe they are endangered—as Alan Greenspan says, as the Secretary of the Treasury says, as banks, security companies and insurance companies across the land say—by the amendment as it is now written.

I urge my colleagues to vote no. It would be my full intention if a “no”

vote prevails to again sit down with the Senator from California and work out a compromise that will solve her problem without creating others.

Mr. GRASSLEY. Mr. President, I rise today to express my opposition to the pending Feinstein amendment concerning modifications to the Commodity Futures Modernization Act of 2000.

The passage of the Commodity Futures Modernization Act only a year and a half ago has provided legal certainties that I believe have resulted in increased market participation, greater transparency and heightened market liquidity.

I agree there are lessons we can learn from Enron's collapse, particularly with respect to accountability issues. I share in my colleagues' outrage over these events, and truly feel for the workers and innocent investors who lost their jobs and life savings.

There are legislative actions that we in Congress can take to ensure that similar corporate failures aren't allowed to fester elsewhere. In fact, as the ranking member on the Senate Finance Committee, I've taken steps to do something about a number of tax and pension related problems that have been exposed by the Enron collapse.

However, as regulatory agencies continue to investigate Enron's over-the-counter derivatives activities, Congress must exercise caution when considering a legislative fix to a problem that has yet to be clearly identified. Without the benefit of the results and recommendations of these investigations, any legislative action will surely be premature.

The Secretary of the Treasury, the Chairman of the Federal Reserve, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission oppose adoption of this amendment because of the lack of opportunity for a full review, as well as the absence of any determination that energy derivatives played a role in the collapse of Enron.

I also have concerns that this amendment has not been thoroughly and thoughtfully reviewed by the appropriate committees of jurisdiction. The Senate Agriculture Committee, which I served on when the Commodity Futures Modernization Act was considered, addressed the issue of the uncertainties with respect to over-the-counter derivatives. The lack of hearings and analysis by the Senate Agriculture Committee prior to the consideration of this amendment is unfortunate.

I therefore oppose this hastily drafted amendment, and will formally request that the chairman of the Senate Agriculture Committee thoroughly analyze, and if necessary, conduct hearings on the results and recommendations of the numerous agency investigations concerning the regulation of over-the-counter derivatives.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. Who yields time?

Mrs. FEINSTEIN. Mr. President, how much time is remaining?

The ACTING PRESIDENT pro tempore. Three minutes 50 seconds remain.

Mrs. FEINSTEIN. I yield the remainder of my time to the Senator from New Jersey.

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I will split the time with the Senator from Illinois if that is OK with the Senator from California.

Mrs. FEINSTEIN. Absolutely.

Mr. CORZINE. Mr. President, I wish to make a couple of simple points. First, this amendment brings forward fairly simple, straightforward oversight functions that are typical in every financial market in which I have ever participated and in which I spent 30 years of my life working, and that is antifraud, price manipulation and transparency rules that are fundamental to making the depth and breadth of the financial markets work. We have great financial markets in America. This amendment accomplishes bringing that to bear in this energy market.

In fact, since this amendment was originally offered, there has been an enormous number of attempts to make sure it does not impact that \$75 trillion market about which the Senator from Texas talked. It exempts financial futures, equities, currencies, and debt instruments from any of the legal constraints. I think it has been adjusted to address most of the concerns I certainly have heard from my friends with whom I used to work in the financial sector.

It is very clear in small, confined markets where there is not the depth and breadth that price manipulation is a very real possibility. As a matter of fact, it was cited in the 1999 President's Working Group on Financial Instruments, including Alan Greenspan, that at that point energy markets were narrow enough so as to cause problems. We ought to move forward in response to the kinds of problems we have seen at Enron. I hope Members will vote for cloture.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired. The Senator from Illinois is recognized.

Mr. FITZGERALD. May I inquire how much time remains?

The ACTING PRESIDENT pro tempore. One minute 20 seconds.

Mr. FITZGERALD. I thank the Chair.

Mr. President, I think I can sum up in that short period of time. I urge all my colleagues to support this amendment. It is a very good amendment, and most of the arguments I have heard about it on the other side, in my judgment, are not true. The bill will

have no chilling effect on the financial derivatives market.

It does not apply to purely financial derivatives, and there is an important public policy reason for this. We are trying to comport our commodity futures laws in this country to comply with the principles laid down by the President's working group in the last couple of years. Somehow when we passed the Commodity Futures Modernization Act last year, at the end, a mysterious rifleshot exemption that applied to a handful of commodity trading firms that trade online. It is not quite clear where it came from, but it creates an uneven regulatory playing field where certain firms have a narrow exemption, there is no transparency in their markets, and they are not reporting volume or open interest. In my judgment, it is important to consumers of these online exchanges to have that information available to them.

It is possible that a client can be ripped off on an online exchange, and the transparency created by this amendment will solve that problem.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. FITZGERALD. I thank the Chair. I urge my colleagues to vote with Senator FEINSTEIN, Senator CORZINE, and myself in favor of cloture.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion which the clerk will state.

The senior assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Feinstein amendment No. 2989 to the substitute amendment for Calendar No. 65, S. 517, the energy bill.

Dianne Feinstein, Byron L. Dorgan, H.R. Clinton, Daniel K. Akaka, Paul D. Wellstone, Edward M. Kennedy, Bob Graham, Carl Levin, Bill Nelson, Debbie Stabenow, Maria Cantwell, Harry Reid, Russell Feingold, Ron Wyden, Richard Durbin, James M. Jeffords.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call under the rule has been waived.

The question is, Is it the sense of the Senate that debate on the Feinstein amendment No. 2989 to S. 517, the Energy Policy Act, shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Montana (Mr. BAUCUS) is necessarily absent.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPENCER) is necessarily absent.

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

The yeas and nays resulted—yeas 48, nays 50, as follows:

[Rollcall Vote No. 61 Leg.]

YEAS—48

Akaka	Dodd	Leahy
Bayh	Dorgan	Levin
Biden	Durbin	Lieberman
Bingaman	Edwards	McCain
Boxer	Feingold	Mikulski
Breaux	Feinstein	Murray
Byrd	Fitzgerald	Nelson (FL)
Cantwell	Graham	Reed
Carnahan	Harkin	Reid
Carper	Hollings	Rockefeller
Cleland	Inouye	Sarbanes
Clinton	Jeffords	Schumer
Conrad	Johnson	Stabenow
Corzine	Kennedy	Torricelli
Daschle	Kerry	Wellstone
Dayton	Kohl	Wyden

NAYS—50

Allard	Frist	Murkowski
Allen	Gramm	Nelson (NE)
Bennett	Grassley	Nickles
Bond	Gregg	Roberts
Brownback	Hagel	Santorum
Bunning	Hatch	Sessions
Burns	Helms	Shelby
Campbell	Hutchinson	Smith (NH)
Chafee	Hutchinson	Smith (OR)
Cochran	Inhofe	Snowe
Collins	Kyl	Stevens
Craig	Landrieu	Thomas
Crapo	Lincoln	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Voinovich
Ensign	McConnell	Warner
Enzi	Miller	

NOT VOTING—2

Baucus Specter

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

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

The motion to lay on the table was agreed to.

Mr. REID. It is my understanding the Senator from Idaho is ready to offer an amendment which we have talked about since yesterday—and that is very appropriate. But I am wondering if we could have agreement—I do not see him in the Chamber now—but with the Senator from Alaska, who is working this bill with the Senator from New Mexico, to have a time for filing amendments. I suggest sometime this afternoon or early evening.

The PRESIDING OFFICER. The Senate will be in order. Please give the Senator your attention. The Senate will be in order.

Mr. REID. I have spoken with Senator BINGAMAN. He agrees that would be a good idea. I hope those on the other side also agree it is a good idea. No one cares how many amendments at this stage, but we should have a specific time for filing these amendments. We hope we can offer a unanimous consent agreement in the near future to set that time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. CRAIG. Mr. President, I call up amendment No. 3047 and ask for its consideration.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Will my friend withhold?

Mr. CRAIG. Yes.

Mr. REID. If the Senator will withhold just for a brief minute?

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 2989, WITHDRAWN

Mrs. FEINSTEIN. Mr. President, I rise to withdraw the amendment on which we just voted, amendment No. 2989.

The PRESIDING OFFICER. The amendment is No. 2989, as modified. The Senator has that right.

Mrs. FEINSTEIN. Thank you, Mr. President.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Idaho.

AMENDMENT NO. 3047

Mr. CRAIG. Mr. President, I called up the amendment No. 3047. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 3047.

Mr. CRAIG. I ask unanimous consent the reading of the amendment be dispensed with.

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

(The text of the amendment is printed in the RECORD of March 21, 2002, under "Amendments Submitted.")

Mr. CRAIG. Mr. President, I rise after a great deal of consideration as to the amount of work that has been done on this energy bill by the chairman of the full committee and by a good number of interests. My colleague from Wyoming is on the floor. He spearheaded a group dealing specifically with title II, the electricity title, of this very large and important bill. He labored mightily over that. I was involved, and my staff was involved, in some of those discussions.

But the reality became clear to me and others that the electrical title of this bill is such a very complicated, extended title—attempting to rework and amend years and years of law and public policy that has built up, that has driven the capitalization of the largest electricity industry in the world and, frankly, one of the best—that without the kinds of detailed hearings that must come before a full committee of energy, we could not effectively and responsibly write this title in this Chamber.

I have opined on many occasions here that this bill did not get the treatment of the committee, it did not get the

treatment of the subcommittees, it did not get the treatment of the professional staff and all of those who are interested as stakeholders in dealing with this very critical title.

As a result of that, after several weeks of consideration, I decided it was appropriate that we have a vote on the reality that we cannot get as far as we would want to get. So this amendment today strikes the electricity title and replaces it with consumer protection that is exactly the language currently in the bill, and the reliability provisions of that bill that did have full committee treatment, that has been voted on, on the floor of the Senate, and has been treated and accepted by the Senate as should these kinds of issues.

A good many interest groups recognize the complexity of this problem. The House tried to deal with an electric title and couldn't—after months of consideration with the committee effort. It said: No, it is too complicated and we ought to step back from it. So their energy bill, passed in August, was silent on the issue of electricity.

Whether or not we speak to it going into conference, if this bill ultimately gets to conference, there is a reality that we might not deal with it then. And there are provisions within this title that I strike to which many of us are strongly opposed.

The electric title does need the full attention of the experts—a clear, precise explanation of what the jurisdictional committee intends, and, my guess is, therefore could craft the appropriate language. I think the Senate owes the electric utility industry and the ratepayers nothing less than a full, open, and transparent process to get us there.

We want to reform the electric industry. We need a national interstate transmission system. All of those are realities.

We saw the problems in California when a State failed to deal with restructuring or deregulation in an appropriate fashion and created the disincentives that did not allow the investment in the marketplace.

If we were to create those kinds of disincentives to send a multibillion-dollar industry scurrying trying to understand, but, most importantly, allowing the recentralization of authority and a Federal regulator, then my guess is we will have made a major mistake. I think that question is clearly on the table.

Senator MURKOWSKI, I, and others who work on that Energy Committee, and the chairman who is here in the Chamber—in discussing energy and electric restructuring over the last several years, and the phenomenal amount of hearings that were held on it before any language was attempted—laid down criteria we believed were important if we were going to do no harm to the ratepayer and do no harm to the billions of dollars of investments that are out there already in this industry.

Those standards work: Deregulate where possible, streamline when deregulation is not possible, and respect the prerogatives of the States. I have added in the last several weeks of debate a fourth, an elementary principle: Know what we are doing when we legislate. And when we grant new authority, or change our delegation of authority to a regulatory agency, know the consequences.

It is my guess at this time that you could not effectively do a side-by-side comparative of old law and new law in this title and begin to understand what its impact would be on the utilities of Georgia and their investments, their values, and their abilities to compete in a regional or a national market.

That is what we ought to know. We know the importance of sustained, high-quality, reliable power to industry, to the consumer, and to the well-being of the economy of this country.

Last month, we received a landmark Supreme Court decision on the authority of the Federal Energy Regulatory Commission to order transmission restructuring which has significant implications on the remainder of Federal-State responsibility and authority for regulation of public utilities. The Supreme Court's opinion in *New York v. FERC* demands our thoughtful attention.

What we have not done here, because we have not been allowed to do it, is take this Court decision, lay it before the committee, bring the Federal Energy Regulatory Commission to the Hill, and begin to engage them in questions as to what they might be willing to do and what they sense their new authority is under this Court decision. Was that the intent of the public policy of our country, or do we allow the judicial branch to legislate in a way that grants substantial new Federal authority? It is not clear at this time.

I think it is very understandable to most of us who deal in this phenomenally complicated area that we do not comprehend the reach of the Federal Energy Regulatory Commission as was and is now extended by the Court's decision. How far can the Commission push its authority now that the Court has said it has it? Those are the kinds of questions we ought to ask of ourselves for our ratepayers and for the utility commissions of our respective States and that which was once the responsible authority that created reliability and the stability of the industry historically.

There are several other important questions which have been gnawing at me, and I think probably several of us, since the Court issued its opinion.

For example, should the Senate now examine the need for legislation to protect native load customers? There are many who say: Yes, we should because we have a responsibility to the initial intent of the law and what it has done for the strength of our States' systems. We need to understand. Is FERC going to aggressively start restructuring in

what appears to be a real, lively, unbridled authority granted by the Court? We have not asked the question. FERC has not been before the committee. The committee hasn't functioned. Of course, that decision came just as we were engaging here on the floor, which I believe dramatically shifts the pendulum and the equation as it relates to this issue.

We all know that FERC has pursued an aggressive restructuring program and to establish regional transmission authority—a vital, stand-alone transmission business, as the Commission called it in 1999. Before we enact new law, we need to act to take into account that reality.

How does FERC, through the Supreme Court decision, affect RTO, the regional transmission authority? We have already heard their expression pre-Court decision. Now we need to understand their intent post-Court decision. Why would you, in an effort to restructure the electrical industry of this country, shift all of the power that once rested in many instances in the 50 States' commissions to a central Federal authority with phenomenal power over the ability of an industry to operate and to capitalize and, therefore, provide service to the consuming public? Not one word in the energy bill addresses the issue of the regional transmission organization. How can we enact an electric title without taking RTOs into account? That authority appears at this moment to be sweeping, and with substantial impact on the very title that is currently by amendment and by process here on the floor in this energy bill.

Even if we choose to remain silent on this issue, our choice should be a conscious one clearly expressed and based on a complete record, and at a minimum after hearings in the committee with full jurisdiction. That is what we ought to be doing. That is what we are not doing.

I say it is time we step back and stand down and pass the energy bill absent this—there is a lot of good stuff in it, and I hope there is more to come—and do as we ought to do before committee.

In my March 14 floor statement, I discussed why provisions covering electricity mergers and market-based rates and a refund effective date give me concern.

Are those important issues? You bet your life they are important.

I would like to now address briefly a couple of the provisions that are also of great concern to me—the market transparency rule and civil penalties.

Oh, my goodness, LARRY. What are you talking about here? I am talking about new authority, new power, and real questions being asked that I believe this title moves. We ought to know about it.

Market transparency rules: I find the title of this section a great misnomer. In a nutshell, I consider this section potentially anticompetitive as any

piece of legislation we could pass. Yet we are talking about competitive markets. We may be creating a phenomenally anticompetitive incentive within the legislation.

The provision says that as soon as practicable, competitors must release information about price and quality or quantity of sales in interstate commerce.

As far back as 1921, in the American Column and Lumber case, the Supreme Court deemed their practice of contemporaneous release of individual prices and sale volumes by competitors a violation of antitrust law.

That is the law. That is the ruling. That is the understanding; therefore, that is the practice. Have we changed it? It appears we have. Is that anticompetitive? It darn well may be. We ought to know it, and we ought to know how it impacts the capitalization of the economic base of this industry.

Economists say this practice allows a cartel to enforce its rules. Some of my colleagues cry market manipulation at the first sign of price increases. Malefactors in the industry could not think up a better scheme of market manipulation than this one, at least that is my belief.

This section allows the Commission to exempt commercially sensitive information. If we really mean that, we should ask the Commission to repeal the requirements of contemporaneous individual price and volume information. And if not, what do we mean by commercially sensitive? Are we simply going to allow that to be interpreted by the FERC? Some of their interpretations took them well beyond the law or the intent of public policy over the last several years.

The Edwards Dam case: Never did we say in the law they had the right to take down a dam, but they chose to do it—or to at least establish the precedent to do so.

I only cite that as an example because it does show the extreme power and authority of the FERC.

The civil penalties section gives the Commission authority to impose penalties in electric cases beyond what it has now in hydro cases. Unlike refunds, civil penalties have no necessary relationship to economic damage. We need to rest assured that we give this kind of authority to agencies that exercise good judgment. Here, I fear, we have not.

I recall the Commission's use of its civil penalty authority in the hydroelectric arena, and in particular a noteworthy case 10 years ago known as the Wolverine hydro. The U.S. Court of Appeals for the District of Columbia told of a case in which the Commission extracted a penalty of \$2 million for a project that operated without a license for a few days a year. I will say that again: a penalty of \$2 million for operating for a couple of days a year out of license.

Is that reasonable? Is that right? It does not sound right, but they had that

authority, and they did it. Worse, the DC Circuit never reached the issue of whether the \$2 million constituted an excessive fine. The court held that the Commission overreached in the first place, so the concept of operating excessively in the area of civil penalties has never been judged. The law said that the Commission's civil penalties authority extended to violators of existing license conditions, not those operating without licenses.

We do not need heavyhanded enforcement in the electricity area lest we scare off investment. Maybe the Commission has changed, but we need to inquire of the Commission's intent and its desire to use this provision in the law. The only way you get that done is for the chairman of the committee to convene a hearing, bring the Commission, and build the public record: What is your intent, Chairman of the FERC? How do you plan to use this title? And what do you think your parameters are in your authority? Is it sweeping? I would suggest that it is. And I would suggest that if that authority is real, as I have interpreted it, and as I think the courts have been silent to it, then do you scare off investment? I think there is a strong possibility you do. All these points collectively explain my grave reservations about moving toward the electrical title.

The Senate's intent, usually expressed in jurisdictional committee reports, is missing. We do not have the Senate's intent, unless you can pick it up haphazardly and piece by piece through the CONGRESSIONAL RECORD. It is missing. And I fear this omission can only be adverse to many States, including my own, that will be affected by this very complex piece of legislation.

FERC, most assuredly, interpreted these provisions in ways that would expand its authority. Few bureaucracies ever attempt to limit their authority. And FERC has shown very recently that it is loathe to limit its authority.

My suggestion is, title II of this bill just hands to the Federal Energy Regulatory Commission new authority, expanded authority. And without our effective interpretation and/or committee reports, and the expression of the intent of this Senate as it relates to the Supreme Court decision, we have set them free, in many instances, to do as they would judge is in the best interest.

I need only to reference, as I did earlier, the Edwards Dam case. That is the one where we gave them no authority in the law to take down a dam, but they did. For almost 80 years, the Commission never saw fit to interpret part 1 of FPA as giving the authority to order a licensee of a hydro project to take down a dam at the end of its original license term, and for good reason.

As I have already stated, there is no authority in the statute for the Commission to do that. Indeed, Congress addressed, in 1968, the very issue of FERC, with attempting to address, in 1999, in the Edwards case, what happens

to dams at the end of the original license term.

Congress amended part 1 of the Federal Power Act, added sections 14 and 15, to allow for the issuance of nonpower licenses in the event a licensee was no longer able to continue operating a power project. In addition, those sections required payment to the licensee for surrendering its right to operate the project.

So it was a bit of a shock to me when the FERC ordered the main licensee in the Edwards Dam proceeding to stop operating its project and pay the huge cost associated with removing the dam. That is what they did. FERC was even shrewd enough to procedurally block an appeal to the Federal court.

So they worked their will outside the law. And here we are giving them vast new authority, without defining, without prescribing, without sideboards, in any way, in my opinion, limiting them, at least in the backwash or the shadow of a court, saying: Regional transmission, FERC, have at it.

How can we ignore these kinds of actions? We should not. And if we are responsible in writing this kind of detailed bill, we will not. But we have.

That is why I am here. That is why the amendment is before us to strike these provisions and allow the chairman to convene the committee, deal with this separately, and deal with it responsibly.

With that knowledge, how can Senators be comfortable with what is available and what may become law in this pending legislation? Does anyone here today seriously doubt that the recent Supreme Court ruling in favor of FERC, in its quest to create a national grid, will not result in serious disagreements between FERC's desire to control restructuring of our electrical system and the individual desire of States to protect the important ratepayer policies within their borders?

This is a major concern of mine. I am not sanguine about all that we have done and the way it has been drafted. That is why I believe that clearly all of us deserve the option, deserve the choice, to make the decision here with this amendment. Do you want it or do you believe that some of what I have said is valid enough that we ought to ask the authorizing committee, the committee of responsibility, and its professional staffs, to openly engage the FERC, and all of those other issues, to allow us to deal with this in an important way?

There are ample reasons for us to deal with other issues, but let me give you a couple of those reasons. I have a list of the organizations that, on examination of my amendment, and over frustration with this title, have agreed that they believe it is important to support my amendment to strike: the American Public Power Association, Consumer Federation of America, International Brotherhood of Electrical Workers, the Electricity Consumers Resource Council, U.S. Con-

ference of Mayors, Consumers for Fair Competition, National Electrical Contractors Association, Plumbing-Heating-Cooling Contractors Association, Air Conditioning Contractors of America, National Association of State Utility Consumer Advocates, Transmission Access Policy Study Group, AARP, Public Citizen, Consumers Union, Citizens for State Power, Conservatives for Balanced Electricity Reform, Americans for Tax Reform, and the Small Business Survival Committee.

Those are ones that have just come to us in the last few weeks, as they had the opportunity to examine the title, what is in it, and the amendment.

There is a good deal more to be said. I see colleagues in the Chamber who are opposed to the amendment. Let me wrap this up with a concluding statement.

My colleague from Wyoming and I are very committed to building an energy policy that allows greater production. My colleague was asked if he would help the administration facilitate trying to bring about an electrical title on which we could agree. He has worked mightily to do so. In some areas, he has succeeded. But in the areas I spoke to, I believed these were areas that he could not go, nor could any of us, because we simply don't know the impact.

It is important that we look at the big picture, as we are trying to define all of the players within that big picture, enter the Supreme Court, extending greater authority or at least clarifying to FERC what FERC thought it already had. Is it not right, most importantly, is it not responsible of us, as public policy crafters, to make sure that which we craft works?

There are billions of dollars riding on this amendment and this bill and this title. The reality that if we do it right, when every consumer throws the light switch, the light will come on; when every consumer touches the on button on their computer, the computer will come on; that moms and dads working will know that their security systems are on and that their children are safe.

The reason I mentioned those things was because when you do it wrong, as they did it in California, all of those things become questioned. When the lights go down or the lights go out, the economy of this country shudders.

Let us not be so irresponsible as to craft a title without the effective vetting of it, without the responsible hearings, knowing where we are going, taking authority away from commissions at the State level and resting it in a central all-powerful Federal agency without clearly understanding its consequences.

What my amendment does is causes us all to take a deep breath, step back, not rush to judgment, leave in the reliability, because we have done that. We have vetted it. We have been heard on it. The committee has operated. The Senate has passed it. Deal with the consumer protection. But on all of this

that is so very critical to the long-term stability of the electrical industry and the electric system of our country that we have all created phenomenal reliability on, let us step back for a moment and take a look at what we are doing and make sure we are doing it right. I fear we are not; I fear that we lay a great deal of a very fine industry in jeopardy to central all-powerful authority. Bad mistake, wrong choice.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me speak for a few minutes in opposition to this amendment by the Senator from Idaho.

He stated at the beginning of his comments that there is a lot of uncertainty, a lot of question as to how various markets will evolve. I agree with that. There is uncertainty as we go forward. We are trying to craft legislation that will allow for that uncertainty but will move us in the direction we know we need to move.

Why is it important that we retain this section, this title in the bill related to electricity? That is what the amendment offered by the Senator from Idaho purports to do; it purports to strip out of the bill the guts of that section, that title II of our energy bill. That would be a profound mistake for the Senate to go along with. It would be a profound mistake for the Congress. I hope very much his amendment will be defeated.

Let me start by saying that the reason we believe—the reason I strongly believe and I believe many of us believe—that electricity needs to be addressed as part of a comprehensive energy bill is the same reason that the President gave us, and the Vice President when the Vice President issued the report, the energy plan for the country over a year ago now. That is, that our future supply of energy, the reliability of energy supplies in the future, the adequacy of energy supplies in the future, electricity supplies, are legitimately in question unless we do some things to change our basic laws in this regard.

We need to recognize that this command and control approach to electricity generation, which we have relied upon for a century or more, is not going to meet our needs in the future. We need to recognize that a market-based approach makes more sense. We are moving in the direction of permitting that where appropriate.

We did have the lights going out in California. That was over a year ago now. Some people have forgotten about it. Of course, our economy has been in a slow period. Folks are once again assuming we have plenty of electricity and our electricity transmission system is adequate to our needs, and there is no reason for us to be concerned with this issue. It would be a profound mistake to reach that conclusion.

Nobody knows how hot it is going to get this summer. Nobody knows how

much of a demand there will be for electricity, for air-conditioners in major cities. Nobody knows whether the transmission system we have today is adequate to those needs.

What we are trying to do with this legislation is put in place some safeguards so that the transmission system is adequate, so that the additional generation of electricity that is going to be required for this country's economy in the years ahead will be there.

One of the points the Senator from Idaho made is that we haven't had enough hearings on this issue. Let me say, I have been on the Energy Committee for some time, nearly 20 years. I can't think of anything on which we have had more hearings. Let me recount for the Senate the extent of the hearings we have had.

Beginning in 1997, we had a hearing, a subcommittee hearing on competitive change in the electric power industry. That was on August 21, 1997.

In 1998, we had an oversight hearing on the recent Midwest electricity price spikes. In 1999, we had a whole series of hearings, full committee hearings. First, we had one on electricity competition generally. Then we had hearings in June of 1999 on the Electric Utility Restructuring Empowerment and Competitiveness Act of 1999, which was legislation we had introduced at that point. We had hearings on the Federal Power Act amendments of 1999. We had hearings on the Comprehensive Electricity Competition Act of 1999. We had six full committee hearings, according to the records I have, on that set of issues in 1999.

In the year 2000, we had an enormous number of hearings. My colleague, Senator MURKOWSKI, was chairing those hearings. I attended as many of them as I could, but quite frankly, there were more than any Senator could plan to attend. We had hearings on all aspects of this issue.

The Senator from Alaska referred to those as workshops so it wouldn't look as though we were having that many hearings on one subject, but we had well over 15 of these so-called workshops which took testimony, which gave Senators a chance to ask questions.

In 2001, we had again a series of hearings, a great many hearings, quite frankly, at the full committee on this set of issues. In 2002, we have also had hearings related to the effect of Enron's collapse on energy markets, electric infrastructure, and investment needs. That was in August of 2001. We had a hearing, just as recently as February of this year, on the amendments to the Public Utility Holding Company Act.

So we have had hearings. There is no lack of committee attention to this set of issues. That doesn't mean the issues have gotten simple; they have not. But I think we have a good framework here in this legislation for moving the country in the right direction.

Let me just describe, generally, what the legislation now contains as we have

amended it on the Senate floor. I believe there are some pro-consumer provisions in this legislation. I believe there are some pro-environment provisions. I believe there are provisions in here that will tend to ensure that we have a greater generation of electricity in the future.

We have a renewable portfolio standard, which many of my colleagues have not favored. But that is in the bill. We have had three or four votes on that issue. The majority of the Senate clearly favors retaining that.

We have strengthened Federal Energy Regulatory Commission authority for market-based rates, including a stronger requirement that FERC act if rates are unjust or unreasonable.

We have strengthened Federal Energy Regulatory Commission authority to scrutinize mergers and acquisitions in the electric utility industry, including expanding that authority to encompass electric utility-gas utility mergers, mergers of holding companies that own utilities, mergers of generation-only companies. FERC currently does not have authority over any of these consolidations. We strengthen the standards by which mergers must be approved to require that FERC determine that mergers are consistent with the public interest, that they do not adversely affect captive customers of utilities. That is a very important provision. We are putting into law a requirement that FERC make a finding that if a merger occurs, it will not adversely affect a captive customer of a utility. We believe that is an important new safeguard. We also require that FERC determine that the merger not impair the ability of regulators to regulate and not lead to any cross-subsidy between the utility and any other business.

The latter three conditions are goals of regulation under the Public Utility Holding Company Act, which is current law. But here in this legislation we give those authorities to FERC, which we believe has a better track record, by far, of being a watchdog over the utility industry. The Public Utility Holding Company Act, which is the current law, is supposed to be administered by the Securities and Exchange Commission, and they have taken the position for the last 20 years that they did not want that authority, they did not believe they were the proper agency to have that authority. So we are transferring, essentially, that same responsibility over to FERC, and we are giving FERC the additional power it needs to actually enforce the provisions of that law—the pro-consumer provisions—to look out for ratepayers in a way that they really never have been in a practical way under the Public Utilities Holding Company Act.

In addition to the renewable portfolio standard, there are a number of other provisions to give renewable energy a stronger role in the market. There is a Federal purchase requirement for renewable electricity, new standards for

net metering and real-time pricing, and access to transmission by renewable resources.

I believe very strongly that this bill moves in the right direction. There are a lot of things that this bill is accused of doing—this title to the energy bill—which in fact it does not do. It does not provide any vast new authority to the Federal Government. It does shift authority from the Securities and Exchange Commission to FERC, where we believe it can be much more effectively enforced. The market-based rate section doesn't grant new authority to FERC to order divestiture of facilities. That is a charge that has been made.

On transmission, the provision makes sure that all transmitting utilities are under the same rules. We believe there ought to be a uniform set of rules for utilities that are transmitting energy from one part of the country to the other. This is a national economy we are in today, and we need a national transmission system if we are going to prosper in this national economy.

The reliability section gives FERC some new authority. I am pleased to see that my friend from Idaho does agree that that should be included. The exact provisions of the reliability section—my friend from Wyoming, Senator THOMAS, and I disagreed on that earlier, and he won that argument. The Senate agreed to his provisions relating to reliability. That is in the bill. But it is very important that those provisions stay in the bill and that we not strip out this section of the bill.

I believe very strongly that Senator CRAIG's amendment would be a very major blow to our energy legislation. This is an issue that has been discussed, debated, and talked about at hearings in the Congress for about three Congresses now—three separate 2-year Congresses. The truth is that it is not an easy set of issues to get your arms around. The Senator from Wyoming, Mr. THOMAS, and his staff, I, and my staff have worked hard to come up with a set of provisions that we believe does what should be done and moves the country in the right direction. We had strong support and assistance from the administration.

Everybody likes to highlight the differences between Democrats and Republicans on energy issues. There are some legitimate, valid, and important differences on which we are going to have votes later this week, but this is not one of them. This is an area where we have had a very conscientious effort, on a bipartisan level, to work with the administration to come up with what we thought was good policy. I believe we have done that.

I compliment the Senator from Wyoming for his leadership in this regard, in pulling together provisions that he could support and that others could support. So I believe very strongly that those provisions ought to remain in the bill. Senator CRAIG's amendment would delete those provisions, so it is an amendment I strongly oppose.

I yield the floor, and I know my colleague from Wyoming is here to speak on this issue.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, I appreciate the comments of the chairman of our committee. I rise also to talk about this part of our energy bill, which I think is very important. In many ways, the energy portion of it touches more people than any other part. Of course, everybody relies on electricity. That is what we are talking about here.

I appreciate the comments of my friend from Idaho, who expressed his concern. Many of the concerns he expressed, however, are the same concerns we worked together to try to remedy, and indeed we have made some changes that reflect the things about which the Senator from Idaho talked. I agree that the process is not quite the way I would have had it. I wish we would have had more time in committee. Nevertheless, we took a bill, and I think we have made it better and we have had it on the floor, and by no means is it perfect, nor does it complete all the work that needs to be done in the electrical area. But there is no way you are going to complete that now.

We need to get started and to be moving. Further improvements can be made. I oppose the motion to strike, and even though the reliability—which is important—would remain, I think it is very important that we continue to move forward with making some changes in our electric policy.

It seems to me some of the things that have been talked about here are the very things we have sought to change. For example, in one of the sections there was originally major expansion of FERC's authority over State matters, no time limit on FERC review and action. In our bill, in the solutions we made, we reduced the expansion of FERC authority, raised the threshold of FERC authority from the review of asset sales from \$1 million to \$10 million, and moved more of the decision-making closer to the people.

As to market-based rates, the concern in the original bill is it gave FERC broad authority to take any action to remedy "unjust" rates.

We changed that. We said FERC can only fix those rates if it is found to be unjust, and there are six specific criteria and three general criteria. Again, it puts a bridle on FERC.

There were many points the Senator from Idaho talked about that we indeed have moved toward doing, and that is moving more power and beginning to get ready for regional transmission organizations, RTOs, beginning to make the initial move toward having the necessary transmission.

One of the things that has happened, and there have been great changes, is we basically deregulated generation. In the past, if a utility served an area around western Virginia, for example,

that utility did the power generation and distribution. The State took care of that. We have changed it so there are many market generators who do not distribute but make it available to distributors, and it has helped reduce the price to consumers. That is a different situation, and we have to deal with it.

Since 1978, Congress has been pursuing Federal electric policies that promote greater competition in wholesale power markets, provide open access to transmission grids, and encourage development of independent power producers that now build most of our powerplants.

These policies were developed in a bipartisan manner and embraced by both Republican and Democratic Presidents. These policies have benefited consumers. Wholesale power prices have fallen 25 percent over the last 10 years. Nothing that happened over the past year changes that. We had problems, of course. We have gotten by those problems. Nothing has changed that.

The electric industry faces tremendous uncertainty. Investment in new transmission is lagging, and powerplant cancellations in recent months raise serious concerns about the adequacy of future electricity supplies.

This uncertainty is due largely to a prolonged transition to competitive electricity markets. This transition will not be complete until the Congress modernizes electricity laws to reflect changes in electricity markets since 1935. This is not a total remedy, of course, but this is a movement toward doing what has to be done.

The time has come to modernize our electricity laws to recognize change in the electricity markets, in much the same way Congress passed legislation to modernize financial services 2 years ago. Congress has been grappling with this legislation for 6 years. We have held more than 100 hearings, as the Senator from New Mexico has pointed out. Six years is long enough. It is time for the Congress to act.

The electricity provisions of S. 517 represent consensus. They are the product of many hours of negotiations between Senators and stakeholders. The Craig amendment would destroy this consensus and delay congressional action on this electricity legislation for years. It will take years to put it back together.

I suggest the Craig amendment is a step backwards. The amendment eliminates consensus transmission open access provisions that represent a bipartisan compromise that will prevent discrimination, promote effective competition, protect small transmission owners such as municipal utilities and cooperatives, and respect States rights.

The amendment preserves PUHCA, a law that is outdated and should be repealed. Every President since 1984 has supported PUHCA repeal. PUHCA repeal will provide FERC with ample authority to protect consumers against inappropriate mergers. State laws

would also protect consumers of electricity.

The amendment preserves PURPA, a law that has imposed billions of dollars of above-market costs to consumers. Repealing PURPA has been the consensus for years. We must not continue to mandate that utilities agree to high-cost power contracts. Keeping PURPA is contrary to protecting the consumers.

The amendment limits FERC authority to review mergers.

The amendment will make it harder to increase electricity supply by limiting authority to order interconnections.

The amendment eliminates reforms that will accelerate refunds to consumers.

I think it is true the electricity industry is facing more regulatory uncertainty now than ever before. Investment in new transmission is almost nonexistent, and investment in new electric power supplies has fallen sharply. For the first time last year, powerplant cancellations outpaced new starts. No one wants to invest in new transmission of powerplants until they know what the rules are going to be.

The electricity industry is at an important crossroads. A lot of critical decisions must be made.

Some of these decisions can be made by FERC; many can only be made by Congress.

If the Craig amendment is adopted and Congress does not act on the electricity legislation, the transition to competitive markets will be prolonged, investment in new transmission and electricity supplies will fall sharply, electricity prices will be higher, and reliability will be lower. The electricity crisis in California and the West will probably recur.

The President has called for Senate passage of electricity modernization to protect consumers and ensure reliability. The President's plan to produce more reliable, affordable, and environmentally clean energy is built on three core principles:

The plan is comprehensive and forward looking.

It utilizes 21st century technology to allow us to promote conservation and diversify our energy supplies.

The plan will increase the quality of life of Americans by providing reliable energy and protecting the environment.

We have before us an opportunity to start to move in that direction. Is it the total effort? Of course not, we will have to continue to work on it. We need to do that.

We have made some forward movements. Of course, one of the major parts has been reliability. The other parts contribute a great deal to making it possible and urging people to invest in the infrastructure that has to be there, whether it be transmission or generation. I look forward to a time when we have RTOs, regional transmission organizations, that can come

off an interstate highway movement of generated electricity so that we can indeed have a marketplace.

I suggest we move forward with the bill as it is and not accept the Craig amendment. Now is not the time to retreat from the advances we have made in serving the American people with electric energy.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank my colleague from Wyoming for his comments. Let me raise for the Senate's attention one other voice that has spoken out strongly in behalf of what we are trying to do in our electricity title to the bill and in opposition to the Craig amendment. It is something I seldom quote because I seldom agree with it, but this is the Wall Street Journal editorial page of March 7, 2002. It has an editorial entitled, "Keep the Lights On." It starts out by saying:

It is a \$225 billion industry, and it's a horrid mess. We refer to the electric power industry, but the U.S. Supreme Court just took a helpful step toward fixing the messiest part of it—transmission—and keeping your lights on.

They go on to talk about how they believe FERC needs this authority to do what it is trying to do. The Supreme Court has indicated they believe they have that authority. Our legislation, as worked out between myself and Senator THOMAS, does incorporate those provisions.

The last paragraph of that editorial says:

The Bush Administration agrees with FERC, and now the Supreme Court says the agency is acting legally. Congress could also lend a hand here and, as part of its energy bill, give FERC clear jurisdiction over the transmission grid. We believe in federalism as much as anyone, but a national economy needs a better national grid.

Mr. President, I ask unanimous consent this editorial be printed in the RECORD.

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

KEEP THE LIGHTS ON

It is a \$225 billion industry, and it's a horrid mess. We refer to the electric power industry, but the U.S. Supreme Court just took a helpful step toward fixing the messiest part of it—transmission—and keeping your lights on.

The High Court ruled unanimously this week that the Federal Energy Regulatory Commission, aka FERC, has the power to force investor-owned utilities to open up their power lines to competitors. Now maybe FERC can go ahead with building a more sensible national power grid.

The problem starts with a system of wires carrying juice that is outdated, inadequate and under increasing stress. The national delivery grid consists of three major systems—one each in the East, the West and Texas (which is another story entirely). But these grids aren't an integrated network. They connect only through tie lines where power must be converted from alternating current to direct current and back again. Until re-

cently the grid handled 20,000 transactions a year; now it's more like 20,000 transfers in a single day during peak periods.

The result is chronic hot spots of congestion that can result in price spikes or even rolling blackouts. FERC estimates the cost of these hot spots the past two summers at \$1 billion, and things will only get worse: Transmission use this decade is expected to grow 20% to 25%, but new capability will increase by only 4%.

Why not build more transmission lines? Well, people don't want hideous lines running through their back yards, and the 50 states, which have jurisdiction over siting, aren't eager to force lines on communities if the power those lines carry is going elsewhere. Second, new lines are expensive and firms don't want to make huge investments because of the political uncertainty of electricity deregulation. Third, utilities say the rate of return allowed on transmission lines is too low.

The current mess has also generated all sorts of anti-competitive behavior. Since local utilities have control over their transmission lines, they can favor their own generation over cheaper power coming from the outside. Plus, the very possibility of cheaper power makes it less likely that utilities will build more lines if those newer lines can be used by outsiders.

The good news is that FERC has proposed a sensible step toward straightening out this bird's nest. FERC's idea is to collect all this transmission into four big, regional areas—in the Northeast, Southeast, Midwest and West—make these regional grids independent of local utilities and give them the authority to manage electricity flow across these larger areas. Some conservatives are afraid this will result in a fiendish "federalization" of transmission. Nonsense. FERC's plan will make it possible to rationalize service and permit greater competition.

The Bush Administration agrees with FERC, and now the Supreme Court says the agency is acting legally. Congress could also lend a hand here and, as part of its energy bill, give FERC clear jurisdiction over the transmission grid. We believe in federalism as much as anyone, but a national economy needs a better national grid.

Mr. BINGAMAN. I yield the floor.

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

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

The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I will give my colleagues a little history and background because I do not think there has been an awful lot of identification as to the credit and penalty costs associated with the renewable portfolio standard.

I commend the majority leader for his work, our staff, and the Senator from Wyoming as well. What I think we have done is, first of all, we have made some progress. We have debated an amendment that would have mandated a 20 percent renewable. I believe that was by Senator JEFFORDS. We have, I think, by amendment, strengthened the energy bill, and I think it is time, in view of the amendment offered by Senator CRAIG, to again highlight

some of the specifics so each Member's office and each Member understands the significance of what this renewable portfolio means to them or their own individual constituents.

Oftentimes we get enamored with the reality that the renewable is free; it is a renewable. Therefore, it really does not cost us anything, and as a consequence we ought to get aboard and support it.

Senator CRAIG's amendment proposes striking the electricity title of the Daschle-Bingaman amendment, as modified by the bipartisan amendment, and replacing it with the Senate-adopted reliability provision and the consumer protections of the underlying Daschle amendment. I think a couple of comments are in order relative to the title that Senator CRAIG proposes to delete.

When the original Daschle amendment was introduced, I was concerned, as I indicated, about its electricity provisions. They were seriously flawed. We gave some examples of those concerns. As originally written, the Daschle amendment would have empowered the Federal regulators to micromanage the marketplace. I think most Members were fearful that was not in the best order of the marketplace nor appropriate for the Federal regulators to dwell in that area.

As originally written, the Daschle amendment would have allowed the FERC, the Federal Energy Regulatory Commission, to order electric utilities to divest assets. Further, as originally written, the Daschle amendment would have preempted the States, giving FERC the authority to regulate the many aspects of retail matters instead of State public utility commissions. So again, it would have given FERC broad authority on many aspects of retail matters, instead of the State public utility commissions. For those of us who believe local control and regulation is more responsive than one size fits all, that was troublesome.

Further, as originally written, the Daschle amendment did not deregulate and allow the market to work. Instead, it had government pick winners and government pick losers and decide what is in the consumers' best interest.

In short, as originally written, the Daschle amendment was a return to the old-fashioned Federal command and control of the market. But we have come some way since the introduction of the Daschle amendment, and what we have now is the reality that the Senate has agreed to a series of amendments authored by my good friend Senator THOMAS, most of which was done by unanimous consent. I appreciate working with the majority on that.

Senator THOMAS's amendments address many of the key problems with the Daschle bill, including reliability. So I think we have made progress. Had those not been adopted, I very possibly would have found it necessary to offer a motion to strike the electric title. With these amendments, we now have a

bill which, No. 1, protects consumers; No. 2, it streamlines regulation; and, No. 3, it enhances competition while preserving State authority. It ensures reliability of the grid, allows regional flexibility, and promotes renewable energy and other types of generation.

One might ask, with the adoption of these amendments: Are the electricity provisions perfect? Well, the answer is no. They are better, but there is a lot of work that needs to be done. Where is it going to be done? In conference or other places, or perhaps on the Senate floor. I think that is one of the reasons we should take a look at this matter one more time.

For example, the reliability still contains, in my opinion, an unrealistic renewable portfolio mandate that is going to cost consumers more than \$12 billion per year and which undercuts the ability of States to craft a renewable portfolio program that protects their consumers and recognizes local needs and concerns.

With regard to the cost to consumers of the renewable portfolio standard of 10 percent, if we take one area of the country, Connecticut Light and Power, the customers of that particular utility are going to have to pay another \$9.5 million per year. That is going to be split up.

Florida Power and Light, of interest to the present Presiding Officer: That is going to cost the consumers of Florida \$264 million per year. That is going to be spread out.

To suggest this renewable mandate is free is not only misleading but totally inaccurate.

Georgia Power: It is going to cost the consumers of that utility \$223 million per year.

Out West, Hawaiian Power, far West: \$22 million more a year.

Commonwealth Edison in Chicago: \$232 million more a year.

Now, that is what the mandate covers. I could go on into each utility and break it down because we have that information. So if we recognize, as each Member and as each office should, the cost to the consumer and the realism that the consumer is not going to be motivated to respond to the Members until such time as they see it on their utility bill, they are going to say: Hey, what happened? Is this a surcharge? What is this? This is going to be the cost associated with the renewable mandate.

Again, I think it undercuts the ability of the States to craft their own renewable portfolio programs and protect their consumers and recognize local needs and concerns, because this is a one-size-fits-all.

I would have preferred to have seen the States have the ability to address their responsibility on renewables, but the majority prevailed and that amendment did not carry.

In addition, the electric title still does not address the need for new electric generation and transmission. We saw the California blackout situation.

We saw the price spikes that occurred because there was not enough power, not because there are not enough windmills in California. So as it currently stands, the electric title is greatly improved from where it started. However, it still needs considerable work.

I have a chart behind me, and hopefully we have a pointer, but I want to explain a little bit about this cost because I think it is paramount to the discussion. What we have over a period of time from the year 2005 is the escalating costs per year of renewables. It basically runs, starting in the year 2005, roughly \$12 billion a year. So if we go from 2005 to 2017 or 2018, the overall cost accumulated over 13 years is about \$88 billion. That is what it will cost. It is \$12 billion, roughly, per year.

The red on the chart indicates the penalty payments which will cost an additional \$12 billion. So we are looking somewhere in the area of roughly a \$100 billion cost to the consumers as a consequence of the mandate of a 10 percent renewable portfolio standard being dictated by the Congress of the United States.

Maybe many Members believe it is worth that. I don't think we should have mandated this from the standpoint of one size fits all. Many States have addressed the renewable matter with their own proposals. That would have been much better. However, this is what the consumer faces.

Make no mistake, when the calls start coming in, each Member's office had better be prepared for an explanation of why the rates are higher to counter the presumption that somehow renewables are basically available at no cost to the consumer.

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

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

Mr. MURKOWSKI. Mr. President, some remarks were made by the majority leader last night that I think need to be countered. I will take a moment to respond to some of the statements he made last evening.

Last night, some members of the majority accused the Republican side of the aisle of attempting to filibuster the energy bill. Nothing could be further from the truth. Since the debate on this issue began, we have disposed of 49 amendments, 21 offered by Republicans and 27 offered by the Democratic side. Countless other amendments have been worked out off the floor with the majority, and I compliment the majority leader and the chairman, Senator BINGAMAN, as well as the staffs who have been working on these amendments.

Prior to the recess, the cloakroom asked for a potential list of amendments from each side of the aisle.

There were fewer than 50 amendments on the Republican side and over double that amount on the Democratic side. Republican amendments were all energy related; Democratic amendments included Medicaid and voting rights.

Over the recess, this side of the aisle worked to pare down its list of amendments and is reducing it dramatically to a realistic number of only a handful which should require votes. As I understand, there are nearly 85 to 95 amendments on the Democratic side of the aisle. The only filibuster I know of is on the other side of the aisle, being pledged by Senator LIEBERMAN and Senator KERRY.

I want my colleagues to know, and the majority leader specifically, that I am willing to enter into a time agreement with the majority leader this morning or any other time, to secure an up-down vote on the ANWR amendment which I intend to offer later this week. Again, so my colleagues understand, I am willing to enter into a time agreement with the majority this morning to secure an up-down vote on the ANWR amendment which I intend to offer later this week. I am inclined, unfortunately, to assume that the majority leader would not agree, but I offer it anyway.

This legislation is certainly a priority from our side of the aisle. It is a priority for the administration. I am willing to stay night and day to get the bill done, get it to conference, and on to the President as soon as possible. With the issues emanating from the Middle East, clearly there is justification for moving as rapidly as possible. I don't want anyone to be fooled by any musing that we are filibustering this bill. The facts simply do not support this.

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

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

Mr. BINGAMAN. Mr. President, I will propound a unanimous consent request in a minute, but before I do, let me indicate I think this is the 15th day we have been on this bill. Frankly, we are not able to move to conclude debate on this bill because we have so many Senators with amendments that they are not willing to bring to the Senate floor to file as amendments and to call those amendments up and offer them. We are not trying to keep anyone from offering an amendment, but we clearly need to begin to narrow down the number of amendments that are potentially going to be offered on this bill.

Let me make my unanimous consent request and see if we can get agreement.

I ask unanimous consent the list that I will send to the desk be the only first-degree amendments remaining in order

to S. 517, except for any first-degree amendments which have been offered and laid aside; that these first-degree amendments be subject to relevant second-degree amendments; that upon the disposition of all amendments, the bill be read the third time and the Senate proceed to the consideration of Calendar No. 145, H.R. 4, the House-passed energy bill, and all after the enacting clause be stricken and the text of S. 517, as amended, be inserted in lieu thereof; that the bill be advanced to third reading and the Senate proceed to vote on passage of the bill; that upon passage, the Senate insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate; providing further that S. 517 be returned to the calendar, with this action occurring with no further intervening action or debate.

Mr. THOMAS. Mr. President, on behalf of the floor leader, I object at this time.

The PRESIDING OFFICER. The objection is heard.

Mr. BINGAMAN. I indicate for all Senators we will undoubtedly have to renew this request later today or perhaps tomorrow.

We are fast approaching that point where the majority leader is going to have to move to other legislation. We cannot devote the entire year on the Senate floor to consideration of an energy bill where Senators refuse to offer their amendments.

I do not accuse anyone of filibustering, but I certainly do believe Senators have been slow to define precisely what they want to offer by the way of amendments to bring them to the floor and to let us vote.

Senator CRAIG from Idaho has offered an amendment with which I strongly disagree, with which my colleague from Wyoming strongly disagrees. We are going to have a vote on that. I compliment the Senator from Idaho for offering an amendment and letting the Senate express its will on this important issue.

We will renew this unanimous consent request later today or tomorrow, so we put all Senators on notice that we are anxious to see their amendments and we are anxious to conclude work on this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I rise to say I agree with my friend. We do need to move forward. We have someone currently who is in the process. Hopefully, we can do it in a little later time.

I observe also there are a whole list of amendments on both sides. This is not a partisan issue. We need to move forward.

Further, let me comment a little on the remarks of the Senator from Alaska. I certainly agree with him. I am delighted he is in support of maintaining this electricity title. He does mention

he thinks there needs to be some change in this renewable aspect which is in this title. I do not argue with that, but I certainly do not think that ought to keep us moving forward with our general approach in electricity. If there were to be an amendment—there are amendments filed that would deal with that specifically. We should do that. But that ought not be the criterion for us eliminating the things that will help us move forward with the electric title.

I have had occasion in past years to work quite closely on electricity and energy. I am very anxious that we do move towards modernizing the system. For example, we need to move towards more transmission in a State such as Wyoming where we have the highest production of coal of any State in the country. Coal is one of our best sources, of course. However, if you have mine-mouth generation, which is the most efficient, then you have to have a way to get it to market.

Clearly, there are things we need to do. But, clearly, we cannot wait. We have to get going and move on and begin to really deal with an issue that is difficult. I have been around here a while. I talked a lot about electricity. I have been on the committee. Also, as I said, I worked on this in the private sector. It is very complicated and for everything you seek to do, there are different views, and I understand that.

But as the President said and the administration said, it is time to move forward and make some progress. There will be other ideas. There will be other bills. There will be other hearings. There will be other considerations. But we have the basis here for moving more of the authority to the States. We have the basis here for making it less complicated. We have the basis for moving forward toward making it a more modern system. By trying to do away with that title, we remove the progress we are making. I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I want to speak on the amendment, but I ask unanimous consent to first devote 5 minutes as in morning business.

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

(The remarks of Mr. WELLSTONE are printed in today's RECORD under "Morning Business.")

Mr. WELLSTONE. Mr. President, Brian Baenig works for me. He does great work for me. He is on the floor. I might not get a chance to speak again. Brian is working up some great talking points for me. I could be more specific. I apologize. I wish to spell out my position on this amendment.

First of all, I said to the Senator from New Mexico before that I would try not to get into too much of the sort of flowery oratory where it seems as if it is insincere. I think he is probably one of the best Members of the Senate and is very substantive. He rarely

speaks without a whole lot of knowledge. But I don't agree with him about an amendment that was agreed to by a quick unanimous consent basically repealing PUHCA. I think it was a big mistake. I would like to see at least FERC beef it up so we make sure we have some protection against more mergers, vis-a-vis more acquisitions, and more monopoly power. I don't wish to see just a few companies dominating these markets. I think it is very much to the detriment of ordinary citizens and consumers.

The problem with the Craig amendment is—and the reason I am not going to support it, and I will come back with an amendment to try to deal with where I think we still have some gap. I know that there are some provisions in the bill that try to maintain the consumer protection. But with the PUHCA repeal, I think we have some big gaps. I would like to come back with an amendment to fill some of those.

But I can't support this amendment. This amendment basically repeals the whole section of the bill. Albeit, I would rather have 20 percent, but somewhere around 10 percent or 8.5 percent on a renewable portfolio for electricity is really important. That is very important for my State of Minnesota.

I was in East Grand Forks the other day. You should never do these cafe visits—I am being facetious—because there is no control. People show up. There might be television. You never know what people are going to say to you. You might not like what they say. That is probably why it is the best place to be. It is certainly not controllable.

This one farmer wanted to debate me about ANWR: We should be drilling for oil. I said: We are in Minnesota. What are you talking about oil for? We are not oil rich. We don't produce any oil. As a matter of fact, we are a cold-weather State. When we import oil and natural gas, we export our dollars. We export over \$10 billion a year. But we are rich in wind.

I was at Dan Jewels' Woodstock wind farm. It is incredible. There is so much excitement in farm country and rural Minnesota about wind, about biomass, about electricity, about renewable fuels, that portfolio about saving energy, efficient energy use, clean technology, small businesses, more jobs; keep capital in communities and be respectful of the environment; don't keep barreling down the same old fossil fuel path; we don't need more global warming.

I come from a State where we love the outdoors. We don't need more warnings, if you are a woman expecting a child, about being very careful when eating walleye—a great eating fish, by the way—from our lakes; or, if you have small children, you should be careful. It is outrageous—air toxins, mercury poisons, acid rain. We don't need more of it.

There is a baby step in the bill. Senator BINGAMAN has done a masterful

job of trying to deal with lots of different viewpoints and politics. One person's solution is another person's horror. People just have different views.

But for my part, I don't want to completely eliminate this renewable portfolio for electricity. It is too important for my State.

I can't vote for this amendment. I think it would be a mistake. I hope it will be defeated. I hope we can do something about figuring out perhaps just some stronger consumer provision in relation to the PUHCA repeal.

I will finish by saying we will come back to this. We will come back to this again if there is an amendment out here for oil drilling in ANWR. It will be the same issue. I don't even think the debate is whether or not it is only 6 months of oil or whether or not it is not recoverable for 10 years. I know all of those statistics. I think it is simply a matter of another issue, which is, what path we want to go down. I think we have a different path now before us, a different future. Renewables is part of it. I don't want to repeal this whole section because it is too darned important to my State of Minnesota. I am not just being Mr. Politician. I also happen to think it is too important for our country.

Every time somebody comes to the floor and says, my God, the Middle East; now we should drill for oil in ANWR, or do this or that, it is as if we have no other alternative. We have a lot of alternatives. Probably about 80 percent of the people in the country agree. I think the big problem is some of the oil producer interests still have lots of power.

I do not think we should eliminate the whole section. I think the Craig amendment is mistaken for that reason. I think my colleague from Idaho is right to address the problems with PUHCA but wrong to also eliminate some very good work, albeit a small start that Senator BINGAMAN and others have done, and of which I am very proud.

There are two things which are important for me: Renewable portfolio electricity, and also the renewable fuels part, which I think for all of us is a win-win.

I will support the chairman of the Energy Committee in opposition to this amendment.

I yield the floor.

Mr. BINGAMAN. Mr. President, 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. BINGAMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Craig amendment No. 3047 be set aside, to recur at 1:45 p.m.; that the time between 1:45 and 2 p.m. be for debate with

respect to that amendment prior to a vote in relation to the amendment, and that no second-degree amendment be in order to the amendment prior to a vote in relation to the amendment, with the time equally divided and controlled in the usual form.

The PRESIDING OFFICER. Is there an objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

Mr. THOMAS. Madam President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. THOMAS are located in today's RECORD under "Morning Business.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. 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. MURKOWSKI. Madam President, I call attention this afternoon to an article that appeared in the New York Times. It is entitled "The Missing Energy Strategy." I want to quote it. The paper details what they describe as: Washington's sorry failure to devise a balanced strategy to reduce America's reliance on gulf imports and give itself greater maneuvering room in the war on terrorism and other foreign policy issues as well.

I think the paper is correct. We desperately need to reduce our dependence on foreign oil and free ourselves from the dangerous influence that leaders such as Saddam Hussein have over the future of American families.

Let me refer to the New York Times specifically because they have a mixed message on relief. They are criticizing Washington's sorry failure to devise a balanced strategy to reduce America's reliance on gulf imports.

This chart shows a chronology of the editorial position of the New York Times over time. In 1987, they said:

Alaska's Arctic National Wildlife Refuge . . . the most promising untapped source of oil in North America.

They further state:

A decade ago, precautions in the design and construction of the 1,000-mile-long Alaska pipeline saved the land from serious damage. They are quite specific. They say that "precautions in the design saved the land from serious damage."

They further state:

If oil companies, government agencies and environmentalists approach the development of the refuge with comparable care, disaster should be avoidable.

They acknowledge, if you will, that we completed an 800-mile pipeline from the Arctic Ocean to Valdez. They say 1,000 miles, but it is obviously less than that. The significance of that is the acknowledgment that it was done safely. It is now about 28 years old. It continues to be one of the construction wonders of the world and continues to supply this Nation with about 20 percent of the total crude oil produced by the United States. The New York Times, obviously, supported that.

Then in an editorial in June of 1988, they said:

. . . the potential is enormous and the environmental risks are modest . . . the likely value of the oil far exceeds plausible estimates of the environmental cost.

. . . the total acreage affected by development represents only a fraction of 1 percent of the North Slope wilderness.

Then they further state:

. . . But it is hard to see why absolutely pristine preservation of this remote wilderness should take precedence over the nation's energy needs.

Let me repeat that. They say:

. . . But it is hard to see why absolutely pristine preservation of this remote wilderness should take precedence over the nation's energy needs.

Then March 30, 1989, they say:

. . . Alaskan oil is too valuable to leave in the ground

. . . The single most promising source of oil in America lies on the north coast of Alaska, a few hundred miles east of the big fields at Prudhoe Bay.

They are talking about ANWR:

. . . The single most promising source of oil in America lies on the north coast of Alaska, a few hundred miles east of the big fields at Prudhoe Bay.

Furthermore:

. . . Washington can't afford to treat the [Exxon Valdez] accident as a reason for fencing off what may be the last great oilfield in the nation.

Here they are in 1987, in 1988, and again in 1989. One would assume the New York Times would be consistent. As I indicated in their editorial of yesterday, they said:

Washington's sorry failure to devise a balanced strategy to reduce America's reliance on Gulf imports and give itself greater maneuvering room in the war on terrorism and other foreign policy issues as well.

Madam President, as we look at where we are today and recognize the tremendous vulnerability this Nation has undertaken as a consequence of increasing our dependence on imported oil, and we realize that within the last few days with the announcement by Saddam Hussein that he will terminate for 30 days oil production from Iraq and then with the followup activity in Venezuela by PDVSA, which is a government-owned oil company, that has gone on strike, this Nation is now devoid of 30 percent of its total oil imports.

If we add up what we get from Saddam Hussein, Iraq, nearly 1 million barrels a day, plus the production from Venezuela, that constitutes 30 percent—Madam President, 30 percent—of this country's imported oil.

Where are we going to pick up the difference? It is interesting because the Saudis have indicated they have unused capacity. So the Saudis are preparing, at least we understand, to make up the difference. I wonder how that is going to set with the Arab world. I wonder how that is going to set with Iran, Libya, and clearly Saddam Hussein.

Furthermore, isn't it rather ironic that on the one hand we find ourselves dealing with a nation such as Iraq, a nation where we have been, for all practical purposes, in a standoff enforcing a no-fly zone since 1992. We have maintained almost what would be compared to an aerial blockade. We have put the lives of our men and women at risk since 1992. We have bombed Iraq three times already this year. He has attempted to take our aircraft down. We have put the lives of our men and women at risk.

The quid pro quo for that is an inconsistency in foreign policy. On the one hand, we import his oil, we put it in our planes and bomb him, and he takes our money and keeps his Republican Guard alive and develops weapons of mass destruction and aims them at our ally Israel. He may have biological weapons. He clearly has a delivery system.

Then where are we with our relationship with the United Nations? We had an understanding in the U.N. Oil for Food Program that we would have inspectors in Iraq and we would be able to observe just what Saddam Hussein was up to. We have not had any inspectors there for over 2 ½ years. As a consequence, we are left with the reality that we really do not know what he has.

Let's take this chronology a little further. We had reason to believe that terrorism was a threat to the United States. We had some reason to believe that al-Qaida, Afghanistan, and bin Laden were potential threats to our Nation, but we do not have any solid evidence that they were about to undertake those events on September 11, events which utilized for the first time an aircraft as a weapon.

We see this pattern unfolding where clearly had we had the intelligence, we might have been able to intervene in preventing that disaster that changed America.

Do we have the same exposure, the same potential with Saddam Hussein? If he is developing weapons of mass destruction, as we have every reason to believe he is, the question is, When is he going to use them and who is he going to use them on?

Let's take this a little further as we advance the realities of just what Saddam Hussein is up to. He has announced he is going to increase from

\$10,000 to \$25,000 the payment to survivors of anyone who, as a target of terrorism, gives up their lives to take out other lives associated with the activities in Israel. He will pay that family \$25,000.

That is certainly an incentive for those willing to give up their lives and make a sacrifice in their religious belief associated with consideration or payment for taking the lives of other individuals.

What is funding that? Where does Saddam Hussein get the money to pay survivors of those who initiate an action taking their own lives and taking the lives of many others? It is obvious. It comes from oil. That is the cashflow that Saddam Hussein has, and every time we go to the pump, we are adding to Saddam Hussein's cashflow indirectly because while Saddam Hussein is initiating the export from Iraq of about 1.1 million barrels a day, it is the fastest growing source of United States oil imports. So American families are counting on Saddam Hussein for energy, and in so counting on Saddam Hussein, we are basically furthering the incentive for those who want to sacrifice their lives to initiate a terrorist attack such as using themselves as a human bomb.

Maybe I am missing something, but I do not know what it is, and nobody has pointed it out to me specifically.

Going back to the New York Times, there was a recommendation back in 1987, 1988, and 1989, and today we have a criticism from the New York Times that Washington is a sorry failure because we have not devised a balanced strategy.

The current position of the New York Times is contrary to that as expressed in editorials of March of 2001 and January of 2001, and it is rather ironic. I will share the current position as late as March of last year and in January of last year. I quote from the January 1 New York Times: The country needs a rational energy strategy but the first step in that strategy should not be to start punching holes in the Arctic Refuge.

Finally, as this page has noted many times before, the relative trivial amounts of recoverable oil in the refuge cannot possibly justify the potential corruption of a unique and irreplaceable natural area.

They say the "relative trivial amounts." What are we talking about? Does anybody know how much oil is in ANWR? If we look at this large chart, we can get somewhat of a picture and get an understanding because over in the black there is this 800-mile pipeline. That infrastructure is already in place. It was built in the 1970s. That particular pipeline, when Prudhoe Bay was operating at full capacity, was about 2 million barrels a day. Today it is a little over a million barrels a day. So the capacity for increased oil development is clearly there.

This is the ANWR area. It is 19 million acres. It is the size of the State of

South Carolina. It is a very large piece of real estate. This is the area that is in question because out of this 19 million acres, this is the only area that Congress has the authority to open because the rest of the area is in two classes. One is a wilderness and the other is a wildlife refuge. There is 8.5 million acres in a wilderness set aside in perpetuity, and that is this light color. The darker buff color is a refuge, and that is about 9 million acres. This 1.5 million acres is what is at risk, and the New York Times now says the "relative trivial amounts of recoverable oil."

We may have some indication of what amount of oil there might be, but it is a guess because the geologists have never been allowed into this area and they have never been able to determine through the 3D seismic what this area might contain. They have estimates based upon 2D geological advanced efforts prior to 1980, but we do know we have a new technology that makes the footprint smaller. I might add, this came out of the New York Times. This is their science. This gives an idea of the new technology. When one used to drill, they drilled straight down and either hit or did not hit. With 3D seismic and directional drilling, the footprint from one well can be many derivatives. One could poke out here through directional drilling, down here, or down here, pick up all of these other areas, which makes the latest drilling technology applicable to reduce environmental damage.

The technology that is used is very different. We use ice drills, and I will show a picture of that in a minute, but before I do, I want to take this chart down because I want to reflect a little bit on the issue of trivial amounts. All we know is that the estimate of reserves is between 3.5 and 16 billion barrels. That is what the USGS has indicated, somewhere in between. How do we relate to that? The only way we can relate to it is in comparison to what we have produced in Prudhoe Bay.

Prudhoe Bay has been online 27 years. Its production was estimated to be 10 billion barrels. That was all. Today it is producing its 13 billionth barrel. It is still producing a million barrels a day. It is still the largest producing field in the United States.

So if we say Prudhoe Bay was supposed to be 10 billion and it is now 13 billion, the reason it is still producing at a high rate is the new technology that did not exist 27 years ago for oil recovery. So they are getting greater utilization out of the field.

Back to what this trivial amount might be, 3.5 to 16 billion. If it is in the middle, it is as big as Prudhoe Bay. That would be 10 billion barrels. How big was Prudhoe Bay? Twenty-five percent of our total crude oil production for the last 27 years.

So I did a little press report today on the so-called reserves. One of my friends from the State of Oregon indicated it was only a 6-month supply. I

had thought we had put that argument to rest. A 6-month supply is what some of those on the other side have indicated is what this reserve is. Well, okay, let us look at it. If this reserve is somewhere between 3.5 and 16 billion barrels, and let us say it is 10, and they say it is a 6-month supply, then what is Prudhoe Bay? It was supposed to be 10. Now it is 13. Was it a 6-month supply? No. It has been producing for 27 years, producing 25 percent of the total crude oil produced in the United States.

This 6-month supply is only valid—and I wish my colleagues on the other side who want to debate this issue would debate it from a factual and not a misleading point of view that is promulgated by America's extreme environmental lobby. If there were no oil produced in the United States and no oil imported, why, then, it might be a 6-month supply, but that is not a feasible or conceivable argument.

We have a response to the New York Times that it is a trivial amount, compared to their former statement that "it is the most promising untapped source of oil." That was April 1987; 1988, "the potential is enormous"; March 30, 1989, "Alaskan oil is too valuable to leave in the ground."

What the editorial board of the New York Times does obviously is their business. I talked with them about it. It was a rather interesting conversation, as a matter of fact. They said they have a new editorial editor and the former one went to California. I suppose that is a reasonable explanation.

My colleagues should know what they said in March of 2000:

Mr. MURKOWSKI's stated purpose is to reduce the Nation's use of foreign oil from 56 to 50 percent partly through tax breaks.

Obviously, they think tax breaks is a motivation. They further say:

But mainly by opening up more tracts of land for exploration, the centerpiece of that strategy in turn is to open up the coastal plain of the Arctic National Wildlife for exploration. This page has addressed the folly of trespassing on a wildlife preserve for what by official estimates is likely to be a modest amount of recoverable oil.

Boy, isn't that the way things go. One minute they are with you and the next minute they are against you.

What were they thinking in 1987 when they said it was a promising source of untapped source of oil? Or where were they when they said potential is enormous or risks are modest? Or where were they when they said Alaskan oil is too valuable to leave in the ground?

Today, they say:

. . . Washington's sorry failure to devise a balanced strategy to reduce America's reliance on gulf imports and give itself greater maneuvering room in the war on terrorism and other foreign policy issues as well.

I ask unanimous consent the editorials of April 23, 1987, June 2, 1988, and March 30, 1989, when they supported it, as well as today's newspaper saying we are a sorry failure because

we have not devised a strategy to reduce our dependence, be printed in the RECORD.

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

[From the New York Times, Apr. 10, 2002]

THE MISSING ENERGY STRATEGY

The events of the past year—prominently, a power crisis in California and the terrorist attacks on Sept. 11—gave the nation many reasons to re-examine its energy strategy. Now comes another: Saddam Hussein's decision to halt oil imports to the United States, at least temporarily, in retaliation for Washington's support of Israel.

In an interview with The Wall Street Journal earlier this week, President Bush warned that the recent 20 percent jump in oil prices could threaten economic recovery. While Iraq accounts for about 8 percent of America's imports, according to Washington's estimates, there is spare oil capacity in the system, and thus there should be no petroleum shortage if other Middle Eastern producers refuse to follow Baghdad. Even so, Mr. Hussein's action draws attention once again to America's dependence on imported oil, including oil supplied by the troubled countries of the Persian Gulf. It also points to Washington's sorry failure to devise a balanced strategy to reduce America's reliance on gulf imports and give itself greater maneuvering room in the war on terrorism and other foreign policy issues as well. The Senate, which has resumed debate on the energy bill, is the last hope for such a strategy. Admittedly, the prospects are dimmer than they were a month ago, when the Senate took up an imperfect but honorable measure cobbled together by Jeff Bingaman of New Mexico and Tom Daschle, the majority leader. The bill included a mix of incentives for new production of fossil fuels, largely natural gas, along with provisions aimed at increasing energy efficiency and the use of renewable energy sources. As such it stood in stark contrast to a grievously one-sided House bill that provided \$27 billion in incentives for the oil, gas and coal industries and less than one-quarter that amount for efficiency. The House bill also authorized the opening of the Arctic National Wildlife Refuge to oil exploration and drilling.

On its first big test, however, the Senate collapsed under industry and union pressure and rejected a provision requiring the first increase in fuel economy standards since 1985. To Mr. Daschle's dismay, Democrats deserted the cause of fuel conservation in droves; New York's senators, Charles Schumer and Hillary Rodham Clinton, were among the honorable exceptions. The only bright moment in a dismal two weeks of debate and defeat was the approval of a "renewable portfolio standard" that would require utilities to generate between 5 and 10 percent of their power from wind, solar and other forms of renewable energy.

There are several things the Democrats and their moderate Republican allies can do to produce a respectable bill. First, they must defeat any amendment aimed at opening the Arctic refuge to drilling. Such an amendment is almost certain to be offered by Frank Murkowski of Alaska, but the facts are not on his side. Every available calculation—including those that accept Mr. Murkowski's inflated estimates of the amount of oil underneath the refuge—show that much more oil can be saved by fuel efficiency than by drilling.

Next, they must resist efforts to weaken the renewable energy provision, while defending energy efficiency measures that have yet to be voted on—chiefly a provision that

would increase efficiency standards for air-conditioners by 30 percent. The Senate should also preserve a useful provision that would require companies to give a public accounting of their production of carbon dioxide and other so-called greenhouse gases. On the supply side, it can take steps to improve the reliability of the nationwide electricity grid, while increasing incentives for smaller and potentially more efficient producers of power.

These are modest measures, less ambitious than the Senate's original agenda. But at least they point in the right direction, toward a strategy that includes conservation as well as production.

[From the New York Times, Apr. 23, 1987]

IN ALASKA: DRILL, BUT WITH CARE

Alaska's Arctic National Wildlife Refuge is an untouched and fragile place that supports rare mammals and myriad species of birds. It is also the most promising untapped source of oil in North America. Should America drill for it?

What Congress decided, in 1980, was not to decide. It ordered a long study. The assessment is now in, and for Interior Secretary Hodel the decision isn't even close: leasing drilling rights to oil companies is "vital to our national security" because it "would reduce America's dependence on unstable sources of foreign oil."

Mr. Hodel is guilty of oversell. A single discovery can't save us from increasing dependence on Persian Gulf oil. But the potential economic benefit of development—perhaps tens of billions of dollars of oil—outweighs the risks. The unanswered question is whether environmentalists and developers can cooperate to minimize damage to the refuge.

The Interior Department estimates that between 600 million and 9.2 billion barrels of oil are recoverable from a 20-by-100-mile strip along the Arctic coast. But no matter how carefully done, development of the coastal strip would displace animals and scar land permanently. Tracks of vehicles that crossed the tundra decades ago are still visible. No one knows whether the caribou herd that bears its young near the coast would stop reproducing or simply move elsewhere.

Adversaries in this battle view development as ecological catastrophe or energy salvation. Outsiders can wonder why such apocalyptic fuss. An unusual environment would surely be damaged, but the amount of land involved is modest and the animals at risk are not endangered species. A lot of oil might be pumped, but probably not enough to keep America's motors running for an entire year. Ultimately, policy makers must weigh the dollar value of the oil against the intangible value of an unspoiled refuge.

The most likely net value of the oil, after accounting for costs and assuming a future world price of \$33 a barrel, is about \$15 billion.

How much an untouched refuge is worth is anyone's guess—but it's hard to see how it could realistically be judged worth such an enormous sum. If America had an extra \$15 billion to spend on wilderness protection, it wouldn't be spent on this one sliver of land.

That doesn't mean, however, that developers should be permitted to treat the refuge as another Bayonne. Elaborate, necessarily expensive precautions are needed to contain the disruption. Human and machine presence can and should be kept to a bare minimum until test wells are completed. Dense caribou calving grounds should be left alone until the animals' response to change is gauged.

A decade ago, precautions in the design and construction of the 1,000-mile-long Alaska pipeline saved the land from serious damage. If oil companies, government agencies

and environmentalists approach the development of the refuge with comparable care, disaster should be avoidable.

[From the New York Times, June 2, 1988]

RISKS WORTH TAKING FOR OIL

Can Big Oil and its Government regulators be trusted with the fragile environment of Alaska's Arctic Wildlife Refuge? Congress, pressed by the Reagan Administration to allow exploratory drilling in what maybe North America's last great oil reserve, has been wrestling with the question for years. Then, last month, opponents' skepticism was heightened by a leaked report from the Fish and Wildlife Service saying that environmental disruption in the nearby North Slope oil fields is far worse than originally believed.

The North Slope development has been America's biggest test by far of the proposition that it is possible to balance energy needs with sensitivity for the environment. The public therefore deserves an independent assessment of the ecological risks and an honest assessment of the energy rewards.

No one wants to ruin a wilderness for small gain. But in this case, the potential is enormous and the environmental risks are modest. Even if the report's findings are confirmed, the likely value of the oil far exceeds plausible estimates of the environmental cost.

The amount of oil that could be recovered from the Wildlife Refuge is not known. But it seems likely that the coastal plain, representing a small part of the acreage in the refuge, contains several billion barrels, worth tens of billions of dollars. But drilling is certain to disrupt the delicate ecology of the Arctic tundra.

Some members of Congress believe that no damage at all is acceptable. But most are ready to accept a little environmental degradation in return for a lot of oil. Hence the relevance of the experience at Prudhoe Bay, which now yields 20 percent of total U.S. oil production. Last year, Representative George Miller, a California Democrat and opponent of drilling within the refuge, asked the Fish and Wildlife Service to compare the environmental impact predicted in 1972 for Prudhoe Bay with the actual impact. The report from the local field office, never released by the Administration, offers a long list of effects, ranging from birds displaced to tons of nitrous oxide released into the air.

According to the authors, development used more land, damaged more habitat acreage and generated more effluent than originally predicted. The authors also argue that Government monitoring efforts and assessment of long-term effects have been inadequate.

It's important to find out whether these interpretations are sensible and how environmental oversight could be improved. The General Accounting Office, a creature of Congress, is probably the most credible agency to do the job.

But even taken at face value, the report's findings hardly justify putting oil exploration on hold.

No species is reported to be endangered. No dramatic permanent changes in ecology are forecast. Much of the unpredicted damage has arisen because more oil has been produced than originally predicted. Even so, the total acreage affected by development represents only a fraction of 1 percent of the North Slope wilderness.

The trade-off between energy and ecology seems unchanged. If another oil field on the scale of Prudhoe Bay is discovered, developing it will damage the environment. That damage is worth minimizing. But it is hard to see why absolutely pristine preservation

of this remote wilderness should take precedence over the nation's energy needs.

[From the New York Times, Mar. 30, 1989]

OIL ON THE WATER, OIL IN THE GROUND

Does the Exxon tanker spill show that Arctic oil shipping is being mismanaged? Should the industry have been better prepared to cope with the accident? Should the spill deflect President Bush from his plan to open more of Alaska to oil exploration?

Six days after the Exxon Valdez dumped 240,000 barrels of crude into the frigid waters of Prince William Sound, questions come more easily than answers. But it is not too early to distinguish between the issue of regulation and the broader question of exploiting energy resources in the Arctic. The accident shouldn't change one truth: Alaskan oil is too valuable to leave in the ground.

Exxon has much to explain. The tanker captain has a history of alcohol abuse. The officer in charge of the vessel at the time of the spill was not certified to navigate in the sound. The company's cleanup efforts have been woefully ineffective. Local industries, notably fishing, face potentially disastrous consequences, and the Government needs to hold the company to its promise to pay. More important, Washington has an obligation to impose and enforce rules strict enough to reduce the risks of another spill.

That said, it's worth putting the event in perspective. Before last Friday, tens of thousands of tanker runs from Valdez has been completed without a serious mishap. Alaska now pumps two million barrels through the pipeline each day. And it would be almost unthinkable to restrict access to one-fourth of the nation's total oil production.

The far tougher question is whether the accident is sufficient reason to slow exploration for additional oil in the Arctic. The single most promising source of oil in America lies on the north coast of Alaska, a few hundred miles east of the big fields at Prudhoe Bay. But this remote tundra is part of the Arctic National Wildlife Refuge, and since 1980 Congress has been trying to decide whether to allow exploratory drilling.

Environmental organizations have long opposed such exploration, arguing that the ecology of the refuge is both unusual and fragile. This week they used the occasion of the tanker spill to call for further delays while the damage from the Exxon Valdez spill is assessed.

More information is always better than less. But long delay would have a cost, too: Prudhoe Bay production will begin to tail off in the mid-1990's. If exploration is permitted in the refuge and little oil is found, development will never take place and damage to the environment will be insignificant. If development does prove worthwhile, the process will undoubtedly degrade the environment. But the compensation will be a lot of badly needed fuel.

Environmentalists counter that, at most, the refuge will add one year's supply to America's reserves. They are right, but one year of oil is a lot of oil. The 3.2 billion barrels, if found, would be worth about \$60 billion at today's prices, enough to generate at least \$10 billion in royalties for Alaska and the Federal Government. By denying access to it, Congress would be saying implicitly that the absolute purity of the refuge was worth at least as much as the forgone \$10 billion.

Put it another way. Suppose the royalties were dedicated to buying and maintaining parkland in the rest of the nation—a not unthinkable legislative option. Would Americans really want to pass by, say, \$10 billion worth of land in order to prevent oil companies from covering a few thousand acres of

the Arctic with roads, drilling pads and pipelines?

Washington can't afford to assume that the Exxon Valdez accident was a freak that will never happen again. But neither can it afford to treat the accident as a reason for fencing off what may be the last great oilfield in the nation.

Mr. MURKOWSKI. I would like to have an explanation from the New York Times, as a consequence of where they were in 1987 and 1998 and 1999 and in 2001 being against it and now they are critical when we are trying to do something about it. Yet they don't accept the responsibility of proposing a way to reduce that dependence.

I believe we need to reduce our dependence, free ourselves from the Saddam Hussein.

We have talked about CAFE standards. Do you know what the debate on CAFE standards was all about? It was about safety. We could have increased mileage, but we were concerned about the safety of our automobiles in relationship to families moving our children. We were ready to trade off. And we did, by majority vote, increase CAFE standards with the belief that we would be stripped of some of the safety features. The indication was we would lose hundreds, perhaps thousands of lives.

As we address where we are today, we ought to look at some of the facts. We saw an article that appeared in the USGS about 10 days ago indicating if we opened up this area, somehow we would risk the Porcupine caribou. Another chart shows caribou relative to the renewability of what amounts to a natural resource. This is the caribou frolicking in Prudhoe Bay. The reason they are frolicking is nobody shoots them. They become very accustomed to a modest amount of activity as long as they are not threatened. If they hear the snow machines, they bolt like cattle on a rampage.

This is the western herd. It is the herd that frequents the oilfields of Prudhoe Bay. The important thing to recognize with this herd is they have grown dramatically from 3,000 animals to 26,000 animals. There are few predators and very few wolves. As a consequence, the herd has grown dramatically.

The Porcupine herd is in a different part of the State. I will show the migration pattern of this herd. It bears some semblance to reality. My critics who say USGS indicated in its report that the caribou might be affected by oil activity did not reflect on a knowledge of certain migratory movements of this particular Porcupine herd.

This chart shows the boundary between the United States and Canada. We can see the northwest territories. This happens to be a Canadian highway called the Dempster Highway. This is the general path of the migration of the Porcupine caribou herd in purple. It goes into the 1002 area. The point is there is no fence between Canada and Alaska.

In their migratory path they cross the highway. The highest incidence of

the mortality of this particular herd is crossing the Dempster Highway, not getting hit by trucks and cars. That is where the people hunt. That is where they take them. They are very easy to get through. Drive the highway.

This is the Arctic Highway. It is pretty rugged, but it is accessible. If you are concerned about the effect on the caribou, consider the number of caribou taken for subsistence and other reasons in that area. They come in the summertime and calf. The question is, Do they calf in the 1002 area, the area where we have at risk, the potential of caribou that might be lost as a result of calving?

We have a chart that shows, over a period from 1983 to 2000, the general calving area. Green is the calving area. This chart was put together by the Department of Interior. This is the 1002 area. This is what is at risk. In 1999, there was some calving in the area; some calving in the area in other years. The good news is there will not be any activity there during that time.

Let me show you what the area looks like for about 10½ months of the year. It is a harsh environment of ice and snow with virtually no wildlife activity in this severe time. This is generally a fair picture of the Arctic Coastal Plain in the 1002 area in the wintertime. This happens to be a clear day in the wintertime. To see what it looks like most of the time in the winter with what is called whiteouts, where you have absolutely no relationship between the snow and the clouds, it looks just white. Pilots fly into it only on instruments because you cannot see the ground.

If you turn the picture back you can see what it looks like on a clear day, which is not most of the time. On a clear day, there is a difference between the ground and the sky. When it is a whiteout condition, cloudy and snowy, it is all white. There are a lot of flying accidents when people lose their horizon and are not proficient on instruments.

As we consider the debate and recognize we have specialized technology now—development occurs only in the wintertime—we can put aside some of the USGS estimate that somehow we are going to have a significant impact. This activity is only going to occur in the wintertime. When the short summer comes up—and it looks somewhat like this photo. This is the tundra. This is a well that was drilled. As you can see, there are no roads because we use ice roads. There will be no activity during the time that the caribou calve in this area.

Then, of course, we have the continued debate as to the validity of one report vis-a-vis another report. The USGS confirmed this week that the caribou would not be affected by exploration because the House bill, which is what is before the Senate, only allows 2,000 acres out of 19 million acres to be developed.

As we debate this issue on the energy bill, even though we have not offered

the amendment, I did want to reflect a little bit on the New York Times' inconsistency. On the one hand, they supported it in 1978 and 1979, and then rejected it in 2001, and now are criticizing the Congress for not coming up with some methodology to reduce our dependence on imports.

If you are going to reduce it, you might as well go where you are most likely to find a substantial reserve of oil and that happens to be this area of Alaska. For those who say this is some kind of a pristine area, where there has been no development of any kind, let me remind you there is a village there. It is the village of Kaktovik. Real people live there. There are kids there. This is a little community hall. There are about 300 kids there. There are people who live there. They are on the snow machine there. We have some other pictures of the village itself.

This will give you some idea. This is in the 1002. This is Kaktovik. There are people who live there. There is an airstrip there, a radar station, a school. Here are some kids going to school in the morning. Nobody shovels their snow. These are happy kids, looking forward to a future.

What is that future? Does anybody around here know what a honey bucket is? A honey bucket is what you have when you don't have indoor plumbing and you need indoor plumbing because outdoor plumbing doesn't work in the wintertime. You and I and everybody else, we are used to water, sewer, the conveniences. These people have the same dreams and aspirations. How do they achieve those dreams and aspirations? By a better lifestyle, by a tax base, by jobs, by opportunities. Do these people support opening this area? I think we all know the answer to that. The answer is a very affirmative yes.

Are they entitled to have development on their own land, over which they have some control, the State of Alaska, or the Federal Environmental Protection Agency?

This may be a little stark. I am not commenting on the reality. But this is what a honey bucket looks like. That is what they cost, about \$20. You empty it yourself. It is not what we are used to. But when you do not have sewer and water, that is what you get. I don't know how long that has to stay up to make the impression, but that is real. If you have not tried one, it is not the most gratifying experience. But if there is no other alternative, that is what you have.

I bring this to relate to those who are somewhat above that, a higher echelon, who somehow do not consider how real people out there live. They assume we all live kind of alike and the dreams and aspirations of an aboriginal people should not be considered in this debate.

Why shouldn't they? They have rights. They have representation. They elected me to the Senate and I am representing their interests. They want a better life and I think they are entitled to it. They should enjoy, at least to a

degree of attainability, some of the things we take for granted.

We will be having an extended debate on this ANWR issue. For the people of my State, let's once and for all try to keep the arguments accurate. Let's not mislead people by saying it is a 6-month supply. That is absolutely ludicrous, and I assume most of my colleagues have the intelligence and fairness to recognize that argument doesn't hold oil. Not only are we not talking about a 6-month supply, some say it will take 10 years.

This is the other chart that shows the infrastructure that is already in suggests we can expedite permitting if the oil is, indeed, there, in the volume it would have to be.

I might add, this little red thing is the footprint of what 2,000 acres would be out of this 1.5 million acres in green. This is the footprint authorizing the 2,000 acres, and this whole area is 19 million acres.

Make no mistake about it, it is a very small footprint in an area that already has the development of Kaktovik and the Eskimo people who support it.

As we look at the issue of a 6-month supply—we have countered that. Can it be open in a reasonable period of time? What we have here—it doesn't show on this particular chart—we have a discovery here called Badame. It is a British Petroleum discovery. It has not proven out. But there is a pipeline from the existing 800-mile pipeline over to Badame so we would only need about 45 miles of pipeline to get to ANWR. Once the discoveries were made, and the discoveries would have to be substantive or we would never be able to afford the development, a pipeline could be run over there in a very expeditious manner in my opinion—one winter construction season—and we could have ANWR online in 2.5 to 3 years.

Let's remember, in 1995 we passed ANWR. It was vetoed by our President in the omnibus package. So we would today at least have oil flowing. To suggest we cannot do it safely, to suggest it is going to take 10 years is totally unrealistic. To suggest with the new technology it would have a detrimental effect on the wildlife is, again, without any scientific foundation.

We have some other characters here. We call them bears. We have polar bears and we have brown bears. The significance of the polar bear—these are not polar bears; these happen to be brown bears. Grizzlies is their common denomination. These guys are walking the pipeline because it is easier than walking in the snow. You and I would do the same thing if we were out for a walk. The point is, these are not disturbing because there is no threat.

People say: What about the polar bears? We do not have many polar bears in this area, but we have a few. This is from the Washington Post. It is kind of an interesting, I guess, comparison, because this was a new field found over at Alpine. It came in initially about 100.00 barrels a day. That

is a lot of oil for one little field. The footprint is just that much, probably 20 acres.

This particular picture down here shows some polar bears, but they do not indicate where that picture was taken. This picture was not taken in ANWR. It was taken way over on the Arctic area known as Barrow, probably 600 or 700 miles west. But the point I want to make with regard to the polar bear—and it is legitimate—is the greatest contribution we made to the polar bear is the Marine Animal Act because you can't take polar bear as a trophy. You can't hunt them. You can in Russia or Canada, but you cannot do it in the United States; so they are protected. To suggest somehow that a mild amount of activity associated with development of ANWR is going to jeopardize the polar bear—the greatest jeopardy to the polar bear is somebody going out and shooting them. I hate to be so crass, but that is the factual reality.

What we have here, again, is America's extreme environmental community using this, lobbying it very heavily. At a time when clearly we have a lot of unrest in the Middle East, the New York Times is proposing Congress hasn't done anything to relieve our dependence, and there is the recognition that now we are starting a debate, very soon, on the issue of opening ANWR.

I encourage Members to try to sort out fact from fiction, as this debate goes on; recognizing that America stands to gain an awful lot from opening this area up.

There would be significant job creation. It is in the interest of our economy. It is estimated that somewhere in the area of 250,000 jobs would be created. America's unions are virtually 100 percent behind opening up this area because they know it can be done safely. They know it is a jobs issue. Not only are they convinced it is in the interest of our economy, but America's veterans are virtually unanimous in support of opening it. The reason the veterans support it is quite obvious to all. It would forestall the possibility that American troops would have to go overseas and fight a war over oil in a foreign land.

In conclusion, I hope Members really relate to doing what is right for America, what is right for jobs, and what is right for the veterans. I might add that the Israeli lobbying group is virtually 100 percent supportive of developing the Coastal Plain and relieving our dependence on Mideast oil.

When you start looking down the list of supporters on the other side, it is the environmental groups. There is no sound science to support their contention because we can do it safely. It is an extraordinary resource available for this country. It can be developed in a relatively short period of time. It can be done without jeopardizing animal life. For those who claim to be experts, I suggest they go up there, talk to the people, take a look at it, and recognize

the significance of the dreams and aspirations of those people who have to depend on this kind of living when there are alternatives that you and I take for granted. This is the hard reality of the lifestyle of some of my people who want a better lifestyle, and they expect that the Senate will protect their interests.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

(The remarks of Mr. FEINGOLD are printed in today's RECORD under "Morning Business.")

Mr. FEINGOLD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. STABENOW). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE MIDEAST

Mr. SPECTER. Madam President, I have sought recognition to comment briefly about a trip I made to the Mideast and to the efforts being made at getting a cease-fire and a truce.

Two weeks ago yesterday, I arrived in Jerusalem and met with General Zinni, and then with Israel's Prime Minister, Ariel Sharon, and then with the Palestinian Authority's Chairman, Yasser Arafat.

On that day, I was told by all three of those men that they were very close to finding agreement on security arrangements under the so-called Tenet Plan put forward by CIA Director George Tenet.

Then the next day there was the massacre, the suicide bomber at the Passover Seder where 22 people were killed and several hundred were wounded. Then the whole situation in the Mideast exploded.

The Israelis then undertook a military operation to try to root out the suicide bombers. And following the initiation of that military operation, the suicide bombers stopped for a few days. Then they started again yesterday.

I am glad to say that Secretary of State Colin Powell has gone to the Mideast at the President's direction. I know the Secretary would have preferred to have gone after all of the arrangements had been worked out and it could be a triumphant tour, but I do believe it is necessary to make an effort even where success is not assured. Nobody hits a home run, we can't expect someone to hit a home run every time they go to bat.

The risks for the United States of doing nothing are much greater than the risks if we try, even if there is not immediate success.

On the wave of the suicide bombings, it is very difficult to ask the Israelis to stop their efforts in self-defense to root out the terrorists and to stop the sui-

cide bombers. It is very hard to do. We cannot allow, the world cannot allow suicide bombings to become an epidemic. What happened to the United States on 9-11 involved suicide bombers, just a little bit more sophisticated. They hijacked airplanes that they crashed into the trade towers. One was headed to the White House which hit the Pentagon, and another was headed to the Capitol which went down in Somerset County, PA.

If suicide bombers are not stopped, they are going to become an epidemic and a way of life; no one is going to be safe. It is very difficult to expect Israel not to act in its own self-defense in rooting out the suicide bombers.

The evidence came to light last week, or the purported evidence, that documents were found which bore the signature of Chairman Arafat on paying money to terrorists who were involved against the State of Israel. It seemed to me that when that evidence came to light, we had to check it out thoroughly to see if in fact it was true. There has not been conclusive authentication, although from all appearances it seems to be accurate.

The Palestinian Authority did not directly deny the accuracy but said, somewhat tangentially, that Israel sometimes concocted the documents and said further that Israel was using this issue for propaganda purposes. Both of those responses are really beside the point. The point is, are those documents authentic?

There yet ought to be a determination, perhaps made by a U.S. official, perhaps by the Federal Bureau of Investigation, or perhaps by the CIA or some impartial agency, to see for sure if that is in fact Chairman Arafat's signature and his handwriting.

When I saw him 2 weeks ago yesterday, I asked him a great many questions. One of the questions I asked him involved the Iranian shipment of arms to the Palestinian Authority which was documented. At that time, there was not conclusive proof linking Arafat personally, but there was conclusive proof that it went to the Palestinian Authority. When I talked to Chairman Arafat and his advisers in the face of their denials that it ever happened, it seemed to me not credible and not worthy of belief.

When I saw Chairman Arafat, I conveyed General Zinni's message that Chairman Arafat ought to make an emphatic, unequivocal statement in Arabic to stop the suicide bombings. Chairman Arafat refused to do that.

If it turns out that these documents do in fact bear Arafat's handwriting and if it is conclusive that Arafat has paid off terrorists, then it seems to me very difficult to deal with Arafat or to ask Israel to deal with Arafat.

I am not unmindful of the grave difficulty as to how we negotiate with the Palestinian Authority if we do not negotiate with Arafat. But the ultimate question is, what is an arrangement, what is an agreement with Arafat,