

is the very best in New Mexico. Who knows that? But he is very good at the law.

Secondly, after being good at law, he had a shot at being a judge, and he was a very good judge at the district court level where you have general jurisdiction. When you add all that together, you just feel good about it. And you can end up telling the Senate, thank you this evening in advance and the President, thank you for sending this man to New Mexico to become a district judge in our State.

I yield the floor. If I offended or sought precedence over the distinguished Senator, I did not intend to. I apologize.

Mr. LEAHY. Mr. President, there is no offense. I know no offense was meant and none was taken.

As the distinguished senior Senator from New Mexico knows, he and I consulted at some length on this nomination, and I was happy to move forward. In fact, while the Senator is still on the floor, why don't we go ahead and pass the nomination. Then I will address the Senate.

The PRESIDING OFFICER. Without objection, Executive Calendar No. 292 is approved.

The nomination was confirmed.

Mr. LEAHY. Mr. President, with that confirmation of the New Mexican judge, the Senate will now have confirmed 135 judicial nominees of President Bush. These include 35 confirmed so far this year. I mention that number of 35 because I looked back to the third year of the last Presidential term—President Clinton's—when the Republicans controlled the Senate. They only allowed 34 judges to be confirmed in all of 1999. In fact, we have now confirmed more than twice the total number of judges confirmed in the 1996 session, when a Republican Senate majority refused to consider any circuit court nominees and confirmed only 17 district court judges in that entire session.

I mention that, Mr. President, because some believe this has become politicized. Well, maybe it was for 6 years, but it is not politicized now. We have actually reduced judicial vacancies to the lowest number in 13 years. Currently, there are more Federal judges on the bench than at any time in our history. We have confirmed 35 this year, and in the 1996 session with President Clinton, the Republican Senate majority refused to consider any circuit court nominees and only confirmed 17 district court judges during the whole session—half of what we have confirmed already.

At a similar time in President Clinton's term—the third year of the term—they allowed 34 judges to be confirmed the whole year. We have done 35 so far. By every single standard, during the time when the Democrats were in the majority and now, we have confirmed far more judges at a far faster rate for President Bush than the Republican majority allowed during the time of President Clinton.

I note that in the cases of both of today's nominees, the home State Senators include both a Republican and a Democrat Senator who supported the

nomination; both worked for the nomination. Working with these home State Senators makes it far easier and makes the confirmation process proceed more smoothly.

I congratulate the nominees confirmed today and the four Senators who came together in a bipartisan effort to get them through.

I yield the floor.

The PRESIDING OFFICER. Without objection, the motion to reconsider is laid upon the table and the President will be notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

The Senator from Delaware is recognized.

#### THE CLEAN AIR PLANNING ACT

Mr. CARPER. Mr. President, earlier today, Senator LAMAR ALEXANDER announced his decision on this Senate floor to join Senators GREGG, CHAFEE, and me in cosponsoring the Clean Air Planning Act.

I ask unanimous consent that Senator ALEXANDER be added as a cosponsor of S. 843.

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

Mr. CARPER. Mr. President, we are delighted at this decision. We welcome him as a cosponsor. The Clean Air Planning Act is a sensible solution to a vexing and challenging problem. We welcome the support of Senator ALEXANDER on this bill and the opportunity to work with him and other colleagues in this body to pass a strong bipartisan piece of clean air legislation later this year. Together, we can pass legislation that will control harmful emissions, provide cleaner air, and let more people live longer and healthier lives. We can do so in a way that does not impose hardship on those who produce electricity or on the consumers or an industry that relies on affordable electricity.

There are several advantages for the Nation that the Clean Air Planning Act will provide, and I want to mention several of those at this time.

First of all, let me begin with public health and environmental benefits. The Clean Air Planning Act will achieve substantially greater emissions reductions than the administration's Clear Skies Act. The Clean Air Planning Act will generate an additional 23 million tons of SO<sub>2</sub> reductions, 3 million tons of nitrogen oxide reductions, 240,000 pounds of mercury reductions, and 764 million tons of carbon dioxide reductions relative to the Clear Skies Act in the first 20 years of the program.

As a result, the human health benefits are likely to be substantially greater under the Clean Air Planning Act than the Clear Skies legislation. An EPA analysis has concluded that in 2020, the Clean Air Planning Act would avoid almost 6,000 premature deaths from fine particulate matter when compared with Clear Skies on an annual basis—not a cumulative basis.

Let me return to CO<sub>2</sub> and business certainty. From the perspective of the

electric generating sector, business certainty is a major driver for the enactment of multipollutant legislation. Without CO<sub>2</sub> included, electric-generating companies will continue to make their investment decisions in the face of major business uncertainty. This raises the specter of stranded investments.

By lifting the uncertainty surrounding future action on CO<sub>2</sub>, the Clean Air Planning Act creates a more favorable climate for the expansion of U.S. coal markets and stimulates the development of clean coal technologies.

Let me talk for a moment about diverse generation mix. The Clean Air Planning Act and Clear Skies will both preserve a diverse fuel mix. Both bills are projected to have minimal impact on coal use. In 2010, coal use is expected to be about 2 percent lower under the Clean Air Planning Act than under Clear Skies—50 percent versus 48 percent. Coal is projected to constitute 45 percent of the electric generating mix in 2020 under either bill, Clear Skies or the Clean Air Planning Act.

An important question is, What will it cost to buy the relative advantages of the Clean Air Planning Act?

In both 2010 and 2020, total annual electric system costs under the Clean Air Planning Act are projected to be only 2.5 percent higher than under Clear Skies. This includes the cost of regulating CO<sub>2</sub> under the Clean Air Planning Act. On a net present value basis, the total cost differences between Clear Skies and the Clean Air Planning Act over a 20-year period, from 2005 to 2025, is in the range of 2 to 3 percent.

The EPA itself has conceded that retail electricity prices would increase by only two-tenths of a cent per kilowatt hour more under the Clean Air Planning Act than under Clear Skies, which amounts to about \$1.20 per month for the average residence.

According to the EPA, the CO<sub>2</sub> reduction plan could be carried out at "negligible" cost—that is their word—to the industry. Specifically, we can achieve the CO<sub>2</sub> goal in our bill—returning electricity industry emissions to 2001 levels by 2013—for approximately \$300 million in additional costs on top of the \$103 billion the industry will already be spending to produce electricity. That is just 0.3 percent—not 3 percent, not 30 percent, but 0.3 percent.

Let me conclude. Once again, I thank Senator ALEXANDER for having the courage to join us in this effort. I know it is not a decision that he made lightly. As a former Governor, he shares my commitment to getting things done in the Senate and in our Nation's Capital, with a commitment to focusing on policies that are the right thing for this Nation to do. Speaking for Senators GREGG, CHAFEE, and myself, we welcome the support of the junior Senator from Tennessee.

Mr. President, I yield the floor and 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. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

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

#### CLEAN AIR PLANNING ACT

Mr. ALEXANDER. Mr. President, I want my Senate colleagues to know I have decided to join Senators CARPER, CHAFEE, and GREGG as cosponsors of the Clean Air Planning Act. I have studied major clean air proposals before the Senate and have concluded that this legislation is the best balanced proposal because it would reduce pollution emitted by powerplants while permitting the maximum possible economic growth and energy efficiency. I hope other colleagues will come to the same conclusion as the debate about how to clean America's air becomes front and center.

Cleaner air should be the urgent business before the Senate. The condition of the air in my State of Tennessee is completely unacceptable to me and ought to be completely unacceptable to every Tennessee citizen.

My home is 2 miles from the boundary of the Great Smokey Mountains National Park, which has also become the Nation's most polluted national park. Only Los Angeles and Houston have higher ozone levels than the Great Smokies. Only a few miles away from the Great Smokies is Knoxville, which is on the American Lung Association's list of top 10 cities with the dirtiest air. Memphis and Nashville—our two largest cities—are on the top 20 list. Chattanooga barely escapes the top 25 list.

This polluted air is damaging to health, especially that of the elderly, small children, and the disabled. It ruins the scenic beauty of our State, which is what most of us who grew up in Tennessee are proudest of. And it is damaging to our economic growth.

Clean air is the No. 1 priority of the Pigeon Forge Chamber of Commerce. Business leaders there at the foot of the Smokies know that visitors are not going to drive 300 miles and spend their tourism dollars to see smoggy mountains.

The mayors of our major cities in Tennessee also understand that cleaner air means better jobs. They know that if our metropolitan areas are not able to meet Federal standards for clean air, new restrictions will make it harder for auto parts suppliers and other industries to expand and bring good new jobs into our State. The mayors also know our cities cannot comply with the Federal standards without some help. Tennessee's clean air problem requires a national solution.

Much of our air pollution is our State's own doing—specifically, that which comes from emissions from cars and trucks and from the coal powerplants of the Tennessee Valley Authority. But as much as a third of our air pollution comes from outside Tennessee. Winds blow pollution south from the industrial Midwest and north from the South toward the highest mountain range in the eastern United States, the Great Smokies. And when the wind gets to the mountains, the pollution just hangs there, which is an additional reason the Great Smokies and the Knoxville metropolitan area have such a problem.

There are three major clean air proposals before the Senate. I have studied each to determine which would be the best for Tennessee and for our Nation.

The most important of these is President Bush's Clear Skies legislation. The President deserves great credit for putting clean air at the top of the agenda, as only a President can do, because his proposal relies upon market forces instead of excessive regulation. It limits costly litigation and creates certainty.

In addition, the President's proposal would take significant steps forward in reducing sulfur, nitrogen, and mercury pollutants.

Last year, during my campaign for the Senate, I made clean air a priority and often said the President's proposal is an excellent framework upon which to build meaningful clean air legislation but that it does not go far enough, fast enough to solve Tennessee's problems. The Clear Skies legislation is a good start, but it does not go far enough, fast enough in my back yard.

I believe the Clean Air Planning Act, which I am cosponsoring, is the best proposal for Tennessee and for our Nation. Here are the reasons:

First, the Clean Air Planning Act adopts the market-based framework of the President's proposal so that it also reduces regulation, litigation, and creates certainty.

Second, it would take our country farther faster in reducing three major pollutants: sulfur, nitrogen, and mercury.

Third, it extends its market-based framework of regulation to carbon dioxide with a modest requirement that by 2013 the carbon emitted by powerplants would be at 2001 levels, causing a 3- to 5-percent reduction in the overall United States projected level in 2013.

Fourth, the Clean Air Planning Act, of which I am a cosponsor, does not weaken existing laws in important ways that the Clear Skies proposal would. Here are the two ways the Clear Skies proposal does that:

First, Clear Skies would prevent Tennessee, for 10 years, from going in to court to force another State to meet the Federal clean air standards. Since pollutants blowing in from other States is one of our greatest problems, this is a legal right we do not want to give up.

Second, the Clear Skies proposals would remove the right of the National Park Service to comment on the effect of powerplant emissions more than 30 miles away from a national park. Again, since much of the pollution in the Smokies is blown in from more than 30 miles away, this is a review that ought to be considered.

While the President's proposal, in my judgment, does not go far enough, the other major proposal before this Senate goes too far too fast. It is a proposal by Senator JEFFORDS, the Clean Power Act, which requires carbon emissions of the utilities sector to be at 1990 levels by the time we reach the year 2009.

I believe this proposal would cost so much to implement that it would drive up the cost of electricity and drive offshore thousands of good jobs. It would significantly damage our economy and our future.

There is also the Climate Stewardship Act sponsored by Senators MCCAIN and LIEBERMAN which would regulate carbon emissions produced by the entire economy and does so on a very rapid timetable.

I would not support these two proposals because I am not convinced they are based upon good science. It would be foolish to take huge, expensive steps to solve problems which we do not know exist. But it is also unwise to completely ignore what we do know.

My reading of the Report of the National Academy of Sciences on Global Warming and my discussion with scientists, especially those at Oak Ridge National Laboratory, have persuaded me that some additional steps must be taken to limit carbon dioxide emissions.

The Senate is working on clean air legislation that will likely govern our production of energy and the accompanying pollution for the next 10 to 15 years. It would be unwise to do nothing, just as it would be unwise to do too much.

The President himself has recognized the seriousness of problems with carbon emissions and has initiated a voluntary program of emission reduction which is having some success. But for the next 10 to 15 years, I believe we should take the next step and institute modest, market-based caps.

It is important to recognize that our Clean Air Planning Act applies only to carbon produced by powerplants, not that produced by the entire economy. In fact, it would permit powerplants to purchase credits from other sectors of the economy which can prove to be a substantial benefit and income for agriculture.

There is still much to learn about the effect of human activity on global warming, specifically that caused by the production of carbon dioxide. I will continue to monitor the science as it is presented and make my judgment at the time based upon what I believe to be good science.