talking solar, we are talking wind, we are talking geothermal and we are talking biomass; that is it.

When I stood to oppose the original mandate, I pointed out that in my home State of Ohio, our use of renewable energy is much lower than the national average. Renewables, including hydropower, generate 1 percent of our electricity.

I also pointed out there are many other States which rely on renewable sources for electricity generation. According to the 1998 data from the Energy Information Administration—and this is really important because it gets at the regionalism and how unfair this mandate is, as it is written, to certain regions of the country—at least 10 percent of the electricity generated in 16 States comes from renewable power. Of these 16, 5 States receive more than 50 percent of their electricity from renewable sources, and the primary source is hydroelectric power. Four of the five States—Idaho, Oregon, South Dakota, Washington—rely on hydroelectric power for more than 60 percent of their electricity. Maine is the only State east of the Mississippi to rely on renewables for more than 50 percent of its electricity, 30 percent coming from hydro and 30 percent from other renewables.

Regions and even individual States that currently have a high percentage of renewable energy sources would be less impacted by the underlying provisions. However, forcing a mandatory minimum would unduly burden States such as Ohio.

Let me tell you a little about my State and States in the Midwest. We rely heavily on coal. Mr. President, 86 percent of our energy comes from coal. As Members of this Senate know, there are bills that have been introduced that will increase and require us to reduce NO_X, SO_X, mercury, and some are even talking about carbon. In our State, we are putting our money into clean coal technology, not into switching to renewables.

What this underlying bill requires is that, in a place such as Cleveland, OH, my kilowatt—maybe some of my colleagues are not aware of this—my cost per kilowatt hour in Cleveland is 4.7 cents. This bill is talking about increasing that by 3 cents per kilowatt hour. That is a tremendous increase we are going to have to bear in States such as Ohio.

AEP, which has its home office in Ohio, American Electric Power, estimates that they would have to install an additional cumulative total of 2,100 megawatts of renewables by 2011, a total of 4,100 megawatts by 2015, and a total of 7,000 megawatts by 2020 under this requirement. This should be compared with their total generation, which is 38,000 megawatts. That is in 11 States. And this calculation does not include a safety valve or cost cap. The cost impact on AEP alone would range from $100 million to $400 million net present value.

One of the things that bothers me when we debate these things in the Senate is, we are talking about the utilities. The utilities are the ratepayers.

In my State, our manufacturers are taking it in the back of the neck. We are losing manufacturing jobs in the Midwest. One of the things that triggered this was a year ago we had a spike in gas prices, which put most of the small businesses in a negative position. Then, with the high cost of the dollar, they are in deep trouble, especially if they export.

So we are talking about adding costs on a specific segment of our economy, which happens to fall heavily in my State. We use a lot of electricity. It also puts a negative burden on the people who live in my inner cities.

People just talk about these things as if it didn't matter. But the people who make less than $10,000 a year pay about 30 percent of whatever they have for energy costs. This kind of legislation, as it is written, is going to drive those costs up. Let's talk about those people who are going to pay the cost.

What I am saying today, to my colleagues, is give me a break. Give us a break. Some of you are from regions that do not have the problems we have. We have 23 percent of the manufacturing jobs in this country in the Midwest. In my State alone, we have more manufacturing jobs than they have in the entire northeastern part of the country.

What we are trying to do today is come up with a reasonable number in terms of this mandate. It may not mean a lot to some people who live in some of the other States that do not have manufacturing, but it does mean a great deal in States like my State. I think of Paul's Letter to the Romans, Chapter 12: We are all part of one body. We have different functions.

It would be really nice if on the floor of this Senate we would start to give a little more consideration to some of the specific problems some of us have in our States so we could continue to survive and prosper and have reasonable energy costs, continue our manufacturing, and not drive up the cost for the least of our brethren.

I urge my colleagues to really give serious consideration to this. This is a reasonable proposal we are making today. It does not eliminate the mandate. It just says, if we have to comply with it, we comply with it in a way that is less oppressive than what is contained in the underlying bill.

Mr. REID. Under the previous order, the Senate is going to stand in recess so we can all listen to our Secretary of State in room 407. I ask, however, that the recess be extended until the hour of 4:15. I cleared this with my colleague, Senator NICKLES. I ask that that time count against the 30 hours.

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

RECESS

Mr. REID. I ask unanimous consent the Senate now stand in recess.

There being no objection, the Senate, at 2:59 p.m., recessed until 4:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. NELSON of Florida).

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

Mr. REID. Mr. President, for the information of all Senators, we hope to be able to have a vote on the Nickles amendment within the next half hour. We do not know for sure how long people will speak. We have had a number of Members indicate they wanted to speak on the Nickles amendment. We have several of them in the Chamber right now. We will proceed on that. There should be a vote within the next half hour.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3256

Mr. KYL. Mr. President, if none of my colleagues are prepared to take the floor, let me spend a couple of minutes in support of the Nickles amendment.

As you know, the Nickles amendment, which is the pending business, would reduce the amount of penalty in effect that a public utility would bear if it did not produce the required amount of electricity for retail sales with so-called renewable energy resources. This has to do, again, with the portfolio that we call the renewable resources that would be required to account for 10 percent of the retail sales of all the investor-owned utilities in the country.

Bear in mind that the publicly owned utilities are exempted only because a point of order would have been effective against the inclusion of the public utilities in the amendment due to the unfunded mandate nature of the underlying provision. Ultimately, this probably will apply both to investor-owned and public utilities, but for the moment it applies only to the investor-owned utilities.

When I talk about a penalty on the utilities, of course, I am really talking about a penalty on the utility customers because utilities are not in the business of losing money—at least not very long. As a result, their expenses are charged back to their customers.

What we are really talking about in the underlying bill is a requirement that these utilities produce 10 percent of their retail power from so-called renewable resources, such as wind, solar, or biomass energy. Then, if they don't do so, they have to buy that amount from other available resources or, if they can't do that, pay an amount equal to 3 cents per kilowatt hour to make up the difference.

Let us say that the requirement when the bill is fully effective is 10 percent and they are able to generate 1

percent from the renewable resources; let us say they are able to buy another 1 percent from somewhere else. That means they would have 8 percent that would have to be accounted for by a penalty of 3 cents per kilowatt hour of that retail sale.

How much would that cost the utility customers around the country? That is the question. The Nickles amendment would cut the cost in half. The Nickles amendment would say, instead of 3 cents per kilowatt hour, it would be 1½ cents per kilowatt hour.

I am informed by Senator NICKLES that is the amount the Clinton administration had proposed when it had a similar proposal.

We would be talking about cutting in half the penalty that otherwise would pertain.

I cited earlier in this debate the statistics by utility and by State. I have these statistics again. I will recite a few of them and insert in the RECORD at the appropriate point and make available for all of my colleagues exactly how the customers in each State would be required to pay, again just for the penalties of the public utilities; that is to say, the investor-owned utilities.

Let me cite some examples.

In the State of Alabama, the cost to the customers is $156-plus million or, under the Nickles amendment, these customers in Alabama would save $78 million per year.

Since I see my colleague from Vermont in the Chamber, let me look at Vermont. In Vermont, the utility customers of the investor-owned utilities would save over $7 million per year under the amendment of the Senator from Oklahoma.

Let me look at Florida, the State from which the Presiding Officer comes. Florida is a big State with a lot of utility customers—a mix of both public and private utilities—but the private utilities annually would suffer an expense of over $451 million, so that the savings from the Nickles amendment for the utility customers in Florida, the investor-owned utilities, would be more than $225 million.

In my own State of Arizona, the cost is almost $100 million. So the savings per year would be just under $50 million.

Let me pick a couple of other States.

For the State of Nevada, the State of the distinguished majority whip, the savings would be over $37 million because the expense there is over $75 million.

Let me pick another couple States at random.

For New York State, the savings would be almost $132 million.

Let me take my neighboring State of California, another large State. Californians, obviously, are going to get clobbered by this renewable portfolio requirement. The estimate is, therefore, that for the State of California, just cutting this penalty in half, reducing it to 1½ cents per kilowatt hour, would save the customers in California over $243 million per year.

These savings illustrate that there is a cost to what we are imposing in the Senate. We come up with a lot of good ideas. In fact, our ideas are so good we want to impose them on everybody else.

I offered amendments to make this voluntary, but my proposals were rejected. So this is a mandatory requirement. This is required of all of the electric customers in this country, so I thought it would be important to know how much it is going to cost—in other words, by our action, what costs are we imposing on the electric customers of our country?—so that we can then make a judgment of whether it is worth it.

What we are doing here has significant consequences to people. We pass bills all the time to try to help people in need. People need help with their housing, so we provide them assistance for housing. People need help with their heating bills, so we provide them assistance under a program called LIHEAP. And there are any number of other programs.

So why, then, would we be imposing this kind of a big cost on them? Of course, the bigger the family, the more your expenses are going to be; therefore, the more this is going to cost you.

What sense does it make for us to impose this kind of cost on consumers with this legislation and then turn right around under the LIHEAP bill and say: Well, we know you are having to pay a lot for your electric bill, so we are going to help you make up for part of that. This just does not make any sense. It is incoherent policy, and it damages real people. That is why I am citing these statistics.

In a relatively small State—let me just take the State of the honorable chairman of the Energy Committee—the State of New Mexico, by passing the Nickles amendment, the people of New Mexico would save over $19 million a year because they are going to have to pay almost $40 million as a penalty because New Mexico cannot generate the requisite 10 percent that we are going to mandate under this bill.

These are not my figures. This comes from the Department of Energy, from the Energy Information Administration, which is a branch of the U.S. Department of Energy. These are up-to-date figures. I had figures in this Chamber before when we were debating this issue. These are even more updated figures than that.

So it seems to me that we in this body have to think about the consequences of our mandates. If we are going to make Americans pay more, we better have a darn good excuse or a good reason for making them do that.

Doesn't it make sense that we would say to people—let's just take the State of California, for example—Look, Californians, you are going to have to pay $243 million under the Nickles amendment, but if the Nickles amendment does not pass, you are going to have to pay $487 million a year in penalties. You may think it is worth it in order to encourage the development of wind energy or solar energy. If you do think it is worth it, would you be willing to pay that cost on an individual basis?

My guess is, you would have, out of, say, 100 people, probably 5 or 10 who would say: We feel like we are in a contributing mood, and we would like to pay for our share of what it will really cost us—the real cost to generate more of this energy from these so-called renewable resources—so we will pay a higher electric bill.

I have not broken this down per customer, but, obviously, each customer is going to pay a fairly significant amount. But if you say to the people of California, Are you willing to pay almost $500 million a year more—if you put that to a vote—most of them would say: No, we don't think so. Why don't you figure out another way to make this happen. This represents a substantial increase in our power bill, and we don't want to do it.

What we are doing in this body—I am going to call it arrogant because I think it is a certain degree of arrogance that must affect our willingness to impose these kinds of financial burdens on the American people for the sake of, what, to generate more energy with wind, to do what, save some oil or gas or coal maybe that we would otherwise use to produce power.

Of course, we are not willing to expand our energy production, but we are going to require this use of renewable resources. And the incentive is going to be: If you don't do it, then you all are going to have to pay a big penalty. I think that is arrogance on our part. The reason I use that harsh word is because I think if you put that question to your constituents—I know if I put that question to the constituents that I represent, I am very certain most of them would say: No, thank you. We would just as soon you not impose that additional tax on us.

This is a tax on energy. It is a tax on energy use for individual retail customers. But most of our constituents will not know that is what we have done. That is why I am going to make it a point to let them know. We are going to publicize this in every way that I know, in every State that I know, to make sure that the constituents of all of my colleagues understand what their Senator imposed upon them in the way of a new tax and what it is going to cost them.

These figures are going to be in every State in the country so that there will be no question that it is understood what the costs are, on our constituents, that we are imposing upon them in the name of good, to produce more wind energy and more solar energy. I just want the folks in California to know it is going to cost them almost $500 million a year—$487 million to be exact—and the same thing for every other State.

The figures are actually understated because, as I said, this only represents what the investor-owned utilities will have to pay in penalties. We know there will be additional penalties, assuming the publicly owned utilities are also added to this at a later time.

So I think it is important for the American people who buy energy to understand what we are imposing on them by way of cost. The best way to do that is by bringing it out, with the amendment of the Senator from Oklahoma, by demonstrating what we can save them by simply cutting this penalty in half, from 3 cents per kilowatt hour to 1½ cents per kilowatt hour.

It is still a lot of money. I have not added it all up, but it adds up to an awful lot of money. It is clearly in the multiples of billions of dollars.

But we have these statistics by State so we will at least be able to show people what they will save by State as a result of the adoption of the Nickles amendment. We will have a copy of this at the party desks at the time that the vote is called on the Nickles amendment.

Any Member wishing to see how much he or she is willing to save his or her constituents, if you would like to see how much you will save your constituents by voting for the Nickles amendment, we will have that here for you. Conversely, if you would like to see how much of a tax you will impose upon your constituents, we have that column as well.

I hope my colleagues will take advantage of the information we have. This is information from the Department of Energy on how much this electric tax is going to cost the ratepayers all over this country. We could at least do them a favor by cutting the penalty in half. And if you want to know how much you will save your constituents by doing that, by supporting the Nickles amendment, we have all the figures right here.

I see the Senator from Oklahoma is here. I have been referring to his amendment. Let me see if the State of Oklahoma would save any money here. It turns out we are going to tax the utility customers there over $112 million a year. So at least he is going to save his constituents over $56 million a year. That ain't peanuts. That is real savings. Equivalent numbers apply to all of the rest of the States.

I hope my colleagues will support the Nickles amendment and do their constituents a favor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. REID. Will the Senator yield for a unanimous consent request?

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I thank my friend and colleague from Arizona for his statement, for his homework, for his research and knowledge on the issue. I hope all Senators will pay attention because we are talking about an amendment that will have a real impact on utility rates, on electric rates all across the country. It will cost millions. Actually, I think my colleague from Arizona will agree, utility companies don't really pay those rates. They may be assessed, but they will pass them on to consumers. They will pass them on to ratepayers in Florida, in Arizona, in Illinois, in Oklahoma, and in Nevada.

I appreciate my colleague's homework and also his very strong statement.

Mr. KYL. Mr. President, I ask unanimous consent to print in the RECORD the table to which I referred.

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

RETAIL SALES, REVENUE, AND POTENTIAL COST OF PURCHASING CREDITS

State	Consumers	Retail sales (in millions of dollars)	Retail sales (MWh)	Retail rate (cents per kWh)	Maximum credit purchase cost (in millions of dollars)	Maximum potential rate increase (percent)	Savings by Nickles amendment (per year)
Alaska	25,160	57.418	446,293	12.87	1.339	2.33	$669,500
Alabama	1,322,172	2,952.707	52,067,783	5.67	156.203	5.29	78,101,500
Arkansas	807,898	1,532.386	25,714,924	5.96	77.145	5.03	38,572,500
Arizona	1,250,550	2,640.775	33,224,190	7.95	99.673	3.77	49,836,500
California	9,392,462	16,306.188	162,352,407	10.04	487.057	2.99	243,528,500
Colorado	1,310,550	1,512.893	26,072,373	5.80	78.217	5.17	39,108,500
Connecticut	1,439,185	2,712.489	28,094,031	9.66	84.282	3.11	42,141,000
District of Columbia	225,522	798.345	10,615,521	7.52	31.847	3.99	15,923,500
Delaware	268,512	481.564	8,409,335	5.73	25.228	5.24	12,614,000
Florida	6,201,773	10,384.739	150,469,636	6.90	451.409	4.35	225,704,500
Georgia	2,029,531	4,566.067	78,410,565	5.82	235.232	5.15	117,616,000
Hawaii	427,108	1,359.755	9,690,596	14.03	29.072	2.14	14,536,000
Iowa	1,042,106	1,748.968	29,672,171	5.89	89.017	5.09	44,508,500
Idaho	529,224	828.594	20,190,466	4.10	60.571	7.31	30,285,500
Illinois	4,787,291	8,032.121	115,334,741	6.96	346.004	4.31	173,002,000
Indiana	2,145,265	4,104.112	81,161,466	5.06	243.484	5.93	121,742,000
Kansas	920,868	1,582.619	26,053,970	6.07	78.162	4.94	39,081,000
Kentucky	1,130,058	1,728.643	42,790,408	4.04	128.371	7.43	64,185,500
Louisiana	1,580,399	4,463.903	69,479,189	6.42	208.438	4.67	104,219,000
Massachusetts	2,500,731	4,028.951	41,828,995	9.63	125.487	3.11	62,743,500
Maryland	2,018,170	3,772.670	56,457,358	6.68	169.372	4.49	84,686,000
Maine	240,605	610.219	6,005,478	10.16	18.016	2.95	9,008,000
Michigan	4,031,301	6,722.444	94,191,371	7.14	282.574	4.20	141,287,000
Minnesota	1,352,070	2,310.741	40,791,277	5.66	122.374	5.30	61,187,000
Missouri	1,774,796	3,084.596	50,364,934	6.12	151.095	4.90	75,547,500
Mississippi	591,022	1,300.929	22,434,100	5.80	67.302	5.17	33,651,000
Montana	324,989	369.137	6,493,525	5.68	19.481	5.28	9,740,500
North Carolina	2,761,911	5,583.562	91,831,679	6.08	275.495	4.93	137,747,500
North Dakota	211,223	266.432	4,661,341	5.72	13.984	5.25	6,992,000
Nebraska	(1)	(1)	(1)	(1)	(1)	(1)	.....
New Hampshire	551,061	1,017.886	9,182,528	11.09	27.548	2.71	13,774,000
New Jersey	3,501,933	5,852.654	61,734,317	9.48	185.203	3.16	92,601,500
New Mexico	595,083	878.927	13,161,860	6.68	39.486	4.49	19,743,000
Nevada	860,471	1,602.964	25,132,075	6.38	75.396	4.70	37,698,000
New York	6,199,843	10,772.137	87,985,541	12.24	263.957	2.45	131,978,500
Ohio	4,563,007	9,456.943	145,679,640	6.49	437.039	4.62	218,519,500
Oklahoma	1,155,222	2,120.652	37,552,508	5.65	112.568	5.31	56,284,000
Oregon	1,237,619	1,825.143	34,579,587	5.28	103.739	5.68	51,869,500
Pennsylvania	4,797,660	7,351.474	94,598,197	7.77	283.795	3.86	141,897,500
Rhode Island	462,946	722.418	7,077,982	10.21	21.234	2.94	10,617,000
South Carolina	1,185,320	2,779.379	50,322,355	5.52	150.967	5.43	75,483,500
South Dakota	204,358	297.778	4,581,465	6.50	13.744	4.62	6,872,000
Tennessee	44,781	81.005	1,846,070	4.39	5.538	6.84	2,769,000
Texas	6,420,510	15,872.458	249,502,909	6.36	748.509	4.72	374,254,500
Utah	646,728	865.412	18,858,674	4.59	56.576	6.54	28,288,000
Virginia	2,590,554	4,916.679	84,375,562	5.83	253.127	5.15	126,563,500
Vermont	250,227	477.304	4,678,429	10.20	14.035	2.94	7,017,500
Washington	1,240,194	1,820.509	30,840,107	5.90	92.520	5.08	46,260,000
Wisconsin	2,161,626	3,139.087	54,767,754	5.73	164.303	5.23	82,151,500
West Virginia	939,290	1,393.543	27,538,329	5.06	82.615	5.93	41,307,500
Wyoming	173,275	356.151	8,706,113	4.09	26.118	7.33	13,059,000
National total	92,424,160	169,444.470	2,437,982,165	6.95	7,313.946	4.32	3,656,973,000

[1] Nebraska does not include any privately owned utilities.

Note.—Assumes a 10% Renewable Portfolio Standard (RPS) applied to privately owned utilities with a maximum credit price of 3 cents per kilowatthour. Does not account for potential fuel cost savings from lower fossil fuel bills as a result of increased renewable generation as required by the RPS. Since many utilities will likely be renewable credit sellers, the impact on the prices in their states will be much lower than shown.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I would give to the Senator from Nevada the hour that was reserved under postcloture for Senator AKAKA of Hawaii.

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

The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in opposition to this amendment. This is very complicated stuff, all these things trading around and all that. It is very difficult for people to understand. It sounds good.

I think under the circumstances, even though it is the opposition, the administration is somewhere we should look, in the form of the Department of Energy, as to what the facts are. If you do that, you will find that the facts are quite different from those represented by the Senator from Arizona and obviously the Senator from Oklahoma. It is also clear that in different areas of the country, this works differently. It depends on what your production is, what is available to you in renewables and all that. I will rely upon the Department of Energy and expect, with this administration being in control of that Department, that the facts they give us ought to be fairly accurate.

It seems to me we have brought forth these arguments several times now. However, I will reiterate that the U.S. Department of Energy, in its most recent analysis, has found that a 10-percent renewable energy requirement will, by the year 2020, save the American consumers up to $3 billion, save consumers up to $3 billion in electricity costs. Imposing a Federal renewable energy mandate of 10 percent will cost $3 billion less for consumers by the year 2020 as compared to business as usual. This result is an overall cost savings to consumers from 2002 to 2020 of $13.2 billion. This is what the most recent studies of the U.S. Department of Energy, Energy Information Administration have found.

It escapes me why we are spending so much time arguing about cost. I have heard some of my colleagues claim that the cost to consumers will be off the charts. This is at odds with the repeated findings of the U.S. Department of Energy of this administration.

A number of my colleagues have referred to Energy Information Administration statistics to the effect that renewable energy will cost Americans $88 billion. However, these EIA numbers are referring to the gross cost of the price of renewable energy, not the increased cost to consumers of using renewable energy versus using other forms of energy.

The relevant question is not whether, if you bought only renewable energy, it would add up to a total cost of $88 billion. The question is, How much more is that amount than what you would be paying anyway from fossil fuel or other energy sources without a renewable energy mandate?

As I have stated, the studies completed in February of this year by the U.S. Energy Information Administration, which are consistent with the previous studies, say that under a 10-percent renewable energy mandate, consumer costs will actually go down by close to $3 billion per year by the year 2020, compared to energy costs if no renewable energy mandate existed.

I will also point out that although the 1.5-cent cap Senator NICKLES is now proposing was indeed the amount contained in the bill put forward by the Clinton administration, that bill also would have imposed a far more aggressive renewable mandate than the one currently in the Senate bill.

Under the Clinton administration's bill, renewable energy would have been required to reach 7.5 percent by the year 2010. This is compared to only a roughly 4-percent requirement by 2010 in the energy bill currently before us. The renewable energy provision currently in the bill does not even get to an actual 10-percent renewable energy standard by the year 2020. By the time all of the various exceptions and deductions are added in, the amount of mandated renewable energy required in this bill by the year 2020 is actually closer to 5 percent. This amount is disappointingly close to what American business is likely to achieve anyway with no additional support from the Federal Government.

I must say, I find the continued attempt to weaken this marginal requirement baffling. I, along with my colleagues, have repeatedly made the argument on the floor for the many benefits of renewable energy. These include environmental and health benefits which have not been taken into consideration. They include making our American businesses competitive in a booming European market in wind and other renewable energy. This should be the example at which we are looking. As the EIA has shown, they include benefits to the American consumer, ultimately making the costs to consumers actually decrease.

Few of my colleagues dispute these benefits. Even those supporting this amendment have recognized the great national benefits to promoting renewable energy. It seems painfully difficult for us to change our old ways of looking at things and to take steps that will bring these modern and beneficial energy sources to our door.

These arguments over the price of cost caps are just another attempt to dismantle the existing renewable energy position. The Senate has already voted several times against attempts to destroy this position, and I hope we will recognize the amendment for what it is—another side-door attempt to do just that.

Different States have different problems. Oil-producing States naturally want to sell all the oil they can. If we look at the program as it is, look at the advantages it has, and look at the end results as reported by the Department of Energy, that it will save money in the years ahead, I say this bill should stay as it is.

I urge my colleagues to join me in keeping this really modest provision in the bill.

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

The PRESIDING OFFICER. The Senator from Nevada.

Mr. NICKLES. Will the Senator from Vermont yield?

Mr. JEFFORDS. Yes, I am happy to yield.

Mr. NICKLES. I thank my colleague.

I heard you say this amendment was an attempt to destroy the renewable section. Are you aware of the fact that we didn't change the 10-percent requirement so the bill still requires that 10 percent of the electricity generated would have to be in the form of renewables? And I remind you that the Clinton administration only proposed 7.5 percent. So we didn't change that. And I might say that the penalty, the cap, is the same amount that was proposed by the Clinton administration. It was a penny and a half per kilowatt hour. If you missed the target of 10 percent, that target amount, the penalty amount, would be the same as required by the Clinton administration. So I don't think this amendment guts the renewables. I wanted to make sure you were aware of it. This isn't the same vote we had previously on renewables.

Mr. JEFFORDS. I think it is 7.5 percent by 2010. Other than that, I stand by the speech I made and the results I said will be there and our understanding of the bill, as the U.S. Department of Energy understands it.

Mr. NICKLES. Further, to clarify, the Senator is aware, then, that the renewable standard is higher than that proposed by the Clinton administration because it is 10 percent instead of 7.5 percent. Is the Senator aware that the penalty in the Bingaman-Daschle proposal is twice as high as that proposed by the Clinton administration?

Mr. JEFFORDS. I think the times that it went into effect were different. It depends on how you compare it. I stand by my statement.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, before my friend leaves the Chamber, the distinguished chairman of the Environment and Public Works Committee, I express my appreciation for his work on this bill and other matters that have come before this body, and that he has had the opportunity to move forward to do something about a renewable portfolio.

On the appropriations bill that I have had the pleasure of working with Senator DOMENICI for a number of years, the Senator has always come there making sure our conscience was clear and that the Appropriations Subcommittee on Energy and Water did everything it could for development of renewable energy resources. He has always been there asking us to do more. I appreciate that. I think one of the big

problems with this bill is that we haven't done more to increase the renewables portfolio. The Senator and I tried to increase it to 20 percent. Ten percent is a bare minimum. What I say to my friend from Oklahoma, through the Chair, is that, sure, the 10% requirement hasn't changed, but with this amendment that 10% is not directed toward the development of renewables. The amendment will encourage the use of credits. So with Senator NICKLES amendment you wind up having a program in this country where you don't really develop renewables.

I say to my friend from Vermont, thank you very much for making us keep our eye on this. We need to develop more renewables. This is the fourth attempt of what I believe is the oil companies of this country trying to get us to back off of the renewables portfolio.

The oil companies love this amendment that is before us. But the American people don't like it. Why? Because when it is explained to them, energy has a price other than just the cost at the production level. What do I mean by that?

Mr. President, a few years ago in Nevada, a company came to Nevada. They owned a plant near Barstow, CA—the largest solar energy production facility in America, with 200 megawatts of electricity. They wanted to build a production facility in the Eldorado Valley between Las Vegas and Boulder City, in a relatively remote place. They went before the Nevada Public Service Commission. The company was called the Luz Company. It was named from the Old Testament, where Jacob's Ladder was; that is where it came down, Luz. The public service commission could not allow them to build that facility because all they were allowed to consider at that time was the cost of production. It had nothing to do with the smog and junk that the coal-fired and oil-fired generating plants produced in the Las Vegas Valley. They could not take that into consideration. That is one of the problems we have had all over America today.

The fact is, since then, the Nevada Legislature has changed that. It is tremendous that they have done that. They have now, in Nevada, a 15-percent renewable portfolio standard. That is excellent. I am proud of what the State of Nevada has done. That has only been at the time of the last legislature.

Our Nation needs to diversify its energy policy. The Senate passed a renewables portfolio standard—we call it the RPS—requiring that 10 percent of the electricity produced comes from clean, renewable energy resources. What is that? The Sun—the warmth of the Sun, the warmth of the Earth, geothermal.

Wind used to bother me but I kind of like it now. Wind always got on my nerves; it would never be there when I wanted it. I now like the wind. I have come to the realization that it cleans the air. I have also come to the realization that we in Nevada can use that wind to produce electricity. In fact, we are doing that at the Nevada Test Site, where almost a thousand bombs have been detonated.

We are building, with the permission of the DOE, a wind farm there. Within 3 years, with the work done by the Finance Committee—and I appreciate the work by Senators BAUCUS, GRASSLEY, and other members of that committee on a tax credit for wind—that will allow that generating facility to go forward. Within 3 years, they will produce enough electricity to supply electricity to 250,000 homes in Las Vegas. That is good.

So, Mr. President, the RPS in this bill is too weak. As I have already said to my friend, the distinguished Senator JEFFORDS, it is not as much as I had hoped for, not as much as I wanted. I voted for 20 percent, which Senator JEFFORDS and I propounded.

One provision in the renewable portfolio standard allows for a system of tradeable, renewable energy credits. For this system to effectively work—and we have not talked about it that much today—the cost of renewable energy credits must encourage the growth of renewable energy.

The Nickles amendment lowers the cost of these renewable energy tax credits to the point where a utility will choose to buy credits rather than produce renewable energy. In this country, I want more renewable energy. We have spent trillions of dollars in the oil business—utilities are heavily invested in that. Let's change a little and spend a little money on renewable energy so my friend, my children, and my children's children can breathe clean air. That is what this is all about. Ask my children whether they are interested in using the worst-case scenario. The EIA analysis reflected the worst-case scenario—that the cost of electricity might increase 0.1 cents per kilowatt-hour. Every one of my five children—let them vote on it. They will go for renewable energy because they want clean air for their children, my 12 grandchildren. I want them to have clean air. They are not going to have it if we keep firing generators with coal, gas, and oil.

We need to do something different—Sun, geothermal, wind. That is what this amendment is about. This is the fourth time they have tried to whack this very small amount that we have in this bill, 10 percent for renewable energy. I am glad, if for no other reason, cloture has been invoked. Maybe this will be the end of it. Maybe not.

What this amendment attempts to do makes no sense. This is not the goal of the renewable portfolio standard. This amendment is basically, in my opinion, interested in damage control.

I am interested in expanding our energy resources through clean renewable energy. The DOE's Energy Information Administration suggests that the renewable portfolio standard may raise the price—worst-case scenario—of electricity consumers by 0.1 cents per kilowatt hour. That is the estimate. It doesn't include the stimulative effect of section 45, the production tax credit that the Senate adopted yesterday.

This bill isn't perfect. It is far from perfect. But there are some good things in the bill. One of the good things is what was done yesterday in adopting the Finance Committee's energy tax provisions.

The chairman of this committee, Senator BINGAMAN, is a member of that Finance Committee. That was good work they did, because they had provisions in there to help production and they also had provisions in there to help the renewable portfolio. With the production tax credit, there is likely to be no increase in consumer prices resulting from the renewable portfolio. After pouring billions of dollars—I say trillions—into oil and gas, we need to invest in a clean energy future. Other nations in the world are developing renewable energy sources much faster than the United States is. America needs to reestablish leadership in renewable energy.

I oppose this amendment and, contrary to earlier statements, the renewable portfolio standard provision in this bill, as modified, is as close to the Texas RPS as possible, while accommodating regional differences. Why do I say that? Because under the Texas RPS statute, the amount of new renewables is based on capacity. However, as implemented by the Texas Public Utility Commission, the regulations convert the capacity obligation to a generation standard.

I cite Chapter 25.173(h)(1) from the Texas RPS:

> The total statewide renewable energy credit requirement for each compliance period shall be calculated in terms of megawatt hours and shall be equal to the renewable capacity target multiplied by 8,760 hours per year, multiplied by the appropriate capacity conversion factor. . . .

It says it all.

The section goes on to spell out exactly how the capacity standard is converted to a generation standard. I ask unanimous consent that the regulations from the State of Texas be printed in the RECORD.

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

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER H. ELECTRICAL PLANNING

Division 1. Renewable energy resources and use of natural gas

§25.173. Goal for Renewable Energy

(a) Purpose. The purpose of this section is to ensure that an additional 2,000 megawatts (MW) of generating capacity from renewable energy technologies is installed in Texas by 2009 pursuant to the Public Utility Regulatory Act (PURA) §39.904, to establish a renewable energy credits trading program that would ensure that the new renewable energy capacity is built in the most efficient and economical manner, to encourage the development, construction, and operation of new renewable energy resources at those sites in

this state that have the greatest economic potential for capture and development of this state's environmentally beneficial resources, to protect and enhance the quality of the environment in Texas through increased use of renewable resources, to respond to customers' expressed preferences for renewable resources by ensuring that all customers have access to providers of energy generated by renewable energy resources pursuant to PURA §39.101(b)(3), and to ensure that the cumulative installed renewable capacity in Texas will be at least 2,880 MW by January 1, 2009.

(b) Application. This section applies to power generation companies as defined in §25.5 of this title (relating to definitions), and competitive retailers as defined in subsection (c) of this section. This section shall not apply to an electric utility subject to PURA §39.102(c) until the expiration of the utility's rate freeze period.

(c) Definitions.

(1) Competitive retailer—A municipally-owned utility, generation and transmission cooperative (G&T), or distribution cooperative that offers customer choice in the restricted competitive electric power market in Texas or a retail electric provider (REP) as defined in §25.5 of this title.

(2) Compliance period—A calendar year beginning January 1 and ending December 31 of each year in which renewable energy credits are required of a competitive retailer.

(3) Designated representative—A responsible natural person authorized by the owners or operators of a renewable resource to register that resource with the program administrator. The designated representative must have the authority to represent and legally bind the owners and operators of the renewable resource in all matters pertaining to the renewable energy credits trading program.

(4) Early banking—Awarding renewable energy credits (RECs) to generators for sale in the trading program prior to the program's first compliance period.

(5) Existing facilities—Renewable energy generators placed in service before September 1, 1999.

(6) Generation offset technology—Any renewable technology that reduces the demand for electricity at a site where a customer consumers electricity. An example of this technology is solar water heating.

(7) New facilities—Renewable energy generators placed in service on or after September 1, 1999. A new facility includes the incremental capacity and associated energy from an existing renewable facility achieved through repowering activities undertaken on or after September 1, 1999.

(8) Off-grid generation—The generation of renewable energy in an application that is not interconnected to a utility transmission or distribution system.

(9) Program administrator—The entity approved by the commission that is responsible for carrying out the administrative responsibilities related to the renewable energy credits trading program as set forth in subsection (g) of this section.

(10) REC offset (offset)—An REC offset represents one MWh of renewable energy from an existing facility that may be used in place of an REC to meet a renewable energy requirement imposed under this section. REC offsets may not be traded, shall be calculated as set forth in subsection (i) of this section, and shall be applied as set forth in subsection (h) of this section.

(11) Renewable energy credit (REC or credit)—An REC represents one megawatt hour (MWh) of renewable energy that is physically metered and verified in Texas and meets the requirements set forth in subsection (e) of this section.

(12) Renewable energy credit account (REC account)—An account maintained by the renewable energy credits trading program administrator for the purpose of tracking the production, sale, transfer, and purchase, and retirement of RECs by a program participant.

(13) Renewable energy credits trading program (trading program)—The process of awarding, trading, tracking, and submitting RECs as a means of meeting the renewable energy requirements set out in subsection (d) of this section.

(14) Renewable energy resource (renewable resource)—A resource that produces energy derived from renewable energy technologies.

(15) Renewable energy technology—Any technology that exclusively relies on an energy source that is naturally regenerated over a short time and derived directly from the sun, indirectly from the sun, or from moving water or other natural movements and mechanisms of the environment. Renewable energy technologies include those that rely on energy derived directly from the sun, on wind, geothermal, hydroelectric, wave, or tidal energy, or on biomass or biomass-based waste products, including landfill gas. A renewable energy technology does not rely on energy resources derived from fossil fuels, waste products from fossil fuels, or waste products from inorganic sources.

(16) Repowering—Modernizing or upgrading an existing facility in order to increase its capacity or efficiency.

(17) Settlement period—The first calendar quarter following a compliance period in which the settlement process for that compliance year takes place.

(18) Small producer—A renewable resource that is less than two megawatts (MW) in size.

(d) Renewable energy credits trading program (trading program). Renewable energy credits may be generated, transferred, and retired by renewable energy power generation, competitive retailers, and other market participants as set forth in this section.

(1) The program administrator shall apportion a renewable resource requirement among all competitive retailers as a percentage of the retail sales of each competitive retailer as set forth in subsection (h) of this section. Each competitive retailer shall be responsible for retiring sufficient RECs as set forth in subsections (h) and (k) of this section to comply with this section. The requirement to purchase RECs pursuant to this section becomes effective on the date each competitive retailer begins serving retail electric customers in Texas.

(2) A power generating company may participate in the program and may generate RECs and buy or sell RECs as set forth in subsection (j) of this section.

(3) RECs shall be credited on an energy basis as set forth in subsection (j) of this section.

(4) Municipally-owned utilities and distribution cooperatives that do not offer customer choice are not obligated to purchase RECs. However, regardless of whether the municipally-owned utility or distribution cooperative offers customer choice, a municipally-owned utility or distribution cooperative possessing renewable resources that meet the requirements of subsection (e) of this section may sell RECs generated by such a resource to competitive retailers as set forth in subsection (j) of this section.

Except where specifically stated, the provisions of this section shall apply uniformly to all participants in the trading program.

(e) Facilities eligible for producing RECs in the renewable energy credits trading program. For a renewable facility to be eligible to produce RECs in the trading program it must be either a new facility or a small producer as defined in subsection (c) of this section and must also meet the requirements of this subsection:

(1) A renewable energy resource must not be ineligible under subsection (f) of this section and must register pursuant to subsection (n) of this section;

(2) The facility's above-market costs must not be included in the rates of any utility, municipally-owned utility, or distribution cooperative through base rates, a power cost recovery factor (PCRF), stranded cost recovery mechanism, or any other fixed or variable rate element charged to end users;

(3) For a renewable energy technology that requires fossil fuel, the facility's use of fossil fuel must not exceed 2.0% of the total annual fuel input on a British thermal unit (BTU) or equivalent basis;

(4) The output of the facility must be readily capable of being physically metered and verified in Texas by the program administrator. Energy from a renewable facility that is delivered into a transmission system where it is commingled with electricity from non-renewable resources can not be verified as delivered to Texas customers. A facility is not ineligible by virtue of the fact that the facility is a generation-offset, off-grid, or on-site distributed renewable facility if it otherwise meets the requirements of this section; and

(5) For a municipally owned utility operating a gas distribution system, any production or acquisition of landfill gas that is directly supplied to the gas distribution system is eligible to produce RECs based upon the conversion of the thermal energy in BTUs to electric energy in kWh using for the conversion factor the systemwide average heat rate of the gas-fired units of the combined utility's electric system as measured in BTUs per kWh.

(6) For industry-standard thermal technologies, the RECs can be earned only on the renewable portion of energy production. Furthermore, the contribution toward statewide renewable capacity megawatt goals from such facilities would be equal to the fraction of the facility's annual MWh energy output from renewable fuel multiplied by the facility's nameplate MV capacity.

(f) Facilities not eligible for producing RECs in the renewable energy credits trading program. A renewable facility is not eligible to produce RECs in the trading program if it is:

(1) A renewable energy capacity addition associated with an emissions reductions project described in Health and Safety Code §382.5193, that is used to satisfy the permit requirements in Health and Safety Code §382.0519;

(2) An existing facility that is not a small producer as defined in subsection (c) of this section; or

(3) An existing fossil plant that is repowered to use a renewable fuel.

(g) Responsibilities of program administrator. No later than June 1, 2000, the commission shall approve an independent entity or serve as the trading program administrator. At a minimum, the program administrator shall perform the following functions:

(1) Create accounts that track RECs for each participant in the trading program;

(2) Award RECs to registered renewable energy facilities on a quarterly basis based on verified meter reads;

(3) Assign offsets to competitive retailers on an annual basis based on a nomination submitted by the competitive retailer pursuant to subsection (n) of this section;

(4) Annually retire RECs that each competitive retailer submits to meet its renewable energy requirement;

(5) Retire RECs at the end of each REC's three-year life;

(6) Maintain public information on its website that provides trading program information to interested buyers and sellers of RECs;

(7) Create an exchange procedure where persons may purchase and sell RECs. The exchange shall ensure the anonymity of persons purchasing or selling RECs. The program administrator may delegate this function to an independent third party. The commission shall approve any such delegation;

(8) Make public each month the total energy sales of competititon retailers in Texas for the previous month;

(9) Perform audits of generators participating in the trading program to verify accuracy of metered production data;

(10) Allocate the renewable energy responsibility to each competitive retailer in accordance with subsection (h) of this section; and

(11) Submit an annual report to the commission. Beginning with the program's first compliance period, the program administrator shall submit a report to the commission on or before April 15 of each calendar year. The report shall contain information pertaining to renewable energy power generators and competitive retailers. At a minimum, the report shall contain:

(A) the amount of existing and new renewable energy capacity in MW installed in the state by technology type, the owner/operator of each facility, the date each facility began to produce energy, the amount of energy generated in megawatt-hours (MWh) each quarter for all capacity participating in the trading program or that was retired from service; and

(B) a listing of all competitive retailers participating in the trading program, each competitive retailer's renewable energy credit requirement, the number of offsets used by each competitive retailer, the number of credits retired by each competitive retailer, a listing of all competitive retailers that were in compliance with the REC requirement, a listing of all competitive retailers that failed to retire sufficient REC requirement, and the deficiency of each competitive retailer that failed to retire sufficient RECs to meet its REC requirement.

(h) Allocation of REC purchase requirement to competitive retailers. The program administrator shall allocate REC requirements among competitive retailers. Any renewable capacity that is retired before January 1, 2009 or any capacity shortfalls that arise due to purchases of RECs from out-of-state facilities shall be replaced and incorporated into the allocation methodology set forth in this subsection. Any changes to the allocation methodology to reflect replacement capacity shall occur two compliance periods after which the facility was retired or capacity shortfall occurred. The program administrator shall use the following methodology to determine the total annual REC requirement for a given year and the final REC requirement for individual competitive retailers:

(1) The total statewide REC requirement for each compliance period shall be calculated in terms of MWh and shall be equal to the renewable capacity target multiplied by 8,760 hours per year, multiplied by the appropriate capacity conversion factor set forth in subsection (j) of this section. The renewable energy capacity targets for the compliance period beginning January 1, of the year indicated shall be:

(A) 400 MW of new resources in 2002;

(B) 400 MW of new resources in 2003;

(C) 850 MW of new resources in 2004;

(D) 850 MW of new resources in 2005;

(E) 1,400 MW of new resources in 2006;

(F) 1,400 MW of new resources in 2007;

(G) 2,000 MW of new resources in 2008; and

(H) 2,000 MW of new resources in 2009 through 2019.

(2) The final REC requirement for an individual competitive retailer for a compliance period shall be calculated as follows:

(A) Each competitive retailer's preliminary REC requirement is determined by dividing its total retail energy sales in Texas by the total retail sales in Texas of all competitive retailers, and multiplying that percentage by the total statewide REC requirement for that compliance period.

(B) The adjusted REC requirement for each competitive retailer that is entitled to an offset is determined by reducing its preliminary REC requirement by the offsets to which it qualifies, as determined under subsection (i) of this section, with the maximum reduction equal to the competitive retailer's preliminary REC requirement. The total reductions for all competitive retailers is equal to the total usable offsets for that compliance period.

(C) Each competitive retailer's final REC requirement for a compliance period shall be increased to recapture the total usable offsets calculated under subparagraph (B) of this paragraph. The additional REC requirement shall be calculated by dividing the competitive retailer's adjusted REC requirement by the total adjusted REC requirement of all competitive retailers. This fraction shall be multiplied by the total usable offsets for that compliance period and this amount shall be added to the competitive retailer's adjusted REC requirement to produce the competitive retailer's final REC requirement for the compliance period.

(i) Nomination and calculation of REC offsets.

(1) A REP, municipally-owned utility, G&T cooperative, distribution cooperative, or an affiliate of a REP, municipally-owned utility, or distribution cooperative, may apply offsets to meet all or a portion of its renewable energy purchase requirement, as calculated in subsection (h) of this section, only if those offsets are nominated in a filing with the commission by June 1, 2001. A G&T may nominate the combined offsets for itself and its member distribution cooperatives upon the presentation of a resolution by its Board authorizing it to do so.

(2) The Commission shall verify any designations of REC offsets and notify the program administrator of its determination by December 31, 2001.

(3) REC offsets shall be equal to the average annual MWh output of an existing resource for the years 1991–2000 or the entire life of the existing resource, whichever is less.

(4) REC offsets qualify for use in a compliance period under subsection (h) of this section only to the extent that:

(A) The resource producing the REC offset has continuously since September 1, 1999 been owned by or its output has been committed under contract to a utility, municipally-owned utility, or cooperative nominating the resource under paragraph (1) of this subsection or, if the resource has been committed under a contract that expired after September 1, 1999 and before January 1, 2002, it is owned by or its output has been committed under contract to a utility, municipally-owned utility, or cooperative on January 1, 2002; and

(B) The facility producing the REC offsets is operated and producing energy during the compliance period in a manner consistent with historic practice.

(5) If the production from a facility producing the REC offset energy ceases for any reason, the competitive retailer may no longer claim the REC offset against its REC requirement.

(j) Calculation of capacity conversion factor. The capacity conversion factor used by the program administrator to allocate credits to competitive retailers shall be calculated as follows:

(1) The capacity conversion factor (CCF) shall be administratively set at 35% for 2002 and 2003, the first two compliance periods of the program

(2) During the fourth quarter of the second compliance year (2003), the CCF shall be readjusted to reflect actual generator performance data associated with all renewable resources in the trading program. The program administrator shall adjust the CCF every two years thereafter and shall:

(A) be based on all renewable energy resources in the trading program for which at least 12 months of performance data is available;

(B) represent a weighted average of generator performance;

(C) use all valid performance data that is available for each renewable resources; and

(D) ensure that the renewable capacity goals are attained.

(k) Production and transfer of REC's. The program administrator shall administer a trading program for renewable energy credits in accordance with the requirements of this subsection.

(1) A REC will be awarded to the owner of a renewable resource when a MWh is metered at that renewable resource. A generator producing 0.5 MWh or greater as its last unit generated should be awarded one REC on a quarterly basis. The program administrator shall record the amount of metered MWh and credit the REC account of the renewable resource that generated the energy on a quarterly basis.

(2) The transfer of RECs between parties shall be effective only when the transfer is recorded by the program administrator.

(3) The program administrator shall require that RECs be adequately identified prior to recording a transfer and shall issue an acknowledgement of the transaction to parties upon provision of adequate information. At a minimum, the following information shall be provided:

(A) identification of the parties;

(B) REC serial number, REC issue date, and the renewable resource that produced the REC;

(C) the number of RECs to be transferred; and

(D) the transaction date.

(4) A competitive retailer shall surrender RECs to the program administrator for retirement from the market in order to meet its REC allocation for a compliance period. The program administrator will document all REC retirements annually.

(5) On or after each April 1, the program administrator will retire RECs that have not been retired by competitive retailers and have reached the end of their three-year life.

(6) The program administrator may establish a procedure to ensure that the award, transfer, and retirement of credits are accurately recorded.

(l) Settlement process. Beginning in January 2003, the first quarter following the compliance period shall be the settlement period during which the following actions shall occur:

(1) By January 31, the program administrator will notify each competitive retailer of its total REC requirement for the previous compliance period as determined pursuant to subsection (h) of this section.

(2) By March 31, each competitive retailer must submit credits to the program administrator from its account equivalent to its REC requirement for the previous compliance period. If the competitive retailer has insufficient credits in its account to satisfy its obligation, and this shortfall exceeds the applicable deficit allowance as set forth in

subsection (m)(2) of this section, the competitive retailer is subject to the penalty provisions in subsection (o) of this section.

(m) Trading program compliance cycle.

(1) The first compliance period shall begin on January 1, 2002 and there will be 18 consecutive compliance periods. Early banking of RECs is permissible and may commence no earlier than July 1, 2001. The program's first settlement period shall take place during the first quarter of 2003.

(2) A competitive retailer may incur a deficit allowance equal to 5.0% of its REC requirement in 2002 and 2003 (the first two compliance periods of the program). This 5.0% deficit allowance shall not apply to entities that initiate customer choice after 2003. During the first settlement period, each competitive retailer will be subject to a penalty for any REC shortfall that is greater than 5.0% of its REC requirement under subsection (h) of this section. During the second settlement period, each competitive retailer will be subject to the penalty process for any REC shortfall greater than 5.0% of the second year REC allocation. All competitive retailers incurring a 5.0% deficit pursuant to this subsection must make up the amount of RECs associated with the deficit in the next compliance period.

(3) The issue date of RECs created by a renewable energy resource shall coincide with the beginning of the compliance year in which the credits are generated. All RECs shall have a life of three compliance periods, after which the program administrator will retire them from the trading program.

(4) Each REC that is not used in the year of its creation may be banked and is valid for the next two compliance years.

(5) A competitive retailer may meet its renewable energy requirements for a compliance period with RECs issued in or prior to that compliance period which have not been retired.

(n) Registration and certification of renewable energy facilities. The commission shall register and certify all renewable facilities that will produce either REC offsets or RECs for sale in the trading program. To be awarded RECs or REC offsets, a power generator must complete the registration process described in this subsection. The program administrator shall not award offsets or credits for energy produced by a power generator before it has been certified by the commission.

(1) The designated representative of the generating facility shall file an application with the commission on a form approved by the commission for each renewable energy generation facility. At a minimum, the application shall include the location, owner, technology, and rated capacity of the facility and shall demonstrate that the facility meets the resource eligibility criteria in subsection (e) of this section.

(2) No later than 30 days after the designated representative files the certification form with the commission, the commission shall inform both the program administrator and the designated representative whether the renewable facility has met the certification requirements. At that time, the commission shall either certify the renewable facility as eligible to receive either RECs or offsets, or describe an insufficiencies to be remedied. If the application is contested, the time for acting is extended by 30 days.

(3) Upon receiving notice of certification of new facilities, the program administrator shall create an REC account for the designated representative of the renewable resource.

(4) The commission may make on-site visits to any certified unit of a renewable energy resource and may decertify any unit if it is not in compliance with the provisions of this subsection.

(5) A decertified renewable generator may not be awarded RECs. However, any RECs awarded by the program administrator and transferred to a competitive retailer prior to the decertification remain valid.

(o) Penalties and enforcement. If by April 1 of the year following a compliance year it is determined that a competitive retailer with an allocated REC purchase requirement has insufficient credits to satisfy its allocation, the competitive retailer shall be subject to the administrative penalty provisions of PURA §15.023 as specified in this subsection.

(1) Except as provided in paragraph (4) of this subsection, a penalty will be assessed for that portion of the deficient credits.

(2) The penalty shall be the lesser of $50 per MWh or, upon presentation of suitable evidence of market value by the competitive retailer, 200% of the average market value of credits for that compliance period.

(3) There will be no obligation on the competitive retailer to purchase RECs for deficits, whether or not the deficit was within or was not within the competitive retailer's reasonable control, except as set forth in subsection (m)(2) of this section.

(4) In the event that the commission determines that events beyond the reasonable control of a competitive retailer prevented it from meeting its REC requirement there will be no penalty assessed.

(5) A party is responsible for conducting sufficient advance planning to acquire its allotment of RECs. Failure of the spot or short-term market to supply a party with the allocated number of RECs shall not constitute an event outside the competitive retailer's reasonable control. Events or circumstances that are outside of a party's reasonable control may include weather-related damage, mechanical failure, lack of transmission capacity or availability, strikes, lockouts, actions of a governmental authority that adversely effect the generation, transmission, or distribution of renewable energy from an eligible resource under contract to a purchaser.

(p) Renewable resources eligible for sale in the Texas wholesale and retail markets. Any energy produced by a renewable resource may be bought and sold in the Texas wholesale market or to retail customers in Texas and marketed as renewable energy if it is generated from a resource that meets the definition in subsection (c)(14) of this section.

(q) Periodic review. The commission shall periodically assess the effectiveness of the energy-based credits trading program in this section to maximize the energy output from the new capacity additions and ensure that the goal for renewable energy is achieved in the most economically-efficient manner. If the energy-based trading program is not effective, performance standards will be designed to ensure that the cumulative installed renewable capacity in Texas meets the requirements of PURA §39.904.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I want to finish. We have had these battles since I came to Congress in 1975. We recognized at that time we were so vulnerable with respect to our oil supplies that it was essential we put ourselves on a course that could make us much more independent. We have made very little progress in that time.

The PRESIDING OFFICER. Will the Senator suspend? The Chair inquires, did the Senator from Nevada relinquish the floor?

Mr. REID. I had not finished.

Mr. JEFFORDS. Fine, let me finish quickly.

Mr. REID. I am not finished, though. If I can proceed.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I will be very quick. I apologize.

Mr. President, the manager of this bill, Senator BINGAMAN, has noted that this amendment is opposed by numerous organizations, some of which are energy coalitions, not just environmental groups, although they join with us also in opposing this amendment:

> The Nickles amendment is the latest in a sustained attempt by power companies to undermine efforts to diversify America's energy supply with clean renewable energy.

It is wrong.

> The Nickles amendment would reduce diversity of technologies and states that benefit from the RPS.
>
> Under a lower price cap, only the very lowest-cost renewable energy technologies can benefit from an RPS—primarily wind power at the very best sites. Biomass, geothermal and solar would be at a significant disadvantage to meet the portfolio standard if these lower credits are adopted.

And that affects Western States. Not only would it be geothermal and solar, but, of course, wind. The wind blows a lot in the West. The Nickles amendment would reduce benefits to Western States with good resources about which I have spoken. The Nickles amendment would reduce the amount of renewable energy developed.

It is from all perspectives undermining what we are trying to accomplish in this legislation, which is develop renewable energy for this country and having not only incentives, but there would be a requirement to do it. Voluntarism simply has not worked.

Do not believe the industry's claim that this will cost too much money. The Bush administration's EIA found that a 10-percent RPS would save consumers money.

I hope my colleagues will reject this amendment. I hope this is the last weakening amendment to the RPS that is in this bill. The bill as it now stands is good, and I think we should vote like we have the previous three times and not let this amendment weaken the standards in this bill relating to renewables.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I have a few more comments. Logic should make this obvious. If you can provide energy that does not cost you any money—solar and wind, for example—is it not logical to put it in the mix? That is all we are saying. The Department of Energy agrees with us and says it will save money.

I understand those from the oil-producing States do not want this provision, but common sense tells us it is the best thing we can do. Therefore, I urge my colleagues to vote against the amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, for the information of my colleagues, we are going to vote on this amendment shortly. Staff should notify their Senators.

I wish to make a couple comments.

One, the Department of Energy supports this amendment. It does not oppose it.

Two, as to colleagues saying this amendment does not cost anything, they are not talking about the people who know something about the amendment. The Energy Information Administration talks about the cost to States in the millions and millions of dollars. The State of Florida shows about a $450 million increase.

For my colleagues' information, I have a letter from the Public Service Commission in the State of Florida. The letter says they support this amendment to lower the amount of the penalty from 3 cents to 1.5 cents, and that it would reduce the cost of the Federal mandate on the Florida ratepayers. I happen to think those people know something about this issue.

I have letters from utility companies. Some people say these are oil companies. I am talking about utility companies. This is not oil companies versus other companies. This is about an assault on ratepayers because we are getting ready to say you have to have 10 percent of your power from renewables. We did not change that. But if you do not make it—and I will tell my colleagues, it is not easy to make that.

There was an article in the Wall Street Journal about the city of Jacksonville. The city of Jacksonville has a renewable standard of 7.5 percent. They have tried a lot of alternative sources of power. Guess what. They are not there yet. I hope they get there, but they have found out that some of these alternative sources of power cost a lot of money, and the ratepayers are objecting.

Nantucket, a very pristine area a lot of us have enjoyed off the coast, wants to have renewables. They talked about having a wind farm. Wind farms are subsidized a lot through the Tax Code. There was an effort to build a wind farm off the coast, but there is a lot of objection from environmentalists because of what it would do to bird, migration and to the environment as well.

The point is, yes, there is a desire by many to go to renewables, but there is also a penalty. This bill has a very high penalty. It has a penalty twice as high as that proposed by the Clinton administration.

What Senator BREAUX, myself, Senator MILLER, and Senator VOINOVICH have offered is a compromise. It does not eliminate the renewable standard. It says let's reduce the penalty to the same number the Clinton administration proposed.

How much is the penalty? It is 1.5 cents a kilowatt hour. How much is that? The wholesale cost of electricity is 3 cents around the country. In some areas, it is as low as 2.2 cents, and in other areas it is closer to 4 cents. The nationwide wholesale cost of electricity is right around 3 cents.

The penalty under the Bingaman proposal in the underlying bill for not complying is 3 cents. That is a lot. That is 100 percent of the cost of electricity. We are telling people you have to pay that kind of penalty if you do not make the target. That is a heck of a gun at your head. As a matter of fact, the penalty is so high on some utilities that produce a lot of electricity—and, yes, maybe electricity is primarily produced by coal, oil, and gas—it is a heavy hit. It is not insignificant when the CEO of Southern Company estimates the cumulative cost of this mandate on Southern Company through the year 2000 will be from $3 billion to $6.5 billion. That is not insignificant.

For somebody to say they think it will not cost anything is absurd. Did the CEO of Southern Company put his name on this letter, and is he factually wrong? I do not think that is the case. It is the reason this amendment is supported by almost every utility in the country. It is the reason this amendment is supported by the Chamber of Commerce, the NFIB, and the National Association of Manufacturers. Somebody is going to have to pay the bill. Guess what. It is not the utilities that pay the bill. They are going to pass it on to their ratepayers.

If we do not adopt this amendment, there is going to be a significant hit on ratepayers. It is going to happen and people should know it. They should know we are voting on whether we are going to have electric rates go up significantly. This amendment tries to mitigate it. They are still going to go up because there is a penalty of 1.5 cents. That is about 50 percent of the wholesale price of electricity. That is still pretty significant. If we do 3 cents, it is 100 percent. That is a big hit, not to mention the fact in addition to the 3 cents, there is also already in the Tax Code—it has already been agreed upon—a 1.7-cent tax credit for renewables.

So we give a tax credit. That is great. But to have this heavy a mandate is a big hit on consumers. It is in the hundreds of millions of dollars in almost every State, including States in the Northeast.

I am going to correct my colleague on the Texas renewable standard. I have the greatest respect for my colleague from Nevada. I love him like a brother. The Texas renewable standard—and maybe we should have the Senator from Texas present because he argued this before in this Chamber, and he said the underlying bill—to paraphrase Senator GRAMM of Texas—is so far from being the Texas renewable standard it is remarkable. What we have in Texas is capacity, not energy-produced, and what we have in Texas is equal to a 2-percent standard, not a 10-percent standard. There is a big difference.

I believe I understood the Senator from Nevada to say there was a 15-percent renewable. My guess is that includes hydro. The underlying bill does not include hydro. Hydro is pretty clean power. We have Hoover Dam. That is pretty clean power. It generates a lot of electricity. It is water. It is great power. It is cheap. It is very good power. It is not included as renewable under the definition of the underlying bill.

So I urge my colleagues to support this amendment.

I am going to insert in the RECORD several statements. I want to insert a letter from the American Corn Growers Association, very big advocates of renewable sources, but they are also supportive of this amendment because they believe this is a proper mix. They also know that their ratepayers, their users, the ones who grow corn, buy a lot of electricity, think this is the proper blend. They want renewable sources.

I will read a part of this letter.

> ACGA also supports a fair and equitable renewable portfolio standard requiring a portion of the Nation's energy to come from renewable sources. However, while we want to do everything we can to promote renewable production by farmers we must oppose undue mandates that will impose additional fuel costs on all rural consumers.
>
> Senator Nickles' amendment will significantly reduce the cost of complying with the standard, and in turn protect rural America from excessive price increases for electricity, by cutting the energy credits from 3 cents per kilowatt-hour to 1.5 cents per kilowatt-hour.

I also wanted to mention a company called Mid-America Energy Company. This is a company that is based in Omaha, NE. They have analyzed this proposal and developed estimates on increased costs that will result from its enactment of RPS.

> According to our preliminary calculations, implementing RPS in S. 517 will begin increasing electricity costs for Mid-America's regulated and competitive customers in 2007 by 600,000, with costs rising to more than $40 million in the year 2019.

This is in rural America. This is in Middle America. This is in the corn-growing areas. This is one of the largest utilities in the area that said this is going to be a big hit that they are going to pass on to their consumers.

I am surprised there is any opposition to this amendment because this amendment does not eliminate the RPS standard, it does not eliminate the 10-percent standard; all it does is say, let us reduce the penalty to 1.5 cents per kilowatt hour. It is the same proposal the Clinton administration supported.

I do not say things lightly on this floor. I want to be as accurate as possible, and if I am ever inaccurate, I want to be corrected, and I will stand corrected. This amendment will save billions of dollars. I had one letter from one company, Southern Company, that said it was billions of dollars of expense to them and their customers. That is a

few States. I cannot say that is one State. It is a few States. It is a big utility. In my State, for one company, it is something like $60 million. They showed it each year: Here is the production. Here is their cost of compliance. And it increases substantially. By the last year, it is something like $60 million.

Senator KYL alluded to the fact that in my entire State it is over $100 million. The State of Vermont, I believe he said, was $7 million.

This also came from the Energy Information Agency. So maybe people are able to distort figures and say it does not cost anything. It does cost something. One cannot say that companies are going to have to pay 3 cents per kilowatt hour if they do not meet a target and say it does not cost anything. There are significant costs, and ratepayers will pay for it. I do not think the utilities pay for it, I think the ratepayers pay for it, and I think it is time we stand up for ratepayers.

So I urge my colleagues to support the amendment I have offered with Senator BREAUX, Senator MILLER, and Senator VOINOVICH.

I yield the floor.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I will make a few more comments and then move to table the amendment. I think we have had a lot of debate. Everyone knows the issues. I think it is clear this is the fourth amendment we have dealt with on the Senate floor in an attempt to undermine the renewable portfolio standard we have in the bill. There are a lot of figures that have been cited, many of which have no basis in fact, as far as I can tell.

One of the statements we heard was that this was going to cost—if we go ahead and keep the bill as it is currently—the ratepayers of California $243 million a year, or some such figure. The reality is, in our bill we are saying by the year 2005 each State will generate 1 percent of the power they sell—each utility will generate 1 percent of the power they sell from renewable sources.

In California, 12.19 percent of the power sold today is from renewable sources.

Mr. NICKLES. Will the Senator yield?

Mr. BINGAMAN. Yes.

Mr. NICKLES. Does that 12 percent include hydro?

Mr. BINGAMAN. Yes, it includes the hydro that is given credit for in this bill.

Mr. NICKLES. I did not think hydro was included in this bill.

Mr. BINGAMAN. No, hydro is included in this bill, to an extent, and this includes the hydro that is given credit for.

Mr. NICKLES. If the Senator will yield further, existing hydro is not included in the bill. Only incremental new hydro is included in the bill, and I do not know how the Senator can count that for existing percentages.

Mr. BINGAMAN. As I understand it, the existing hydro is deducted from the base before the calculation is made. So to that extent, existing hydro is included in the bill.

Mr. NICKLES. I know the Senator is going to move to table this amendment, and I think that is fine. I think we are ready to vote. The Senator has mentioned this is the fourth amendment we have dealt with in regard to renewables. One of the reasons I think we have had a few amendments dealing with this is that it costs so much money, and we have never had a hearing, and we never had a markup.

I happen to be a member of the Energy Committee. I would have loved to have participated in a hearing and a markup on this section. I would love to hear from experts on both sides of this aisle how much this amendment would really cost, but we were denied that opportunity. So it is one of the reasons we have to legislate on the floor of the Senate, because we did not have the opportunity to do it in committee.

Mr. BINGAMAN. Reclaiming my time, my colleague has had ample opportunity to argue his side of the case today and several weeks ago. We know his view on it. He is not in favor of the renewable portfolio standard. This amendment would undermine the renewable portfolio standard we have in the bill because what it would do is make it much less likely that renewables, other than wind, to be very specific, would be used to any significant degree. So those States that depend upon biomass as a renewable, those States that depend upon biothermal as a renewable, those States that depend upon solar power as a renewable might find it more difficult.

We do not think the amendment makes sense. We think it will undermine the renewable portfolio standard. On that basis, I urge my colleagues——

Mr. NICKLES. Before the Senator moves to table——

Mr. BINGAMAN. On that basis, I urge my colleagues to—if the Senator wants further debate, I am not trying to cut off debate, but he has concluded his debate, as I understand it.

Mr. NICKLES. Will the Senator yield?

Mr. BINGAMAN. I will yield for one additional question, if it is a question.

Mr. NICKLES. I want to insert something into the RECORD.

Mr. BINGAMAN. If he wants to insert something into the RECORD, I am glad to have him do that.

Mr. NICKLES. I appreciate my colleague yielding for this request. I know he wants to move to table.

Earlier, I was looking for a letter I could not find. This is a letter from the Northeast Utilities. I ask unanimous consent that this letter be printed in the RECORD.

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

I recognize that many of the Senators from New England supported the federal RPS portfolio. While NU believes that renewable programs should be developed on the state level, we support the further development of renewable sources of energy. We are concerned, however, that our consumers in New England will be penalized by the program included in the Senate bill. As you know, the RPS provision in the bill applies only to shareholder-owned utilities that sell more than 1 million megawatt-hours per year at the retail level. Federal agencies, state and municipal utilities and electric cooperatives are exempt from meeting the RPS requirements currently included in the bill. It also appears that self-generators are exempt.

Given these exemptions, PSNH will be the only utility in New Hampshire that would be required to participate in the program. It creates a very uneven field for us and will cost our customers an estimated $22 million a year. This provision goes directly against the intent of current NH law which encourages PSNH and other energy companies to find ways to mitigate the high cost of purchases from renewable sources.

Also, the federal penalty that is set forward in the bill for not submitting the required number of credits will hit consumers in Connecticut and Massachusetts with a ''double whammy,'' as they already have to pay penalties if they do not achieve the levels set forth in the state programs that are already in existence. It would in essence, penalize Connecticut and Massachusetts for having state programs.

Though it would be our preference to see these provisions changed dramatically in conference, the Senate will likely have the opportunity to vote for an amendment by Senator Nickles that reduces the penalty in the bill from 3 cents to a more reasonable 1.5 cents. Remember, the goal is not only to increase the number of renewable sources, but to also to lower costs to consumers. Please support the Nickles RPS amendment.

MIKE MORRIS

Mr. NICKLES. The key point of this letter says:

PSNH will be the only utility in New Hampshire that would be required to participate in the program. It creates a very uneven field for us and will cost our consumers an estimated $22 million a year.

It talks about the impact on the northeastern part of the country, including New Hampshire, Vermont, Massachusetts, and Connecticut.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 3256. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. DASCHLE) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

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

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

The result was announced—yeas 38, nays 59, as follows:

[Rollcall Vote No. 83 Leg.]

YEAS—38

Baucus	Dorgan	Mikulski
Biden	Durbin	Murray
Bingaman	Edwards	Nelson (NE)
Boxer	Feingold	Reed
Cantwell	Harkin	Reid
Carnahan	Inouye	Rockefeller
Carper	Jeffords	Sarbanes
Chafee	Kennedy	Snowe
Clinton	Kerry	Stabenow
Collins	Kohl	Torricelli
Conrad	Leahy	Wellstone
Dayton	Levin	Wyden
Dodd	Lieberman	

NAYS—59

Akaka	Enzi	McConnell
Allard	Feinstein	Miller
Allen	Fitzgerald	Murkowski
Bayh	Frist	Nelson (FL)
Bennett	Graham	Nickles
Bond	Gramm	Roberts
Breaux	Grassley	Santorum
Brownback	Gregg	Schumer
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Byrd	Hollings	Smith (NH)
Campbell	Hutchinson	Smith (OR)
Cleland	Hutchison	Specter
Cochran	Inhofe	Stevens
Corzine	Kyl	Thomas
Craig	Landrieu	Thompson
Crapo	Lincoln	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Ensign	McCain	

NOT VOTING—3

Daschle	Helms	Johnson

The motion was rejected.

Mr. NICKLES. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

Without objection, the amendment is agreed to.

The amendment (No. 3256) was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 3274 TO AMENDMENT NO. 2917

Ms. LANDRIEU. Madam President, I call up amendment No. 3274, the participant funding amendment, for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside, and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 3274.

Ms. LANDRIEU. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To increase the transfer capability of electric energy transmission systems through participant-funded investment)

At the appropriate place, insert the following:

SEC. . TRANSMISSION EXPANSION.

Section 205 of the Federal Power Act is amended by inserting after subsection (h) the following:

''(i) RULEMAKING.—Within six months of Enactment of this Act, the Commission shall issue final rules governing the pricing of transmission services.

''(1) TRANSMISSION PRICING PRINCIPLES.—Rules for transmission pricing issued by the Commission under this subsection shall adhere to the following principles:

''(A) transmission pricing must provide accurate and proper price signals for the efficient and reliable use and expansion of the transmission system; and

''(B) new transmission facilities should be funded by those parties who benefit from such facilities.

''(2) FUNDING OF CERTAIN FACILITIES.—The rules established pursuant to this subsection shall, among other things, provide that, upon request of a regional transmission organization or other Commission-approved transmission organization, certain new transmission facilities that increase the transfer capability of the transmission system may be Participant Funded. In such rules, the Commission shall also provide guidance as to what types of facilities may be participant funded.

''(3) PARTICIPANT-FUNDING.—The term 'participant-funding' means an investment in the transmission system controlled by a RTO, made after the date that the RTO or other transmission organization is approved by the Commission, that—

''(A) increases the transfer capability of the transmission system; and

''(B) is funded by the entities that, in return for payment, receives the tradable transmission rights created by the investment.

''(4) TRADABLE TRANSMISSION RIGHT.—The term 'tradable transmission right' means the right of the holder of such right to avoid payment of, or have rebated, transmission congestion charges on the transmission system of a regional transmission organization, the right to use a specified capacity of such transmission without payment of transmission congestion charges, or other rights as determined by the Commission.''.

Ms. LANDRIEU. Madam President, I see my colleague, Senator DURBIN, in the Chamber. I would not mind yielding 1 minute necessary for him to just lay down an amendment, if that would be in order.

The PRESIDING OFFICER. Is there objection?

The Senator from New Mexico.

Mr. BINGAMAN. Madam President, what is the request?

Ms. LANDRIEU. I say to the Senator, I was recognized to offer an amendment. The amendment has been called up. We are on amendment No. 3274, which we discussed and is in order. But Senator DURBIN has asked to lay down an amendment that will take 1 minute, and then we will go back to this amendment, if that would be OK with you and the Senator from Alaska.

Mr. BINGAMAN. I thank the Senator from Louisiana. I have no objection.

The PRESIDING OFFICER. Is there objection?

The Senator from Alaska.

Mr. MURKOWSKI. Reserving the right to object—and I may not object—my concern is we have six pending amendments, I am told. I would like to try to work through the amendments. I am sure the manager of the bill feels the same way. I did not hear the request.

Ms. LANDRIEU. It is 2 minutes to Senator DURBIN, and then I will get right on with my amendment, and we will move through with others who are waiting.

Mr. MURKOWSKI. Madam President, I yield the floor.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I did not hear the unanimous consent request. I am standing here, and I have an amendment that I have been wanting to offer. I would like to know what the unanimous consent request is, if the Chair could so inform me.

The PRESIDING OFFICER. The Senator from Louisiana sought consent that she might yield for 2 minutes to the Senator from Illinois in order to allow the Senator to offer an amendment.

Mr. DURBIN. If the Senator from Iowa will yield.

Mr. HARKIN. I will yield to get a clarification.

Mr. DURBIN. I am asking for 2 minutes to call up an amendment and lay it aside—no speeches, no debate, no vote.

The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Reserving the right to object, Senator FITZGERALD has been waiting quite a while. I am sure he would certainly be willing to accommodate the two Senators with 2 minutes each, but I would propose that we go back and forth, if the Senator from Iowa has an amendment.

I remind all Members, we have a limited amount of time. So as we begin to accept amendments, without disposing of them, we are going to run into a time constraint.

I yield the floor.

Mr. REID. Reserving the right to object, I say to my friend from Alaska, we now have pending, 1, 2, 3, 4, 5, 6, 7 amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Illinois.

Mr. DURBIN. Madam President, I thank the Senator from Louisiana—and this goes to prove that the Good Samaritan never goes unpunished—for yielding 2 minutes.

AMENDMENT NO. 3342 TO AMENDMENT NO. 2917

Madam President, I ask unanimous consent that the pending business be set aside so that I can call up amendment No. 3342.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 3342.

Mr. DURBIN. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike the nonbusiness use limitation with respect to the credit for the installation of certain small wind energy systems)

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

Mr. DURBIN. Madam President, I am grateful that I have had the chance to work with Senators BAUCUS and GRASSLEY to provide a small tax incentive for installation of small wind systems in America's farms, ranches, and other places in rural areas that have wind potential. Specifically, my amendment would give wind power—a limitless and clean energy source—a level playing field with solar, geothermal energy, which are in current law, and fuel cell energy, which is included in the underlying tax title. All of these renewable energies are eligible for a 10 percent business investment credit under section 48 of the tax code. And I think we should give people who wish to tap into wind energy the same credit. With my amendment, farmers, ranchers and other business owners who wish to install a small wind energy system up to 75 kilowatts can do so, and get a credit on their tax return worth 10 percent of the cost of installing the wind system. I applaud the work of Senators BAUCUS and GRASSLEY, as well as the rest of the Finance Committee, which put together a package of energy tax incentives. I am hopeful that the small wind system amendment that I have filed will be accepted as part of the tax incentive package. I know Senators BAUCUS and GRASSLEY are working diligently to make this happen in the near future.

However, in the event that the Finance Committee and bill managers do not succeed in working something out on this provision, I am calling up this amendment so that it may be considered by the Senate at the appropriate time. This amendment makes small changes to the underlying tax title, so that farmers, ranchers, and small business owners will be eligible for a tax incentive when they choose to install a wind energy system on their property. This amendment would have an effect similar to adding wind to section 48 of the tax code, where solar, geothermal, and now fuel cell energy already receive a business investment credit.

Madam President, I ask unanimous consent that the amendment be laid aside.

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

Mr. DURBIN. Madam President, I yield to the Senator from Louisiana with gratitude.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 3274

Ms. LANDRIEU. Madam President, I am now prepared, after that slight detour, to get back on amendment No. 3274, which is a very important amendment. Many of us have worked on this amendment now for many weeks in an attempt to try to find and establish a fairer way to fund the new transmission lines that are necessary to move electricity from one part of this country to another, to meet the growing demand of our transmission grid system.

Let me begin by sharing a chart that I have used several times in this Chamber to show what the problem is and to ask the Senate to consider, very strongly, this proposed solution to our current dilemma.

We have a great dilemma on our hands. We have, some people might describe, a crisis on our hands. We have a system that we are moving to, a deregulated, more market-based system, which I believe ultimately, with the right safeguards, will be very good for all of us, for all of our States. Most importantly, our constituents and our businesses, both large and small—our consumers, our retailers—all of us will benefit from this new efficient system. Why? Because costs will be lowered, efficiencies will be increased. And we can make sure that when people go to turn their light switch on, the light will actually come on.

It is very important. Part of the problem is that we are not producing enough energy or electricity in our own country. Part of the problem is we are not doing our part at conserving what we should. So there is a mismatch between what we need and what we are producing.

But also, even if we got that balance right, which I hope we are going to try to do through this bill, the problem is, because we are producing electricity in some parts of the country and using it in others, some parts of the country produce more than they use, and some parts of the country do not produce as much as they need, we have to move it.

As you can see from this chart I have in the Chamber, the demand for electricity, represented by this blue line, has been increasing substantially. But the investment in building these transmission lines has been decreasing. So this gap right here is a real problem.

It has to be closed or even if we would drill the way the Senator from Alaska and I would hope we would drill, and produce more oil and gas and other fuels for electricity, and invest in more nuclear power, we still need to have more transmission lines built. The reason we are not is because there is a flaw in the system where the incentives are not in the right place.

My amendment, in short, will create a participant funding mechanism so that the Federal Energy Regulatory Commission can issue rules governing the pricing of these transmission services. I am reminded of a quote I have become familiar with and actually like that says: All some folks want is their fair share, and yours.

The problem is, we have to create a system that is very fair and smart so that we put the incentives in the right places, and when the cost allocations to build these transmission lines are set by FERC, that they are set in a way that whomever is using them, pays for them. If we don't do that, there will be no incentive to build them because people who don't need them won't build them. The people who need them won't get charged for them, and they won't get built. And blackouts and brownouts will become more of the rule as opposed to the exception.

This amendment will provide a platform for true fairness in electricity pricing, paving the way for much needed transmission expansion at the national level. Over the past 10 years, as I have shown, peak demand growth for electricity has increased by 17 percent, while transmission investment has declined by 45 percent. What is even more troubling is that current demand for electricity is projected to increase by 25 percent over the next 10 years with only a modest increase in transmission capacity. Again, if we don't do something, we are going to continue to have a situation where power does not reach the people who need it.

The current transmission pricing mechanism at wholesale levels still employs an old, what I would call, socialized rate method of pricing. Its effect is to continuously increase the rates for local customers, even though most of the beneficiaries may be outside of the region.

This antiquated pricing method has dampened the push to enhance capacity in energy-producing States such as Louisiana and others—and this is not just a Louisiana-specific amendment; it affects us all in many States—as State regulators are reluctant, understandably so, to pass excessive transmission costs off to local customers when the beneficiaries will primarily be out-of-State or out-of-region customers.

Meanwhile, energy-dependent regions—and there are some regions that are more dependent than others—are denied cheap and reliable electricity.

Electricity price spikes in the Midwest in the summer of 1998 were caused in part by transmission constraints, limiting the ability of the region to import electricity from other regions of the country. You may remember during the summer of 2000, our dilapidated transmission infrastructure limited the ability to sell low-cost power from the Midwest to the South during a period of peak demand, resulting in higher prices. I could go on and on with examples.

In California, path 15 is a notorious transmission bottleneck. The east coast has also suffered. So no region of the country has been spared.

Surely there must be a fairer and smarter way to allocate costs which would stimulate growth instead of having this decline. It is not fair to expect customers in energy-generating States such as Louisiana to pay for transmission expansion when it is primarily being developed for out-of-State use.

In addition, the lack of transmission capacity under this archaic pricing method continues to deny customers in energy-importing States the benefit of cheaper electricity from other regions of the country. The best policy for efficient, competitive wholesale pricing is therefore participant-funded expansion. In this system, market participants fund expansions to the transmission network in return for transmission rights created by that investment. This approach gives proper economic incentives for new generator location and transmission expansion decisions.

The participant funding concept is not new. This is not something we have dreamed up in the last few weeks. It is not something with which the industry itself is not familiar. It has been a concept that has been successfully implemented in the natural gas industry through incremental pricing.

As a result of incremental pricing in the natural gas industry, proposed annual additions in 2002 to natural gas pipeline capacity have increased by 100 percent relative to 1999. In other words, we are in the process in this energy bill of building national systems to move fuel and energy and power from States that produce it to States that need it. Just as we built an interstate highway system, we are building an interstate natural gas pipeline system. We also have to build an interstate electric grid system. And we are moving from something that was very regulated and very parochial and very State oriented to one that regional and national.

We have to create that grid. If we do not put this in place, the incentives simply will not be there, and much of our work will be for naught.

It is important to note this amendment provides FERC with the option. There are many people who think this amendment is a mandate. It is an option to permit participant funding for certain new transmission facilities upon request of RTOs or other FERC-approved transmission organizations. The amendment does not make participant funding mandatory. It is simply a pricing option for FERC.

Initially, I knew there were many different opinions about this amendment. We tried to build a consensus. But unfortunately, there is a lot of self-interest and parochialism in this debate. We have struggled to overcome it.

Electricity policymaking should not be governed by what is popular, but what is necessary. There is not unanimous consensus in Louisiana for this amendment. It is not going to win me a popularity contest. But I know there has to be a better system of pricing for electric transmission so that we can move power from one part of the country to the other and get everybody what they need when they need it at a fair and reasonable price. The growth of our economy depends on it. Jobs depend on it. Businesses depend on it. This is what we should do.

I realize this amendment has unfortunately been the subject of a pretty strong campaign of disinformation. I hope what I have shared and shown, in as simple a way as I can, helps to clear up the fact that it is not a mandate. The current path has us going in the wrong direction. We have to come up with something new, something that is flexible, something that is fair, something that will work. I hope most certainly that we can get past the inertia.

Therefore, I have consulted with Senator BINGAMAN of New Mexico and the Senator from Alaska. I have proposed, instead of calling for a vote at this particular time, that the Energy Committee take up further study of transmission pricing; that the committee would hold a hearing in a short period of time with the Commissioners of the Federal Energy Regulatory Commission, as well as industry leaders.

I believe this issue has significant merit, and it is the right approach to solving a real and serious problem for our Nation.

We need to build a stronger, more reliable transmission grid. So I want to, at this time, ask Senator BINGAMAN for his comments and thank him for his cooperation. We must push forward with a good system.

He has indicated that he would be amenable to a hearing, et cetera. At this time, I ask him if that is his understanding.

Mr. BINGAMAN. Madam President, in response, let me say, first, I compliment the Senator from Louisiana for raising this very important issue. It is an important issue and also a very complicated issue. It is one that we have had the chance to talk about to some extent. But, clearly, we do need, in the Energy Committee, to look at this issue and allow witnesses to come in and explain it in more depth. Before we take action, that would be my preference.

So I would be glad to commit that we will schedule a hearing later on, once we get back to some kind of opportunity to have hearings in the Energy Committee on issues such as this. I would be anxious to have a hearing and hear from the witnesses that the Senator from Louisiana believes are most informed on this issue.

I do think it is premature—at least for me, and perhaps for many Senators—to be making a judgment on what to do at this point. But it is an important issue.

Again, I commend the Senator from Louisiana for raising it, and I hope, following a hearing in the committee, we will be in a much better position to craft legislation to deal with it or determine what is the proper course.

Ms. LANDRIEU. I thank the Senator for his willingness to work with me and with the coalition of Senators—both Democrats and Republicans—and believe this is the right step to take to create the kind of transmission grid necessary. I look forward to working with him at that hearing to focus more attention on this important subject.

Madam President, at this time, after submitting more material for the RECORD, I would like to ask unanimous consent that amendment No. 3274 be laid aside.

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

The Senator from Illinois is recognized.

Mr. FITZGERALD. Madam President, I ask for the yeas and nays on my amendment, No. 3124.

The PRESIDING OFFICER. The amendment must be pending to make that request.

AMENDMENT NO. 3124

Mr. FITZGERALD. Madam President, I call up amendment No. 3124.

If I may have a couple of moments, then I will proceed to put the question to the body.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FITZGERALD. Madam President, my amendment removes subsidies and incentives currently in the pending bill for garbage incinerators.

Many of my colleagues may not realize it, but built into this energy bill is the promotion of more waste incineration around the country by defining waste incinerators as a form of renewable energy.

Waste incineration is not a form of renewable energy. It is not really renewable, and it certainly isn't clean and environmentally friendly in the way of wind or solar power energy. The Daschle substitute, which is now pending, defines garbage incineration as renewable energy. Garbage incineration is, therefore, eligible for all the incentives—or what amounts to subsidies, I would say—as though it were a clean and renewable source of energy.

My amendment removes the subsidies and incentives for garbage incineration by excluding solid waste incineration from the bill's definition of renewable energy. I tell my colleagues that it would be, in my judgment, a very serious mistake to allow the bill to leave this Chamber with an incentive for waste incinerators all over the country.

Back in the 1980s, the Illinois Legislature passed an incentive for waste incineration, and within a matter of a few years waste incinerators were planned for all parts of Illinois. A couple of them, in fact, were built. They were spewing harmful, toxic pollutants, and people were up in arms and demanded that the legislature of Illinois repeal the incentives and subsidies they had for waste incinerators.

We do not want to make the same mistake nationwide that my State made at one time. Let's learn from their mistake and let's also stick with common sense. We don't need subsidies and incentives for waste incinerators. We don't want to subsidize the pollution of the United States of America.

With that, I see my good friend and colleague from New Jersey who should be recognized.

I yield the floor.

(Mr. DAYTON assumed the Chair.)

Mr. REID. Mr. President, he has no right to do that. Mr. President, I have no problem with the Senator from New Jersey speaking, but today we have been doing too much yielding and that is not appropriate, unless you have a question or something like that.

I have spoken to the Senator from Florida, Mr. GRAHAM. He wishes to speak in opposition to my friend from Illinois for about 15 minutes. It is my understanding that the Senator from New Jersey is speaking in favor of the amendment of the Senator from Illinois. I ask the Senator from New Jersey how long he wishes to speak.

Mr. CORZINE. Roughly a minute.

Mr. REID. Mr. President, the Senator from New Jersey wishes to speak for up to 5 minutes and the Senator from Florida for up to 15 minutes. So I ask that we vote on this matter at 6:25. I ask that at that time Senator BINGAMAN be recognized to offer a motion to table, with no second-degree amendments in order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. CORZINE. Mr. President, I rise to strongly support this amendment that would recognize what I think is a very commonsense principle—that solid waste is not considered a renewable in the way that we are intending with regard to this legislation.

It seems to me that when we are putting dioxins, mercury, lead, and arsenic into the air, somehow or another we should not be using that as a basis for alternative energy sources—at least in my commonsense interpretation. We were trying to get solar and wind—things that are clean alternatives—to produce energy as substitutes for fossil fuels and other focuses on production of energy.

So it seems to me that we are taking a step backward in dealing with our environment at the same time we are defining biomass or alternative energies as garbage. Certainly, in our State, where air quality issues are an extraordinary concern to the public, we have a number of these incinerators, about which the public has great protest.

I believe this amendment is conforming to what the intent, at least, of how I have felt about alternative energy sources, and I wholly support pulling back this incentive and subsidization for garbage as an alternative energy source.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I rise today in opposition to the amendment that has been offered by the Senator from Illinois. The fact that the two proponents have used their own States and their experience as the reasons for their opposition makes my point. My point is this is not an issue where one size fits all. It is not an issue where we can require uniformity of treatment across the entire mass of the United States of America. I will try to explain, using illustrations from my own State, why I think that is inappropriate policy.

What this amendment would do is exclude the small amount of municipal solid waste to energy which is part of the current renewable portfolio standard. Over my objection, this bill does not allow new waste-to-energy incineration to count as renewable. We are only talking about whether you can include in the base amount for your State that which is already in place.

A few weeks ago, in a statement I submitted for the RECORD, I pointed out how difficult it is going to be for many States to reach the 10-percent standard which this bill requires by the year 2020. I will add to that statement that I gave previously by saying Senator FITZGERALD's amendment makes the current renewable standard even more inequitable and more unfair in its treatment of particular States.

The ability of the investor-owned electrical generators, which is the only class covered by this renewable portfolio, within a particular State to be able to meet the 10-percent standard by the year 2020 is substantially affected by conditions over which those same investor-owned electrical generators have no control.

As an example, they have no control over the availability of renewables within their State. They have no control over the environmental characteristics that are peculiar to their State. They have no control over the growth patterns. If a State is stagnant or declining in its population, it is going to be a lot easier to meet these standards than if a State is required to add substantially to its generation capacity in order to meet demographic or economic growth.

Let me use my own State of Florida as an example of some of those peculiarities.

Florida, as many other States, particularly in the southeastern region, does not have conditions which are appropriate for hydropower. We are a flat State. We do not have any high, elevated water sources that can fall over and generate hydropower. Surprisingly, we are not a State which is very adaptable to wind power. We do not have winds that are reliable enough or sustainable enough to make wind power a commercially adaptable renewable source. In fact, the largest investor-owned utility in America for wind power is Florida Power and Light Company.

Florida Power and Light Company is the largest wind power electrical utility in the Nation. It produces zero wind power in the State that bears its name, not because they are not interested in wind power, not that they have not had a lot of technical experience, it just does not work in the environmental conditions of Florida.

Solar, which some think would be the silver bullet for renewables in Florida—I had a solar panel in my house when I was a boy, and that was a few years ago. Sixty years later, it still has not developed into a reliable source of energy at anywhere near economic cost.

These factors are going to make it difficult for my State and others to meet the 10-percent renewable standard as currently included in the bill.

In addition, 87 percent of what in the base is defined as renewable energy in Florida comes from waste to energy. Florida is in the course of building its 14th waste-to-energy plant, making it second only to New York State in the number of these plants.

In my judgment, waste to energy is undoubtedly a renewable source of energy. Our cities and towns will continue to produce solid waste that must be disposed of in some manner. Waste to energy is a viable means of dealing with the problem of disposal.

In my State, over 80 percent of our water supply is subsurface. It is in large aquifers that are just a few feet below the surface. That is the nature of our geology. One of the reasons that incineration has become such a popular alternative is not that people love to have incinerators or are not cognizant of the fact there are some negative implications, but the alternative of putting on top of our water supply mass amounts of solid waste is intolerable. So we have been moving away from that and towards incineration as a means of disposing of our pollution.

I would describe myself as an environmentalist but an environmentalist who looks at what the reality is of the options before me. In my State, the options are we bury it or we burn it. I think the case is unquestionable that it is environmentally less offensive to burn it than it is to bury it right over your water supply.

This method has the added benefit of being able to generate not a great part but approximately 1.6 percent of our electrical supply.

I thought one of the purposes of this was to displace fossil fuels, and that is 1.6 percent of energy which, but for incineration, would have been produced through fossil fuel. It is 1.6 percent of energy that, if it were not being produced through incineration, would be lost and would be in a large landfill posing a continuous threat to our water supply.

I believe in the principle of some flexibility in this law. I had a colloquy with the chairman of the committee a few days ago urging that when this got into conference committee, one of the areas that would be looked at would be how to take the differences that exist from State to State, region to region within our country into greater control, greater consideration in arriving at what is an appropriate renewable energy inventory.

Also, our experience in terms of incineration has not been as dire as that of Illinois and New Jersey apparently. Our facilities are relatively new, as

witnessed by the fact we have our 14th currently under construction. They use the maximum achievable control technology, including scrubbers, bag houses, selective noncatalytic reduction, and carbon injection. All of these are designed to reduce the amount of emissions, including the reduction of greenhouse gases.

Emission data that has been circulated recently, in my judgment, is grossly out of date in terms of what modern waste to energy and efficient sources of biomass have been doing in reducing pollution while contributing substantially to alternatives to fossil fuels for energy.

This is not just a Florida-specific issue. In 1993, the Los Angeles District Sanitation Department concluded that the waste-to-energy facility in Commerce, CA, created less pollution than the trucks used to haul the trash to a nearby landfill without regard to the environmental damage once it gets in the ground in the landfill.

According to EPA calculations, if half of the trash produced annually in the United States were used to generate electricity, 1.4 billion fewer pounds of pollutants would be discharged into the atmosphere compared to the energy generation through coal or oil burning.

Waste-to-energy has also been historically treated as a biomass, at least as far back as the FERC rules of 1978.

I ask unanimous consent to have printed in the RECORD the number of States which today have defined for their own State law that waste-to-energy is a renewable energy source.

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

STATE RENEWABLE PORTFOLIO STANDARDS

Currently many states have established renewable portfolio standards, either through state statute, executive orders or public utility commission regulations. Of those states eleven define waste-to-energy as a renewable energy source. They are: Maine, Connecticut, New Jersey, Massachusetts, Wisconsin, Iowa, Nevada, Pennsylvania, Hawaii, and Maryland.

Many other sates define waste-to-energy as a renewable energy source for inclusion in other state incentive programs. They are California, Florida, Michigan, Montana, New Hampshire, Ohio, Washington, Oregon, Oklahoma, Utah and New York.

Mr. GRAHAM. For these reasons—primarily the fact that we need to be pragmatic—we need to recognize that different States have different conditions; that the options for disposal of solid waste in many instances, as in the case of Florida, are limited; and of those options, incineration represents one that is relatively environmentally appropriate and is one of the best sources that is available to us to begin to meet this 10-percent standard of a renewable portfolio.

I urge the defeat of the Fitzgerald amendment, or the adoption of the motion that I anticipate is about to be made to table the Fitzgerald amendment.

Mr. LEVIN. Mr. President, I will vote in favor of the Fitzgerald amendment because the underlying language in the bill would allow even an incinerator that is out of compliance with federal emissions regulations to qualify as a ''renewable energy source.'' A facility which is not in compliance with the applicable state and federal pollution prevention control and permit requirements for any period of time should not be considered an eligible facility for purposes of the renewable portfolio standard.

It is my understanding that this distinction was utilized when it came to the tax incentives in this bill and it should be utilized in this area as well.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. FITZGERALD. I ask unanimous consent for an additional minute to reply to the distinguished Senator from Florida.

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

The Senator from Illinois.

Mr. FITZGERALD. I emphasize this amendment would in no way impair States that incinerate their waste from continuing to do so. In fact, Illinois has waste incineration. What we are saying with this amendment is we should not be promoting, with Federal incentives or subsidies, waste incineration. It is not a renewable form of energy. It is not a clean form of energy. In fact, it spews terrible, harmful pollutants such as dioxins and mercury into the air. The ash produced by waste incineration is very environmentally harmful.

This amendment simply says we will not have a Federal program to promote waste incineration, and no State would be prevented from continuing to burn garbage. We would not be promoting it with a Federal policy.

I thank my colleagues for their time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, in reference to the amendment, the underlying bill does not, as I read it, provide any subsidy or incentive for use of municipal solid waste. We do say utilities that now generate waste from that source can deduct that from the base they begin with, but we do not give them credit for that generation, and we do not give them credit for any new generation from that source in the future. So there are no incentives. There are no subsidies, as I read the bill.

For that reason, I oppose the amendment by the Senator from Illinois. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Is there objection to having the vote at this time?

Without objection, it is so ordered.

The question is on agreeing to the motion to table amendment No. 3124. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from South Dakota (Mr. DASCHLE), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Vermont (Mr. JEFFORDS) are necessarily absent.

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

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

The result was announced—yeas 50, nays 46, as follows:

[Rollcall Vote No. 84 Leg.]

YEAS—50

Akaka	Feinstein	Nelson (NE)
Allen	Frist	Nickles
Baucus	Graham	Roberts
Bayh	Grassley	Rockefeller
Bingaman	Hagel	Santorum
Breaux	Hatch	Sessions
Brownback	Hutchinson	Shelby
Bunning	Inhofe	Smith (OR)
Byrd	Inouye	Stevens
Campbell	Landrieu	Thomas
Carper	Lieberman	Thompson
Cleland	Lincoln	Thurmond
Clinton	Lott	Torricelli
DeWine	Lugar	Voinovich
Dodd	Miller	Warner
Dorgan	Murkowski	Wyden
Enzi	Nelson (FL)	

NAYS—46

Allard	Domenici	Levin
Bennett	Durbin	McCain
Biden	Edwards	McConnell
Bond	Ensign	Mikulski
Boxer	Feingold	Murray
Burns	Fitzgerald	Reed
Cantwell	Gramm	Reid
Carnahan	Gregg	Sarbanes
Chafee	Harkin	Schumer
Cochran	Hollings	Smith (NH)
Collins	Hutchison	Snowe
Conrad	Kennedy	Specter
Corzine	Kerry	Stabenow
Craig	Kohl	Wellstone
Crapo	Kyl	
Dayton	Leahy	

NOT VOTING—4

Daschle	Jeffords
Helms	Johnson

The motion was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. BINGAMAN. Mr. President, these are a couple of cleared matters on which I would like to complete action before we do anything else.

AMENDMENTS NOS. 3050, 3093, 3097, AND 3274, WITHDRAWN

Mr. BINGAMAN. Mr. President, I ask unanimous consent that amendments Nos. 3050, 3093, 3097, and 3274 be withdrawn.

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

AMENDMENTS NOS. 3187, AS MODIFIED, 3243, AND 3268, EN BLOC

Mr. BINGAMAN. Mr. President, I ask unanimous consent that notwithstanding rule XXII, it be in order for the Senate to consider en bloc amendments Nos. 3187, 3243, and 3268; that amendment No. 3187 be modified with the changes at the desk; that the foregoing amendments be agreed to en bloc, and that the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments (Nos. 3187, as modified, 3243, and 3268), en bloc, were agreed to, as follows:

AMENDMENT NO. 3187, AS MODIFIED

(Purpose: To provide for increased energy savings and greenhouse gas reduction benefits through the increased use of recovered material in federally funded projects involving procurement of cement or concrete)

On page 283, between lines 8 and 9, insert the following:

SEC. 9___. INCREASED USE OF RECOVERED MATERIAL IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AGENCY HEAD.—The term ''agency head'' means—

(A) the Secretary of Transportation; and

(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

(3) CEMENT OR CONCRETE PROJECT.—The term ''cement or concrete project'' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

(A) involves the procurement of cement or concrete; and

(B) is carried out in whole or in part using Federal funds.

(4) RECOVERED MATERIAL.—The term ''recovered material'' means—

(A) ground granulated blast furnace slag;

(B) coal combustion fly ash; and

(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered material under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

(b) IMPLEMENTATION OF REQUIREMENTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this Act (including guidelines under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6963)) that provide for the use of cement and concrete incorporating recovered material in cement or concrete projects.

(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered material in cement or concrete projects for which recovered materials historically have not been used or have been used only minimally.

(c) FULL IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Administrator and the Secretary of Transportation, in cooperation with the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and greenhouse gas emission reduction benefits attainable with substitution of recovered material in cement used in cement or concrete projects.

(2) MATTERS TO BE ADDRESSED.—The study shall—

(A) quantify the extent to which recovered materials are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and greenhouse gas emission reduction benefits associated with that substitution;

(B) identify all barriers in procurement requirements to fuller realization of energy savings and greenhouse gas emission reduction benefits, including barriers resulting from exceptions from current law; and

(C)(i) identify potential mechanisms to achieve greater substitution of recovered material in types of cement or concrete projects for which recovered materials historically have not been used or have been used only minimally;

(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered material in those cement or concrete projects; and

(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered material in those cement or concrete projects.

(3) REPORT.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations and Committee on Energy and Commerce of the House of Representatives a report on the study.

(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Within 1 year of the release of the report in accordance with subsection (c)(3), the Administrator and each agency head shall take additional actions authorized under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered material in the construction and maintenance of cement or concrete projects, so as to—

(1) realize more fully the energy savings and greenhouse gas emission reduction benefits associated with increased substitution; and

(2) eliminate barriers identified under subsection (c).

(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) (including the guidelines and specifications for implementing those requirements).

AMENDMENT NO. 3243

(Purpose: To strike section 721)

On page 148, strike lines 4 through 22, renumber the subsequent section accordingly.

AMENDMENT NO. 3268

(Purpose: To direct the Secretary of Energy to establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts)

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

SEC. 8___. COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.

(a) DEFINITION OF MUNICIPAL SOLID WASTE.—In this section, the term ''municipal solid waste'' has the meaning given the term ''solid waste'' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts.

(c) REQUIREMENTS.—The Secretary may provide a loan guarantee under subsection (b) to an applicant if—

(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (b);

(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and

(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.

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

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

(2) are most likely to be successful; and

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

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

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

(e) MATURITY.—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.

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

(g) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.

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

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

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

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

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

Mr. BINGAMAN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent that the pending

amendment be laid aside temporarily and call up amendment No. 3195.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I say to my friend from Iowa, we have several amendments tonight that we are going to try to put in the queue. But I should say to all my friends on this side of the aisle, most all of the amendments that have been offered have been Democratic amendments. I have been advised by the Republican leader and the manager of the bill for the Republicans that they are going to allow this to happen on a few more amendments, but that is about the end of it. So everyone should understand, this isn't going to go on for the next few hours.

There are actually three amendments that I have gone over with the manager of the bill for the Republicans. And they have tentatively agreed that we could set amendments aside to offer those. But I am just telling everybody that they are not going to allow this to go on until we get rid of some of these amendments, perhaps tomorrow.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, obviously, we are anxious to cooperate with the majority, but this is beginning to wind down, and we anticipate a limited amount of time tomorrow to finish. So we encourage all Senators to try to proceed with their amendments as soon as possible so at the end we do not run out of time and are unable to accommodate Members.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there objection?

The Senator from Delaware.

Mr. CARPER. Mr. President, reserving the right to object, I ask unanimous consent that my amendment No.——

The PRESIDING OFFICER. The Chair informs the Senator, there is a unanimous consent request pending at this time.

Is there objection?

Mr. CARPER. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I ask unanimous consent that my amendment No. 3198 be called up after Senator HARKIN's amendment is reported and that my amendment then be immediately laid aside.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Without objection, it is so ordered. The request, as modified, is agreed to.

The Senator from Iowa.

AMENDMENT NO. 3195 TO AMENDMENT NO. 2917

Mr. HARKIN. Mr. President, has the clerk reported the amendment?

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. COCHRAN, Mr. GRASSLEY, and Mrs. LINCOLN, proposes an amendment numbered 3195.

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

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

The amendment is as follows:

(Purpose: To direct the Secretary of Energy to revise the seasonal energy efficiency ratio standard for central air conditioners and central air conditioning heat pumps within 60 days)

Beginning on page 293, strike line 5 and all that follows through page 294 and insert the following:

Section 325(d)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) is amended by adding at the end the following:

''(C) REVISION OF STANDARDS.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall amend the standards established under paragraph (1).''.

Mr. HARKIN. I offer this amendment on behalf of Senators COCHRAN, GRASSLEY, LINCOLN, and myself.

I yield the floor to the Senator from Mississippi for any comments he may wish to make.

The PRESIDING OFFICER (Ms. STABENOW). The Senator from Mississippi.

Mr. COCHRAN. Madam President, I am pleased to join both of my friends from Iowa, Senator HARKIN and Senator GRASSLEY, along with the distinguished Senator from Arkansas, Mrs. LINCOLN, in sponsoring this amendment to the energy bill.

This amendment would seek to change a provision that is in the bill, as reported by the committee, or as it is pending before the Senate, that relates to seasonal energy efficiency ratios of air-conditioners.

The reason we are offering this amendment is to permit the Department of Energy to proceed with the rulemaking, which they have the power to undertake and they are now considering, to make air-conditioners more energy efficient.

The difficulty with the bill, as reported by the committee, is that it preempts the rulemaking process and establishes, by law, a new seasonal energy efficiency ratio, and it establishes it at the level of 13. That is one of the standards of measuring energy efficiency. The current energy ratio that is established under the regulations is at 10. Almost everybody agrees that this standard ought to be increased and that the efficiency ought to be improved. The issue is, how much?

This amendment that we are offering suggests the appropriate level is 12 instead of the committee-mandated ratio of 13. Why is that? It is because, at this level, if it is not amended, you are going to increase the cost of air-conditioners by about $700 each. In a State such as my State of Mississippi, that is a huge increase for consumers. We have a lot of people who do not make enough money to afford an air-conditioner if it costs that much more than the current air-conditioners will cost. That is a big problem.

Another problem is, a lot of manufacturing plants that are manufacturing air-conditioners or components will be put out of business if the ratio is set at 13, as this committee bill does. There is one plant in my State, located in Grenada, MS, that will shut down if this amendment isn't approved, and 2,500 people who work there will be out of a job. That will not occur if this amendment is adopted.

So this is a serious proposal, and it is undertaken with the notion that we do need to improve the energy efficiency of these air-conditioning units. Our amendment will cause that to happen, and we will save money generally over the life of this new ratio because we will use less energy. Less electricity will be consumed by the Nation. And that is good. That is one of the aims of this bill.

So I am hopeful the Senate will look with favor on the amendment. I appreciate the distinguished Senator from Iowa inviting me to join him in offering this amendment. I am hopeful on tomorrow, when we get to the process of voting and approving amendments, the Senate will vote for this amendment.

The PRESIDING OFFICER. The Senator from Delaware.

AMENDMENT NO. 3198 TO AMENDMENT NO. 2917

Mr. CARPER. Under the previous order, I call up amendment No. 3198.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. CARPER], for himself, Mr. SPECTER, and Ms. LANDRIEU, proposes an amendment numbered 3198.

The amendment is as follows:

(Purpose: To decrease the United States dependence on imported oil by the year 2015)

On page 177, before line 1, insert the following:

SEC. 811. REQUIREMENT FOR REGULATIONS TO REDUCE OIL CONSUMPTION.

(a) OIL SAVINGS.—

(1) IN GENERAL.—The new regulations required by section 801 shall include regulations that apply to passenger and non-passenger automobiles manufactured after model year 2006 and are designed to result in a reduction in the amount of oil (including oil refined into gasoline) used by automobiles of at least 1,000,000 barrels per day by 2015.

(2) CALCULATION OF REDUCTION.—To determine the amount of the reduction in oil used by passenger and non-passenger automobiles, the Secretary of Transportation shall make calculations based on the number of barrels of oil projected by the Energy Information Administration of the Department of Energy in table A7 of the report entitled ''Annual Energy Outlook 2002'' (report no. DOE/EIA-0383(2002)) to be consumed by light-duty vehicles in 2015 without the regulations required by paragraph (1).

(3) CONSIDERATION OF ALTERNATIVE FUEL TECHNOLOGIES.—The Secretary of Transportation shall consult with the Secretary of Energy to identify alternative fuel technologies that could be utilized in the transportation sector to reduce dependence on crude-oil-derived fuels. The Secretary of

Transportation shall take those technologies into consideration in prescribing the regulations under this section.

(4) FINAL REGULATIONS.—The Secretary of Transportation shall issue the final regulations required by this subsection after carrying out the consultation described in paragraph (3), but not later than 15 months after the date of the enactment of this Act.

(b) REPORTS TO CONGRESS.—

(1) REQUIREMENT.—Beginning in 2007, the Secretary of Transportation shall, after consulting with the Administrator of the Environmental Protection Agency, submit to Congress in January of every odd-numbered year through 2015 a report on the implementation of the requirements of this section.

(2) CONTENT.—The report required by paragraph (1) shall explain and assess the progress in reducing oil consumption by automobiles as required by this section.

The PRESIDING OFFICER. Under the previous order, the amendment is set aside.

The Senator from Iowa.

AMENDMENT NO. 3195

Mr. HARKIN. Madam President, there was a little bit of confusion on the floor. What is the pending matter now?

The PRESIDING OFFICER. The Senator's amendment.

Mr. HARKIN. Madam President, I thank the Senator from Mississippi. He said very precisely what this really is all about. I am going to give a lengthier statement, but as long as he is still on the floor, I want to thank him. He hit it right on the head.

This is really about, No. 1, the loss of jobs in a number of States. We will lose many jobs in Iowa, too, I say to the Senator from Mississippi. Secondly, it is about whether or not a significant number of low-income people and the elderly will be able to afford to have air-conditioning.

In some parts of the country it gets hotter than up in my area, but still, up in my area in the summer, it gets pretty darn hot. And the elderly need that air-conditioning. It is a health matter for them. They have to have air-conditioning. It is probably for a shorter period of time in Iowa than in Mississippi or Florida or Georgia, or places like that; nonetheless, there are periods of time in the summer when it is a health matter for the elderly to make sure they have air-conditioning. And some will not be able to afford the purchase price of an air-conditioner with this 13 seasonal energy efficiency ratio, SEER, that is in the bill.

Basically, what this amendment does is strikes the language in the bill that mandates this. First of all, I don't think we ought to be mandating appliance standards. This is something that ought to be within the purview of the Department of Energy to let them review all the data and then come up with a standard.

If we don't like it, maybe we might want to override it. But for us to just come in and mandate a standard which, quite frankly, has been proven not to be workable—I will get into that in a second—is the wrong way for the Senate to proceed.

Again, for the record, when we talk about the SEER numbers, it is the measure of energy efficiency. The higher the number, the more energy efficient the product.

On first blush, people say: We want the most efficient machine possible. Well, let's take a look at that. The Department of Energy is required by law to set standards that are ''economically justified and technologically feasible.'' The current standard is 10. The bill would raise that to 13. Our language simply requires the Department of Energy to issue a revised standard which must be higher than the current 10 standard and issue it within 60 days. And basically on the basis of not only the present administration's analysis but a lot of work done by staff in the previous administration, they would set that at 12 within 60 days.

Again, there has been some confusion about my amendment. Some have said this is a rollback. We are going to roll back the 13. That is not true. There is no 13 right now. It is at 10. So it is not a rollback.

I see my colleague from Iowa is here. He, too, is a strong supporter of this. I thank him for his strong support in trying to bring some reason to this. But in the past my colleague and I have worked together on appliance standards with the DOE back in 1995 and 1996 to establish a fair and balanced system, one that balances conservation, competition, and the needs of consumers in an interpretative rule, really what the law requires. The rule under which we are operating requires that consumers be looked at, not just as an average, uniform group, but as subgroups such as those within various income and age levels. That is what the rule requires.

Again, if you just look at it as a uniform rate, a uniform average group, perhaps you would come to some different conclusion. The rule doesn't say that. The rule says you have to look at it as subgroups of the population.

Under the rule, DOE's responsibilities must look after the consumer and make sure that these subgroups would be looked at. We need to see how a change in appliance standards will impact various kinds of people, such as the elderly, low-income people, and renters. Unfortunately, the last administration, the Clinton administration, effectively did not properly look at this important requirement. They lumped everybody together. And so the different subgroups were not properly considered under the Clinton administration.

When the professional staff recommended a 12 standard in 2000 under the Clinton administration, that recommendation by the professional staff in the Department of Energy was changed in the Office of the Secretary of Energy. The required analysis of the economic impacts on these subgroups required by the process was not properly done to reach that SEER 13 level. I also understand the Department of Justice in the Clinton Administration had considerable concerns about the negative impacts on competition of a 13 SEER requirement. That is a very important question, particularly for those who want to keep the price to the consumer low and who want competition.

The imposition of this 13 standard would have a serious impact on both consumers and the industry. The Department of Justice is opposed to this, the Small Business Administration, the National Association of Home Builders, and the Manufactured Housing Institute. It is economically damaging, especially to senior citizens, lower and fixed-income families and, as we said earlier, employees in the industry.

As the SEER ratings rise, the cost of the machines rise. The Senator from Mississippi already pointed out that going from a 10 to a 13 will cost more than $700 per air-conditioner. By comparison, the cost of going to a 12 is only an estimated $407. So when you go up above that 12, it becomes really expensive. Again, if you make it that expensive, what would a consumer do if they have an old energy-inefficient air-conditioner? Would they go out and buy this new one? Will they ever be able to recoup the cost, especially if they live in Michigan or in Iowa where we need our air-conditioners for short periods of time. They would never recoup the money, if they could even afford it.

What many will do is, particularly a lot of modest homeowners, people who live in manufactured housing who have higher costs still with a SEER 13 because that machine will not fit in the space provided for in many manufactured homes? What many will do is they will say: It is cheaper for me to stay with the old one. That doesn't help the environment. It means more energy use in those homes. And so we have accomplished far less than many believe if we go to a 13?

There has to be some reason in this. We can't underestimate the impact that going to this standard would have on lower income people and senior citizens. You will hear arguments tomorrow about the average consumer out there, what this might cost the average consumer. I have often said to people, if you took me and Bill Gates and you averaged our income, I would be a billionaire on my salary here. Imagine that. You can't just look at an average like that. What you have to look at—and the rule says you have to look at—is those subgroups such as the elderly and low income, which they haven't done and which this 13 rating doesn't properly take that into account.

Senior citizens rely on air-conditioning for their health as well as for their comfort. Sometimes it is not a luxury in the summer months. The elderly need that. Again, if they only use it in the summer, 2 or 3 months in Iowa or Michigan, they would never be able to recover the higher cost of a 13.

Furthermore, renters will also be affected by this. It is expected that the increased cost of a new air-conditioner would be passed on in the form of higher rents to 34 million renter households where the median income is $24,400. So, again, if you add that 13 and the landowners have to replace it, they will pass it on in higher rents to renters or they simply will decide not to replace it. Then what have we accomplished?

Recently, the Energy Information Administration conducted an independent review of the impact of imposing a nationwide standard of 13 for air-conditioners compared to a 12. The EIA review stated that a 12 standard would save the Nation $2.3 billion, while a 13 standard would cost the Nation $600 million in additional costs. So a 12 standard—this is the Energy Information Administration—would save the Nation $2.3 billion; a 13 would cost us $600 million. Again, it is because the impacts of a 13's higher cost.

I haven't gotten into the size. It is quite a bit larger than 12. Therefore, people who live in manufactured housing, where the space for the air conditioner is preset, would not be able to get a new air conditioner without retrofitting their home so those people lose if we go to a 13. We lose jobs—the Department of Energy said 20,000 jobs by the year 2006. I see my colleague from Iowa on the floor. I know he wants to speak on this. I know, at first blush, for people who say they are environmentalists, I think I have a pretty good environmental record; but this is not the direction in which to go. This will hurt the elderly and low-income people because many won't be able to afford an air conditioner. Plus, it will cost a heck of a lot of jobs in my State and, I know, in a number of other States.

Madam President, I have more to say on this, but I want to respect my colleague from Iowa who is here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa, Mr. GRASSLEY, is recognized.

Mr. GRASSLEY. Madam President, I am glad to be able to work with my colleague from Iowa on this amendment. He is being transparent, and I would like to be transparent on it. There are jobs affected in our State. For the Senator from Michigan, the Presiding Officer, it is my understanding there is a company in her State called Heat Controller, Inc., that would not be able to meet these SEER 13 standards, and that there would be jobs in jeopardy at Heat Controller. You may want to check that out, but that is what my information tells me. If I am wrong, I would like to be corrected.

So I compliment the Energy Committee because, generally, in this legislation they have had suggestions that push industry to do things that are more energy efficient. In most cases, those initiatives by this legislation and by the Energy Committee are not only good for saving energy, but they are also very good for the consumer.

Now, Senator HARKIN has touched on this, that if we go to what is called SEER 13, 75 percent of the country, according to a map I have here, will not, through the life of the use of SEER 13 appliances, be able to get a payback. In other words, there is no benefit to the consumer. So this is one of the rare instances in which the Senate Energy Committee has a suggestion in their legislation that might save energy, but is very costly to the consumer. We want to promote things that are energy efficient, but we also want to promote things that are good for the consumer.

Most of the time, you buy energy-efficient appliances. Recently—maybe 3 years ago—I had an opportunity, and a necessity, to buy a new furnace for my farmhouse in Iowa. In looking at what to buy, they could very quickly say, well, if you buy our furnace, within 5 or 7—I am not sure how long, but it was a relatively short period of time—you will save enough on LP gas to pay for it. Buy one of these thermostats that is automatically controlled to go up and down with the heat, and in a certain period of time it is paid for.

In this particular instance, the Senate Energy Committee has offered us a proposal that will save energy, yes; but for people in 75 percent of the country, geographically—I don't know how that is population-wise—there is not a payback.

So that is why I ask this body to look at the wisdom of this particular provision in this bill. Obviously, I am asking you to look at the wisdom that is behind the amendment offered by the Senator, my colleague from Iowa.

The Department of Energy has authority, through the rulemaking process, to set these standards. The Department of Energy is required by statute, under the National Appliance Energy Conservation Act, to set these standards and to do it in a way ''that is economically justified and technologically feasible.''

So I think the underlying legislation—which we can obviously change if we want to, and I think it is unwise to change—the underlying statute calls for it to be economically justified. This is one that is technologically feasible; it saves energy, but it doesn't appear to be economically justified by going from 12 to 13. What we are trying to do is overturn precisely what the bill does in the first place. The Department of Energy is considering a rule based on information and based on analysis from several years' worth of submission during the rulemaking process. Unfortunately, this bill seeks to take action that would raise the standard—a 30-percent increase in efficiency—and to do it clearly, without consideration of information collected by the Department of Energy.

Had the authors of this bill considered the evidence regarding the economic impact of a 30-percent increase, they would have soon realized it is contrary to the statutory criterion imposed on the Department of Energy which requires that it be economically justified.

Economically, a 13 SEER standard just doesn't make sense. For example, 75 percent of the consumers purchasing 13 SEER units will incur a net cost. At the end of the lifetime of the product, the savings in operating costs won't be sufficient to offset the additional upfront costs of that particular product—besides the fact that some companies, as I have implied to the Senator from Michigan, are not able to make SEER 13 and maybe it would really harm those jobs as a result of that additional complication.

This is particularly true for consumers in the middle and northern tiers of the United States. Critics claim that the additional cost of the 13 SEER product is insignificant. However, the Energy Information Administration conducted an independent review of the economic impact of imposing either a 30-percent increase in SEER, which this bill proposes, and a 20-percent increase. The Energy Information Administration concluded that a 20-percent increase would result in savings of $2.3 billion in energy costs for consumers while a 30-percent increase would actually cost consumers $600 million.

So based on that evidence, it is contrary to the best interest of the consumer. There is not a payback. The difference between the savings of $2.3 billion compared to a loss of $600 million is certainly significant and clearly does not justify a 30-percent increase.

The supporters of the 13 SEER standard also disregard the concerns expressed by the Department of Justice. A number of equipment manufacturers selling air-conditioners in the United States today don't offer products at 13 SEER. Which I mentioned to the Senator from Michigan. For that reason, the Department of Justice opposes a 13 SEER standard based on anti-competitive implications for the industry.

It is also important for my colleagues to understand exactly what the amendment offered by Senator HARKIN and my colleague, Senator COCHRAN, would do. This amendment won't impose a lower standard for air-conditioners and heat pumps. It simply eliminates the 13 SEER mandate of the bill and requires the Department of Energy to determine an appropriate standard and set that standard within 60 days.

In conclusion, I urge my colleagues to oppose the 13 SEER standard in the bill that is not economically justified as the underlying, present law requires. I urge my colleagues to support this amendment, which will allow the Department of Energy to complete the rulemaking process within a standard that is not only good for saving energy and technologically feasible, but also good for the consumer.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Madam President, I thank Senator GRASSLEY for his strong support not only on this amendment but in previous years, and for bringing some reason to how we address this SEER standard. He is right on target.

Again, we have to keep in mind the differences about which we are talking. If we look the first 15 years after the rule is implemented, from 2006 to 2020, the difference between the 13 and 12 is four-hundredths of a percent of the cumulative U.S. generating capacity—four-hundredths of a percent. I am all for saving energy—we all are—but what is this going to do to our elderly and low-income people in between time and the loss of jobs?

I am not saying we should never go to a 13. I am not saying that. What I am saying that the appliance standards should be staged, looking at the economic effects and the technology over time. Again, look at the impact going from a 10 to a 13 would have on jobs, on people of low income, on our renters, and our elderly. A 13 standard would also have an impact on competition in small business. It would eliminate 84 percent of all new central air-conditioning models on the market today and 86 percent of all new heat pumps. Nearly half of the original equipment manufacturers selling air-conditioners in the United States today do not offer products at 13. A lot of those, mostly small manufacturers may be forced out of business.

There is a large company, one of the biggest. They are for the 13? They are for the 13. Interesting. I can see a scenario whereby a lot of the smaller manufacturers—they are doing a good job. I can see a scenario where they simply would be forced out of the business, and I can see this great big company coming in and buying them up. Then what happens to the competition? It is a lot less.

It is interesting to note that one, the largest company in this business, is for the 13 standard. Again, we ought to ask the question about what we are trying to do? They are trying to acquire market share from the small companies who will have difficulty retrofitting their factories to make 13 SEER machines.

To the extent we go to 13 and we force the change, I do not know what the elderly are going to do and what low-income people are going to do. They cannot recoup their investment, and it will be an additional $700 for an air-conditioner.

On that issue, I just mentioned the competition. That may be why the Department of Justice in the last administration had serious concerns about a SEER 13 standard. And why this administration opposed this on the basis of competition. That is why the Small Business Administration opposes it. Again, they are concerned about smaller manufacturers being able to remain in this line of business.

One last thing I have not talked about—I should have my chart. I do not this evening. Maybe I will bring it in the morning. The size of the air-conditioners with a 13 standard is substantially larger than a 12. Not one-twelfth bigger, but maybe a third again as big. They are huge.

That would create enormous retrofitting problems for many manufactured homes, especially manufactured homes because these homes have a precisely set space for central air-conditioners. They could not likely be replaced without considerable retrofitting. That is why the American Housing Institute supports a 12 standard where that would fit in the same place where a 10 fits right now. They expressed their concern about what would happen to families on limited incomes.

The National Association of Homebuilders opposes the 13 standard, not because they are opposed to 13, but for each $1,000 added to the cost of a new home takes out 400,000 buyers. We do want to build more homes. We do want more people to own their own homes, a key part of the American dream.

I am all in favor of efficient appliances. Reducing our energy consumption is important to reducing air pollution, global warming, reducing price spikes, but it has to be reasonable, and it has to be something where we do not end up worse than we are.

I suppose sometime down the pike if we go to a 13 standard—I mentioned over the first 15 years the standard will be in effect, the difference is four-hundredths of a percent in cumulative energy use in the United States—four-hundredths of a percent—but at what cost will that come to the elderly, people of low income, working families, jobs, and competition in the industry?

I will have more to say about this tomorrow. I hope people who have not thought much about this and say, gee, 13 is higher than 12, it must be better, more energy efficient, will stop to think about whether or not we are going to get the energy savings we want if we go to the 13 standard and people cannot afford it so they stick with the older ones that use more energy, that they will pollute more.

If we adopt the 12, it can be used, it is reasonable in cost, it fits into the spaces, and we can move to it in a reasonable fashion. Certainly 12 is better than 10, and 10 is what the standard is right now.

I hope when we get to this vote tomorrow people will take a look at the end result and not just be swayed by the fact that 13 looks better, looks more energy efficient than a 12. The rule says we have to look at its economic effect on subgroups. If this body is in the position of mandating—this amendment says we do not mandate it, we leave it up to the regulatory body, but the rule under which they have to operate says they have to look at the impact, not just on the general population but on certain subgroups—low income, working families, the elderly.

Our amendment will allow the Department of Energy to implement a 12 standard, which I believe is much more reasonable at this time than going to a 13 right away.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 3359 TO AMENDMENT NO. 2917

Mr. REID. Madam President, I call up amendment No. 3359 offered by Senator BINGAMAN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. BINGAMAN, proposes an amendment numbered 3359 to amendment No. 2917.

Mr. REID. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purchase: To modify the credit for new energy efficient homes by treating a manufactured home which meets the energy star standard as a 30 percent home)

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

Mr. REID. Madam President, I ask that the pending amendment be set aside.

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

AMENDMENT NO. 3139 TO AMENDMENT NO. 2917

Mr. REID. Madam President, I call up amendment No. 3139.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. BOXER, for herself and Mrs. FEINSTEIN, proposes an amendment numbered 3139 to amendment No. 2917.

Mr. REID. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for equal liability treatment of vehicle fuels and fuel additives)

Beginning on page 204, strike line 15 and all that follows through page 205, line 8, and insert the following:

''Notwithstanding any other provision of federal or state law, a renewable fuel, as defined by this Act, used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing such renewable fuel, shall be subject to liability standards no less protective of human health, welfare and the environment than any other motor vehicle fuel or fuel additive.''.

AMENDMENT NO. 3311 TO AMENDMENT NO. 3139

Mr. REID. Madam President, I call up a second-degree amendment, amendment No. 3311.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. BOXER, for herself and Mrs. FEINSTEIN, proposes an amendment numbered 3311 to amendment No. 3139.

Mr. REID. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for equal liability treatment of vehicle fuels and fuel additives)

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

''(1) IN GENERAL.—Notwithstanding any other provision of federal or state law, a renewable fuel, as defined by this Act, used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing such renewable fuel, shall be subject to liability standards no less protective of human health, welfare and the environment than any other motor vehicle fuel or fuel additive.

''(2) EFFECTIVE DATE.—this subsection shall be effective one day after the enactment of this Act.''

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

HYBRID VEHICLE TAX CREDIT

Mr. SESSIONS. Madam President, in the Finance Committee energy tax amendment that has now been included in the energy bill, the consumer tax credit available for the purchase of a new qualified light duty hybrid motor vehicle generally ranges from $250 to $3,500 depending upon the weight of the vehicle and the ''maximum available power'' from the vehicle's battery system. I note that in the proposed Sec. 30B(c)(2)(D)(iii)(I) the term ''maximum available power'' for a passenger automobile or light truck hybrid is defined as follows:

For purposes of subparagraph (A)(i), the term ''maximum available power'' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

Because this language originated in his bill, S. 760, I would like to engage the senior senator from Utah in a brief colloquy to make sure we have a common understanding of this definition.

I note that the definition allows the use of either a ''standard 10 second pulse power test'' or an equivalent test. Is it the understanding of the Senator from Utah that this language authorizes a manufacturer to demonstrate the maximum available power of its rechargeable energy storage system by using either the standard 10 second pulse power test or some other test that will demonstrate the extent to which the rechargeable energy storage system is contributing to the overall power of the hybrid system?

Mr. HATCH. Yes, that is my understanding. Our purpose in authorizing an ''equivalent test'' is not to push manufacturers to one particular hybrid design by virtue of our prescribing the standard 10 second pulse power test. Rather, we want to provide flexibility in the methodology of measuring the hybrid performance of the vehicle and providing increased incentives for those vehicles that utilize the optimum combination of power from the two power sources.

Mr. SESSIONS. Is it the understanding of the Senator from Utah that the equivalent test described in this definition could include a test procedure, at the request of the manufacturer, that measures power from the rechargeable energy storage system using real world driving conditions?

Mr. HATCH. Yes, that is correct.

Mr. SESSIONS. Is it also the understanding of the Senator from Utah that there are Federal Test Program (FTP) driving cycles already formulated by EPA that could provide comparable results to the 10 second pulse power test?

Mr. HATCH. It is my understanding that such test procedures do exist and could provide an alternative way to measure maximum available power.

Mr. SESSIONS. I thank the Senator. That conforms to my understanding as well.

TITLE X

Mr. HAGEL. Mr. President, as I stated in a previous colloguy with my colleagues, we have reached broad agreement on many of the provisions within Title X related to the development and coordination of a national climate change policy.

There remain considerable uncertainties about the causes of climate change, which has been noted by the National Academy of Sciences. Our focus should be on addressing these uncertainties, not taking drastic unwarranted action that could cause severe economic disruption.

The revised provisions of Title X and other provisions will help reduce these uncertainties and take practical, market oriented steps to vastly improve our energy efficient technologies.

The agreement appropriately calls for the creation of a national strategy to address the challenge of climate change. It also creates an interagency task force to better coordinate climate change policies with the Executive Branch. This is needed. Climate change policy cris-crosses the jurisdiction of multiple government agencies. Far too often questions posed to the previous administration were answered with the response, ''You'll have to ask someone else. We don't handle that area.'' There needs to be accountability for climate change within the Executive Branch.

President Bush has already taken the initiative, and put forth a forward looking strategy to take action on climate change. His proposal includes: a reasonable goal for greenhouse gas emission reductions; a flexible way to achieve this goal, without harming economic growth; a voluntary emissions registry for industry and individuals to track their progress on greenhouse gas emissions; increased scientific research; increased investment in new energy efficient technologies; and efforts to work with other nations, particularly developing nations, on mutual efforts to address climate change.

In crafting this strategy, President Bush created an interagency task force very similar to that proposed in this legislation. The Cabinet Secretaries and others within the Executive Office of the President involved in this process spent countless hours reviewing the underlying climate issues and ranges of policy options. The chairman of the Council on Environmental Quality (CEQ), James Connaughton, played the lead role in developing the strategy. This level of engagement and policy development on climate change is unprecedented. It can, and should, serve as a model for carrying out provisions of this legislation as ultimately approved by the House and Senate.

As I stated in the colloquy included with the manager's amendment on Title X, I have remaining concerns regarding the creation of a National Office of Climate Change Policy with the Executive Office of the President (EOP). I do not disagree with the need for dedicated management within the EOP with regard to the creation and implementation of climate change policy. I understand the concerns for congressional oversight and the desire for those focused on climate change to be in positions subject to Senate confirmation and available for congressional testimony. However, I fail to see the need to create new bureaucracy within the EOP for this purpose.

Chairman Connaughton effectively performed this role in the current administration's policy review and development. I see no reason the chairman of the Council on Environmental Policy could not continue to perform this function. Moreover, statutory authority already exists for a Senate-confirmed deputy director for the Council on Environmental Policy. This position has never been filled, and could be designated to focus solely on the area of climate change. There are several options that could be pursued in the conference committee to address the legitimate functions called for within Title X without creating a new office within the EOP.

Title X also includes a Sense of the Congress resolution regarding participation by the United States in international efforts on climate change. This language is based on a resolution approved by the Senate Foreign Relations Committee in August of 2001, but has been substantially revised. It now reflects the uncertainties recognized by the scientific community that are inherent with any predictions of future

climate change. It acknowledges the commitment by the international community that actions taken should be appropriate to the economic development of each nation. The resolution also reflects the principals unanimously approved by the U.S. Senate through S. Res. 98 in July 1997—that U.S. participation in any international climate change treaty should be predicated on participation of all nations, including developing counties, and that such action must not harm the U.S. economy.

The resolution appropriately calls on the United States to continue to demonstrate international leadership on climate change within our commitment to the United Nations Framework Convention on Climate Change. It does not call on the U.S. to re-engage in efforts to ratify the flawed Kyoto Protocol. This resolution is forward looking. At the appropriate time the United States should provide the international community with a proposal that would address the global challenge and global commitment of climate change. It is only responsible that we balance the economic interests of America with our environmental and energy interests. This resolution insists upon this balance.

I appreciate the work of my colleagues on both sides of the aisle in reaching the bipartisan agreement made in Title X. It is a significant accomplishment. I look forward to working with them to address the remaining issues in conference.

Mr. HARKIN. Mr. President, I strongly support the Renewable Fuels Standards (RFS) contained in the Senate energy bill, S. 517. This historic agreement will be a milestone in the efforts to develop renewable fuels.

This agreement will dramatically increase the Nation's production of domestic, renewable fuels, including ethanol and biodiesel, from U.S. agricultural commodities and residues over the next decade. The renewable fuels standard will create a steady market for American agriculture, and provide significant economic benefits throughout rural America. Importantly, it will also increase U.S. fuel supplies, reduce our dependence on foreign oil, and protect the environment.

Some have questioned whether the renewable fuels standard as contained in the bill is too aggressive, and whether there is enough ethanol to meet the requirement. I am here to tell you there is more than enough ethanol production capacity today to meet the needs of the program when it goes into effect in 2004!

In fact, the U.S. ethanol industry has undergone significant growth in recent years in anticipation of the phase out of MTBE, particularly in California. In the past 2 years alone, since California Governor Davis' original Executive Order phasing out MTBE use in the State by December 31, 2002, 16 new plants have opened and several expansions to existing plans have been completed. As a result, the ethanol industry has the capacity to produce 2.3 billion gallons of ethanol per year right now, the amount needed to satisfy the renewable fuels standard in 2004. The 13 plants under construction will bring total capacity to 2.7 billion gallons by the end of this year, more than the volume of ethanol required under the agreement in 2005.

A survey by the California Energy Commission projects U.S. ethanol production capacity to double to more than 4 billion gallons by the end of 2003. Clearly, with the RFS beginning in 2004 at 2.3 billion gallons per year, there will be more than adequate supplies of ethanol to meet the requirement while providing additional volume to fuel supplies.

Importantly, the driving force behind the growth in ethanol production over the past 5 years has been farmers seeking to capitalize on the value-added benefits of ethanol production directly through ownership in ethanol plants. Today, farmer-owned ethanol plants make up more than a third of all U.S. ethanol production, with the capacity to produce a billion gallons of ethanol. Fourteen of the 16 ethanol plants opened in the past two years are owned by farmers, and 10 of the 13 under construction today are farmer-owned.

In Iowa today, we have nine operating ethanol plants. In addition, five new plants are under construction, all of which are farmer-owned. By the end of this year, half of all U.S. ethanol production facilities will be farmer-owned.

Ethanol production facilities across America serve as local economic engines, providing high-paying jobs, capital investment opportunities, increased local tax revenue and value-added markets for area farmers. With commodity prices very low, investment in value-added ethanol processing by America's farmers provides a critical opportunity for increased farm income and rural economic development. In these communities, largely untouched by the economic expansion of the last decade, the increased prices for corn in the radius around a plant stimulates very real economic development, and the value-added benefits of ethanol mean a $2 bushel of corn is converted into $5 of fuel and feed co-products.

Ethanol is the third largest use of corn. Last year, 700 million bushels of corn were used to produce ethanol and feed co-products, boosting corn prices and rural income. According to a study by AUS Consultants, the RFS will increase demand for grain by an average of 1.4 million bushels annually, increasing net farm income by nearly $6 billion per year. It will also create $5.3 billion in new investment, much of it in rural America.

The Renewable Fuels Standard will create demand for 5 billion gallons of ethanol and biodiesel by 2012. Importantly, these fuels can be produced throughout the United States, from grain and agricultural biomass residues. Iowa alone produces nearly 500 million gallons of ethanol a year. The Nation will produce nearly 2.2 billion gallons of ethanol in 2002.

Even as Iowa and other Midwest States stand ready to supply ethanol to California, the State can also produce much of the ethanol it will consume. For example, the California Energy Commission recently concluded the State of California has the potential to produce 100 million gallons of ethanol per year from cellulose such as rice straw and forestry wastes by 2005 and 400 million gallons per year by 2010. This later number represents well over half of the estimated supply that would be needed to satisfy the state's oxygenate requirement. Opportunities also exist for grain-based ethanol production in California.

A California based ethanol industry would provide significant economic and environmental benefits to the State. Ethanol production would provide rice growers with an alternative to burning or other costly forms of rice straw disposal. It could also help reduce the frequency and intensity of forest fires with the removal of forest debris for ethanol production. It is estimated in-state ethanol production could provide the State with more than $1 billion in economic benefits. These same benefits can be achieved in the southeast, northeast and northwest, establishing new biofuels industries across the Nation.

As we look to a future of increased production and use of domestic, renewable biofuels, we should also consider their role in future transportation applications such as fuel cells.

Extracting hydrogen from renewable sources such as ethanol will benefit the environment, rural America and energy security. Demonstrations with ethanol have shown that reforming ethanol into hydrogen provides higher efficiencies, fewer emissions, and better performance than other fuel sources, including gasoline. And ethanol used to power a fuel cell vehicle would count toward the Renewable Fuels Standard.

Clearly, the Renewable Fuels Standard represents a momentous opportunity to benefit rural America, improve the environment and enhance our Nation's energy security. The 5 billion gallons of renewable fuels that would be required in 2012 would replace gasoline we currently get from foreign oil. American farmers can be producers as well as consumers of energy. They are willing and able to supply fuel as well as our food and fiber. Farmers are on the front lines in the battle for energy independence, and their efforts will make a bold statement about our Nation's commitment to reduce oil imports and build domestic energy supplies that may one day make us truly energy independent.

Farmers are ready, willing and able to lead the way toward energy independence. The time is right for a Renewable Fuels Standard that takes advantage of farmer's ability to produce

renewable, domestic fuels to increase fuel supplies, reduce our dependence on foreign oil, and increase the U.S.' ability to control its own energy security and economic future.

MORNING BUSINESS

Mr. REID. I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak not in excess of 5 minutes.

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

SECURE OUR COASTLINE

Mr. CLELAND. Madam President, I am proud to be a part of this body which wisely acted to improve border security last night. As we approach the end of April, I am here today to urge my House colleagues to act on the issue of port security, which the Senate passed unanimously last year. Our Nation's coastline is over 95,000 miles—by far our most prolific border. Yet, despite the tremendous national mobilization to increase security since September 11, protecting our seaports has been a somewhat elusive goal. Although the Senate acted last December to tighten security at our Nation's ports, the legislation is still stalled in the House of Representatives.

In my home state of Georgia, ports play an important role in international commerce and military support. The Port of Brunswick, GA, with three marine terminals, is growing rapidly. Brunswick is the home of a world-class auto and machinery import-export processing facility as well as an expanding forest products and agri-bulk operation. With the completion of the new Sidney Lanier Bridge this year and the on-going deepening of the Brunswick Harbor channel, the future of this operation is even brighter.

At the Port of Savannah, which brings in the eighth largest cargo volume in the Nation, ships carry iron, steel, lumber, machinery, and paper products.

It was the fastest growing container shipping operation in the Nation during calendar year 2001, and the only port to experience double-digit growth for the year. The total volume of business at the port has grown steadily over the last decade, reflecting its important contribution as a powerful economic benefit for importers, exporters and consumers located throughout the entire southeast region of the United States. The Port of Savannah is also an important strategic ally to our Nation's military, serving as a first responder for deployment of military equipment, supplies and personnel to hot spots around the world.

To utilize this important port, ships must traverse the Savannah River and pass between historic River Street, with its shops and restaurants, and the new Convention Center and hotel on Hutchinson Island, which can accommodate over 10,000 guests and employees. On any given day, there are thousands of people walking the streets of this beautiful, old town. If someone with sinister motives were able to gain access to this channel, they could easily wreak havoc on a large number of people in a short period of time. Imagine this situation repeated at ports throughout the country, many of which are located around large population centers. A New York Times article from November 2001 sums up the problem with a description of a port in Portland, Maine:

> The unscrutinized containers, the bridge, the oil tanks, the dormant but still radioactive nuclear power plant 20 miles north of the harbor—all form a volatile mix in a time of terrorism.

One must not forget that 68 nuclear power plants are located along navigable waters, and in my State, we also face maritime security risks as a result of the opening of a liquefied natural gas terminal LNG. One LNG carrier can carry enough gas to heat the homes of over 30,000 families.

Our ports and waterways are vulnerable. The Interagency Commission on Crime and Security in U.S. Seaports reports:

> The state of security in U.S. seaports generally ranges from poor to fair, and in a few cases, good.

This same report surveyed 12 large ports and found that only 3 controlled port access from the land, and that 9 of these ports did not control access via the water. To realize the ramifications, we only need to remember the U.S.S. *Cole*.

While Congress did appropriate over $93 million in funds for port security upgrades last year, we can and must do more. We have an opportunity, and a duty, to act to help prevent a terrorist attack on our ports before it happens. In December, the Senate unanimously passed S. 1214, the Port and Maritime Security Act of 2001. I am a cosponsor of this important legislation because I understand the crippling affect a terrorist attack at our ports would have on the Nation's commerce as well as our people.

Ninety-five percent of foreign trade travels on water. After September 11, the Nation's air travel system was halted for days, crippling commercial airlines, the postal service, and the transportation of goods and people worldwide.

Millions of dollars were lost in unrealized revenue as a result of only 4 days. The airports however, had a security system in place. They only needed adjusting in order to reopen our skies.

However, what security system is in place at our ports? If something happened at my home State's port of Savannah or Brunswick, how would this Nation respond? I believe Americans would rightly expect seaborne shipments to stop. This means that the employment of over 1 million people would be in jeopardy; over $74 billion in annual gross domestic product would halt; personal income contributions of over $52 billion would disappear, and local and Federal revenue exceeding $20 billion would dry up. The ripple effects throughout our Nation's economy and the world's—because sea shipment is the ultimate example of globalization—would be devastating. Unlike the airports, restoring normal sea shipments would take longer than 4 days because there is no system in place to upgrade but rather a patchwork of security initiatives that may not allow for any quick or uniform upgrades. In view of all of these disturbing facts, I urge my House colleagues to take up and pass S. 1214, which contains important provisions to make our seaports more secure.

At a minimum, S. 1214 requires security assessments and authorizes funding for these assessments at our ports, which some port authorities have done already. The Georgia Ports Authority—GPA—for example, has already conducted this assessment with its own funds.

This report recommends a major increase in the number of surveillance cameras, lighting, fencing and other perimeter security measures at Savannah and Brunswick. It also recommends the addition of some 40 new law enforcement and other security personnel to enhance the 60 person police force now deployed at the Port of Savannah and to also provide additional coverage in Brunswick. In addition, there is a recommendation for a major expansion of the credentialing system for personnel and vehicles that have access to the port facilities.

We do not yet have the price tag for all of these improvements, but we know that it will be costly. I am certain that GPA will be applying for Federal funding to assist in these costs, and I will strongly support their application as we work through the budget process. The $93 million grant program Congress established was only a first step toward strengthening our seaports, and S. 1214 would help up get closer to that goal.

This legislation also requires background checks for personnel employed in security Sensitive positions.

Additionally, S. 1214 authorizes funding for screening and detection equipment, and it requires crew and cargo manifests to be reported to the U.S. Customs Service before the ship arrives at a domestic port, not after.

In order to help coordinate the many agencies and law enforcement personnel at our Nation's ports, the bill encourages, where possible, locating these personnel at the same facility.

Additionally, after working with the bill's authors, I drafted a provision included in the Senate passed bill which establishes a pilot program operated by the U.S. Customs Service to ensure the integrity and security of cargo entering the United States. Specifically, this provision calls for Customs to explore the types of technology available that can be used to ensure a ship's