If someone has a substantive problem with either of these nominees, I want to hear about it. But as far as I am aware, their nominations are not controversial in any substantive way. I am unaware of any legitimate reason for not acting on these nominations today.

I am informed that at least one Member of this body is holding these nominees because that Member believes he can best advance the cause of one mode of transportation security—in this case, Amtrak—by holding up their confirmations. I believe this is most unfortunate and, in fact, a big mistake.

I support Senate passage of rail security legislation. In fact, I introduced the first rail security measure last year that would help address Amtrak safety and security funding needs. On October 10, I introduced S. 1528, the Rail Transportation Safety and Security Act, along with Senator GORDON SMITH. I am also lead cosponsor of S. 1550, the Rail Security Act of 2001, introduced by Senator HOLLINGS and myself on October 15, 2001.

S. 1550 would authorize $515 million for security and $989 million for addressing the tunnel life safety needs in the Northeast. It was reported unanimously by the Commerce Committee on October 17 and is awaiting full action by the Senate.

I urge the majority leader to schedule floor time for us to consider S. 1550. I understand a number of Members are interested in offering additional security-related amendments to that measure. I would also support allowing it to pass by unanimous consent if such agreement could be reached. It is an important bill not just for Amtrak but for addressing all rail security, both passenger and freight.

But to hold these two nominees hostage to somehow better position the passage of Amtrak security legislation is not the best approach. After all, these positions are largely about security. We are holding up nominees who are good and qualified people because they are being held hostage to some other piece of legislation. That is wrong.

What is going to happen if we do not move with these nominees? They will withdraw their candidacy. And this also sends a very disturbing message to others who are willing to serve this country. Usually when we find people who are willing to serve in positions of responsibility, they make a financial sacrifice. It is just because we do not compete salary-wise with the private sector. And that is entirely appropriate.

But if these men and women are presented with situations like this, where two perfectly qualified nominees are prevented from being confirmed by the Senate and have to wait months after being unanimously reported out by the committee of oversight, and not even given a hearing on the floor of the Senate on their nomination, then, obviously, we are going to have more and more difficulty in getting qualified men and women to serve.

I have been around here since 1987. I have never put a hold on a nomination. I have opposed nominees, and I have opposed them on the floor and forced votes on their nomination, but it is not correct to hold these two good and decent Americans hostage for some other agenda item.

So, Madam President, I intend to come back to the floor later this afternoon, since there are those who have put a hold on it, and ask unanimous consent that these nominees be confirmed or, if need be, have a rollcall vote.

I think it is time we move forward with these nominations, as I have discussed at some length.

Let's not do this to these people. They are not responsible for any failure or perceived lack of consideration of any Senator. They are not even in the job. Let's give them a chance to serve the country.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

Mr. BINGAMAN. Madam President, let me take a moment while there is a lull in the proceedings to reiterate a request that I believe has been made by both Democratic and Republican cloakrooms last night, to Senators on both sides of the aisle, and it is my hope, as floor manager, along with Senator MURKOWSKI, that we can, at some stage later this week, seek a finite list of amendments that would be in order on the bill.

As all Members know, we have been on this bill now for all of last week; and so far this week, we have addressed some significant issues. There are some other amendments that are being negotiated and finalized, and we have been working with some Members on those. There are others that we just hear about. There are rumors of amendments which we hear about.

I think the majority leader is trying to get as much done as possible before we move to the issue of campaign finance reform, which he is committed to move to later.

I think our chances of completing action on this energy bill would be dramatically improved if we could get a finite list of amendments to work through.

So I once again encourage all Members to cooperate with the two cloakrooms and give copies of their amendments to those cloakrooms so that we can see them and can talk to Senators about how to move ahead with those amendments or with votes on those amendments, if those are necessary.

I know there will be an amendment at some stage fairly soon by my friend Senator THOMAS. If he is ready, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

AMENDMENTS NOS. 3000 THROUGH 3006, EN BLOC, TO AMENDMENT NO. 2917

Mr. THOMAS. Madam President, I rise to send a series of amendments to the desk and ask for their immediate consideration en bloc.

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

The legislative clerk read as follows:

The Senator from Wyoming [Mr. THOMAS] for himself and others, proposes amendments numbered 3000 through 3006, en bloc.

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

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

The amendments are as follows:

AMENDMENT NO. 3000

(Purpose: To clarify FERC merger, market-based rate, and refund authority, and to strike the transmission interconnection provision)

On page 14, strike line 3 and all that follows through page 21, line 15, and insert the following:

SEC. 202. ELECTRIC UTILITY MERGERS.

Section 203(a) of the Federal Power Act (16 U.S.C. 824b) is amended to read as follows:

''(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

''(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000,

''(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with the facilities of any other person, by any means whatsoever,

''(C) purchase, acquire, or take any security of any other public utility, or

''(D) purchase, lease, or otherwise acquire existing facilities for the generation of electric energy unless such facilities will be used exclusively for the sale of electric energy at retail.

''(2) No holding company in a holding company system that includes a transmitting utility or an electric utility company shall purchase, acquire, or take any security of, or, by any means whatsoever, directly or indirectly, merge or consolidate with a transmitting utility, an electric utility company, a gas utility company, or a holding company in a holding company system that includes a transmitting utility, an electric utility company, or a gas utility company, without first having secured an order of the Commission authorizing it to do so.

''(3) Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

''(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or control, if it finds that the proposed transaction—

''(A) will be consistent with the public interest;

''(B) will not adversely affect the interests of consumers of electric energy of any public utility that is a party to the transaction or is an associate company of any part to the transaction;

''(C) will not impair the ability of the Commission or any State commission having jurisdiction over any public utility that is a party to the transaction or an associate

company of any party to the transaction to protect the interests of consumers or the public; and

''(D) will not lead to cross-subsidization of associate companies or encumber any utility assets for the benefit of an associate company.

''(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4), and shall require the Commission to grant or deny an application for approval of a transaction of such type within 90 days after the conclusion of the hearing or opportunity to comment under paragraph (4). If the Commission does not act within 90 days, such application shall be deemed granted unless the Commission finds that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues one or more orders tolling the time for acting on the application for an additional 90 days.

''(6) For purposes of this subsection, the terms 'associate company', 'electric utility company', 'gas utility company', 'holding company', and 'holding company system' have the meaning given those terms in the Public Utility Holding Company Act of 2002.''.

SEC. 203. MARKET-BASED RATES.

(a) APPROVAL OF MARKET-BASED RATES.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end of the following:

''(h) The Commission may determine whether a market-based rate for the sale of electric energy subject to the jurisdiction of the Commission is just and reasonable and not unduly discriminatory or preferential. In making such determination, the Commission shall consider such factors as the Commission may deem to be appropriate and in the public interest, including to the extent the Commission considers relevant to the wholesale power market—

''(1) market power;

''(2) the nature of the market and its response mechanisms; and

''(3) reserve margins.''.

(b) REVOCATION OF MARKET-BASED RATES.—Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

''(f) Whenever the Commission, after a hearing had upon its own motion or upon complaint, finds that a rate charged by a public utility authorized to charge a market-based rate under section 205 is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate and fix the same by order.''.

SEC. 204. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by—

(1) striking ''the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period'' in the second sentence and inserting ''the date of the filing of such complaint nor later than 5 months after the filing of such complaint'';

(2) striking ''60 days after'' in the third sentence and inserting ''of''; and

(3) striking ''expiration of such 60-day period'' in the third sentence and inserting ''publication date''.

SEC. 205. OPEN ACCESS TRANSMISSION BY CERTAIN UTILITIES.

Part II of the Federal Power Act is further amended by inserting after section 211 the following:

''OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES

''SEC. 211A. (1) Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

''(A) at rates that are comparable to those that the unregulated transmitting utility charges itself, and

''(B) on terms and conditions (not relating to rates) that are comparable to those under Commission rules that require public utilities to offer open access transmission services and that are not unduly discriminatory or preferential.

''(2) The Commission shall exempt from any rule or order under this subsection any unregulated transmitting utility that—

''(A) sells no more than 4,000,000 megawatt hours of electricity per year;

''(B) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion thereof), or

''(C) meets other criteria the Commission determines to be in the public interest.

''(3) The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

''(4) In exercising its authority under paragraph (1), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of paragraph (1).

''(5) The provision of transmission services under paragraph (1) does not preclude a request for transmission services under section 211.

''(6) The Commission may not require a State or municipality to take action under this section that constitutes a private business use for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).

''(7) For purposes of this subsection, the term 'unregulated transmitting utility' means an entity that—

''(A) owns or operates facilities used for the transmission of electric energy in interstate commerce, and

''(B) is either an entity described in section 201(f) or a rural electric cooperative.''.

SEC. 206. ELECTRIC RELIABILITY STANDARDS.

AMENDMENT NO. 3001

(Purpose: To clarify provisions on access to transmission by intermittent generators and make conforming changes)

On page 24, strike line 1 and all that follows through page 27, line 20 and insert the following:

SEC. 207. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 216. MARKET TRANSPARENCY RULES.

''(a) COMMISSION RULES.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide information about the availability and price of wholesale electric energy and transmission services to the Commission, state commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public on a timely basis.

''(b) INFORMATION REQUIRED.—The Commission shall require—

''(1) each regional transmission organization to provide statistical information about the available capacity and capacity of transmission facilities operated by the organization; and

''(2) each broker, exchange, or other market-making entity that matches offers to sell and offers to buy wholesale electric energy in interstate commerce to provide statistical information about the amount and sale price of sales of electric energy at wholesale in interstate commerce it transacts.

''(c) TIMELY BASIS.—The Commission shall require the information required under subsection (b) to be posted on the Internet as soon as practicable and updated as frequently as practicable.

''(d) PROTECTION OF SENSITIVE INFORMATION.—The Commission shall exempt from disclosure commercial or financial information that the Commission, by rule or order, determines to be privileged, confidential, or otherwise sensitive.''.

SEC. 208. ACCESS TO TRANSMISSION BY INTERMITTENT GENERATORS.

Part II of the Federal Power Act is further amended by adding at the end the following:

''SEC. 217. ACCESS TO TRANSMISSION BY INTERMITTENT GENERATORS.

''(a) FAIR TREATMENT OF INTERMITTENT GENERATORS.—The Commission shall ensure that all transmitting utilities provide transmission service to intermittent generators in a manner that does not unduly prejudice or disadvantage such generators for characteristics that are—

''(1) inherent to intermittent energy resources; and

''(2) are beyond the control of such generators.

''(b) POLICIES.—The Commission shall ensure that the requirement in subsection (a) is met by adopting such policies as it deems appropriate which shall include the following:

''(1) Subject to the sole exception set forth in paragraph (2), the Commission shall ensure that the rates transmitting utilities charge intermittent generator customers for transmission services do not unduly prejudice or disadvantage intermittent generator customers for scheduling deviations.

''(2) The Commission may exempt a transmitting utility from the requirement set forth in paragraph (1) if the transmitting utility demonstrates that scheduling deviations by its intermittent generator customers are likely to have an adverse impact on the reliability of the transmitting utility's system.

''(3) The Commission shall ensure that to the extent any transmission charges recovering the transmitting utility's embedded costs are assessed to such intermittent generators, they are assessed to such generators on the basis of kilowatt-hours generated or some other method to ensure that they are fully recovered by the transmitting utility.

''(4) The Commission shall require transmitting utilities to offer to intermittent generators, and may require transmitting utilities to offer to all transmission customers, access to nonfirm transmission service.

''(c) DEFINITIONS.—As used in this section:

''(1) The term 'intermittent generator' means a facility that generates electricity using wind or solar energy and no other energy source.

''(2) The term 'nonfirm transmission service' means transmission service provided on an 'as available' basis.

''(3) The term 'scheduling deviation' means delivery of more or less energy than has previously been forecast in a schedule submitted by an intermittent generator to a control area operator or transmitting utility.''.

SEC. 209. ENFORCEMENT.

AMENDMENT NO. 3002

(Purpose: To require states to consider requiring time-of-use metering)

On page 44, strike line 3 and all that follows through page 45, line 12 and insert the following:

SEC. 241. REAL-TIME PRICING AND TIME-OF-USE METERING STANDARDS.

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

''(11) REAL-TIME PRICING.—(A) Each electric utility shall, at the request of an electric consumer, provide electric service under a real-time schedule, under which the rate charged by the electric utility varies by the hour (or smaller time interval) according to changes in the electric utility's wholesale power cost. The real-time pricing service shall enable the electric consumer to manage energy use and cost through real-time metering and communications technology.

''(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

''(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than one year after the date of enactment of this paragraph.

''(12) TIME-OF-USE.—(A) Each electric utility shall, at the request of an electric consumer, provide electric service under a time-of-use rate schedule which enables the electric consumer to manage every use and cost through time-of-use metering and technology.

''(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

''(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than one year after the date of enactment of this paragraph.''.

(b) SPECIAL RULES.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:

''(i) REAL-TIME PRICING.—In a state that permits third-party marketers to sell electric energy to retail electric consumers, the electric consumer shall be entitled to receive the same real-time metering and communication service as a direct retail electric consumer of the electric utility.

''(j) TIME-OF-USE METERING.—In a state that permits third-party marketers to sell electric energy to retail electric consumers, the electric consumer shall be entitled to receive the same time-of-use metering and communication service as a direct retail electric consumer of the electric utility.''.

AMENDMENT NO. 3003

(Purpose: To require states to consider adopting federal net metering standard)

On page 50, strike line 10 and all that follows through page 54, line 10, and insert the following:

SEC. 245. NET METERING.

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

''(13) NET METERING.—(A) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.

''(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

''(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than one year after the date of enactment of this paragraph.

(b) SPECIAL RULES FOR NET METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is further amended by adding at the end the following:

''(k) NET METERING.—

''(1) RATES AND CHARGES.—An electric utility—

''(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and

''(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.

''(2) MEASUREMENT.—An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of an on-site generating facility during a billing period in accordance with normal metering practices.

''(3) ELECTRIC ENERGY SUPPLIED EXCEEDING ELECTRIC ENERGY GENERATED.—If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with normal metering practices.

''(4) ELECTRIC ENERGY GENERATED EXCEEDING ELECTRIC ENERGY SUPPLIED.—If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—

''(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2); and

''(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.

''(5) SAFETY AND PERFORMANCE STANDARDS.—An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

''(6) ADDITIONAL CONTROL AND TESTING REQUIREMENTS.—The Commission, after consultation with State regulatory authorities and nonregulated electric utilities and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.

''(7) DEFINITIONS.—For purposes of this subsection:

''(1) The term 'eligible on-site generating facility' means—

''(A) a facility on the site of a residential electric consumer with a maximum generating capacity of 10 kilowatts or less that is fueled by solar energy, or fuel cells; or

''(B) a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.

''(2) The term 'renewable energy resource' means solar, wind, biomass, or geothermal energy.

''(3) The term 'high efficiency system' means fuel cells or combined heat and power.

''(4) The term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.''.

AMENDMENT NO. 3004

(Purpose: To clarify state authority to protect electric consumers)

On page 58, strike line 16 and all that follows through line 23 and insert the following:

SEC. 256. STATE AUTHORITY.

Nothing in this subtitle shall be construed to preclude a State or State regulatory authority from prescribing and enforcing laws, rules, or procedures regarding the practices which are the subject of this section.

AMENDMENT NO. 3005

(Purpose: To clarify the requirement for the federal government to purchase renewable fuels)

On page 64, strike line 8 and all that follows through page 65, line 17, and insert the following:

SEC. 263. FEDERAL PURCHASE REQUIREMENT.

(a) REQUIREMENT.—the President shall seek to ensure that, to the extent economically feasible and technically practicable, of the total amount of electric energy the federal government consumes during any fiscal year—

(1) not less than 3 percent in fiscal years 2003 through 2004,

(2) not less than 5 percent in fiscal years 2005 through 2009, and

(3) not less than 7.5 percent in fiscal year 2010 and each fiscal year thereafter—

shall be renewable energy. The President shall encourage the use of innovative purchasing practices by federal agencies.

(2) DEFINITION.—For purposes of this section, the term ''renewable energy'' means electric energy generated from solar, wind, biomass, geothermal, fuel cells, municipal solid waste, or additional hydroelectric generation capacity achieved from increased efficiency or additions of new capacity.

(c) TRIBAL POWER GENERATION.—The President shall seek to ensure that, to the extent economically feasible and technically practicable, not less than one-tenth of the amount specified in subsection (a) shall be renewable energy that is generated by an Indian tribe or by a corporation, partnership, or business association which is wholly or majority owned, directly or indirectly, by an Indian tribe. For purposes of this subsection, the term ''Indian tribe'' means any Indian

tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(d) BIENNIAL REPORT.—In 2004 and every 2 years thereafter, the Secretary of Energy shall report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress of the federal government in meeting the goals established by this section.

AMENDMENT NO. 3006

(Purpose: To make conforming changes in the table of contents)

On page 2, strike the items relating to sections 205 through 210 and insert the following:

Sec. 205. Open access transmission by certain utilities.
Sec. 206. Electric reliability standards.
Sec. 207. Market transparency rules.
Sec. 208. Access to transmission by intermittent generators.
Sec. 209. Enforcement.

Mr. THOMAS. Madam President, these amendments are from Senator THOMAS of Wyoming and Senator BINGAMAN of New Mexico. They have been cleared on both sides.

Mr. BINGAMAN. Madam President, I do support the amendments. We have worked jointly with Senator THOMAS and his staff to perfect these amendments. I think they are acceptable on this side. As far as I know, there is no objection to their adoption.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendments are agreed to en bloc.

The amendments (Nos. 3000 through 3006) were agreed to en bloc.

Mr. THOMAS. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. THOMAS. Madam President, I thank the chairman for his cooperation in finding some areas on which we are in agreement and on which we can move forward. This electric title of the energy bill is a very important one. Probably nothing affects more people than the electric aspect of energy. We are very pleased.

We do have several more amendments in this area, some of which will come up for a vote. Certainly being able to agree on these and move them forward is a great advantage. I appreciate the cooperation of the Senator from New Mexico.

Mr. BINGAMAN. Madam President, I thank the Senator from Wyoming for his leadership on this issue. He has been very focused on trying to get these provisions right. We have worked hard with him and his staff to be sure that that is what has happened. This package of amendments we have now adopted moves us substantially toward a consensus on what ought to be included in this bill in the way of electricity restructuring.

There are going to be a couple of issues that probably will require individual votes. We are still in the process of defining the areas of disagreement that exist there. I see this as a substantial step forward. I thank the Senator from Wyoming.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

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

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

AMENDMENT NO. 3007 TO AMENDMENT NO. 2917

Mr. CAMPBELL. Madam President, I send an amendment to the desk on behalf of myself, Senator GRAMM of Texas, Senator ENZI of Wyoming, and Senator BROWNBACK of Kansas, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follow:

The Senator from Colorado [Mr. CAMPBELL], for himself, Mr. GRAMM, Mr. ENZI, and Mr. BROWNBACK, proposes an amendment numbered 3007.

Mr. CAMPBELL. Madam President, I ask unanimous consent that further 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 section establishing a program to provide assistance for State programs to retire fuel-inefficient motor vehicles)

Strike section 822.

Mr. CAMPBELL. Madam President, the bill we are considering is an extremely large and expansive bill dealing with many important and controversial topics. Although the bill was stripped from its committee of jurisdiction pretty much completely behind closed doors, we have an idea of the issues with which we have been dealing. CAFE, ANWR, and renewables are all topics we are familiar with and which have been debated for some days now.

I am here to discuss a very small provision that many of my friends may not have noticed because it is buried pretty deeply. That provision, unlike several others that have been discussed and studied, will be discussed for the first time, I believe, now.

Before getting into my comments, I wish to state that a comprehensive energy bill is no place to put this new and untested idea; such an action is, at best, poor policy. In particular, I wish to discuss section 822 of the current bill.

Section 822 sounds as if it is not very offensive in a big bill such as this, but it lies within the CAFE title. In short, section 822 provides grants for States to establish scrappage programs for cars that are 15 years old or older. Car owners who choose to turn in their car for scrap receive a ''minimum payment.'' Section 822 does not tell us what the ''minimum payment'' might be, but they pay now about $1,000 to $1,200 for scrapping cars.

Further, section 822 would have the Department of Energy pay the former car owner a ''credit'' toward the purchase of a new vehicle. Like the ''minimum payment'' language failing to state how much that would be, this provision fails to tell us the value of the taxpayer-subsidized ''credit.'' However, unlike the minimum payment, we have no guidance what that ''credit'' might be because, as with so much of this little section, this is the first time we have heard of it.

Since no hearings were held on section 822, we don't know how much it would cost U.S. taxpayers. We do know, however, that the cost would be enormous since there are approximately 38 million cars at least 15 years old or older currently on the roads. If we estimate that just one-quarter of those car owners choose to scrap their automobile and receive the $1,000 and get another $1,000 to purchase a DOE-approved vehicle, the cost to the U.S. taxpayer would be about $19 billion—deficit dollars that could go to much better uses as we approach deficits next year.

When I first heard of section 822, I wondered: Why should we do this? Why should States be burdened with establishing a voluntary program to scrap old cars? Why should U.S. taxpayers be subsidizing some people to buy new cars? I am a big supporter of the auto industry, but I don't support Government subsidizing their sales.

Section 822 simply states its purpose: To retire fuel-inefficient vehicles, the assumption being that any car 15 years old or older would be inefficient.

This is a brandnew approach to address fuel efficiency and gasoline consumption, an approach that has not been discussed at any level and that has not been studied. In principle, I oppose the making of rash decisions without adequate knowledge or public hearings, or input from the public at large, particularly when the results could hurt the American people, since section 822 was included in this bill without any study whatsoever.

Beyond principle, I also oppose section 822 on its merits as it is fundamentally flawed, expensive, and potentially a harmful policy. Some States have elected to establish scrappage programs to get vehicles with poor emissions off the road. Again, section 822's purpose is to get fuel-inefficient cars off the road—the first of its kind.

States that choose to enact scrappage programs are not in compliance with clean air regulations. Those States choose scrappage programs as a tool, among others, because they believe they are effective in meeting health concerns.

Section 822 creates incentives not to further public health but to further unfounded prejudices against older vehicles.

Under State scrappage programs, the State is able to means-test a polluting vehicle so that only those affecting public health would be scrapped. Yet this federally promoted, State-run scrappage program does not provide any means testing to ensure that only fuel-inefficient vehicles are scrapped. Therefore, a 1986 Ford Escort getting 41 miles to the gallon would be treated the same as a Cadillac Seville of the same year that only gets 17 miles per gallon.

The only criteria would be that they are both 1986 automobiles. I give that example to show simply that section 822 is fundamentally flawed: that older cars are all inefficient and, therefore, should be treated the same.

Since this is the first time the Senate has heard about this provision, we should review who is benefited and who is injured and what are the costs and benefits of section 822.

First of all, section 822 would have a disproportionate impact on low- and fixed-income individuals. It is more cost effective for people of low means to maintain older vehicles than to buy new ones. However, the scrappage program in section 822 would reduce the supply of car parts, thereby increasing the cost to citizens with lower incomes.

The reduction of car parts would detrimentally affect the aftermarket parts industry, 98 percent of which are made up of registered small businesses.

I think it is safe to assume the authors did not intend to hurt low-income individuals and small businesses during a recession. Yet that is the unintended consequence that most surely would happen.

Who would benefit? Just as this provision hurts the most vulnerable, section 822 unjustly enriches people of better wealth. In short, section 822 is tantamount to corporate welfare for automotive companies and upper classes.

I submit the Federal Government should not be in the advertising business to sell cars. The Department of Energy credit to purchase new cars is akin to a mail-in rebate as advertised on television, a wasteful expense that cheapens important energy issues and the work of this body.

Further, I do not believe the Federal Government should have any role in pushing certain vehicles on consumers. The private market is described as an ''invisible hand.'' However, section 822 would certainly strengthen that hand. By paying people to choose certain cars over others, the Federal Government would inappropriately insert itself into private decisions.

I mentioned this provision would reward those people who do not want to put money out for repairs. In addition to establishing a scrappage program, section 822 also requires States to establish repair programs. As provided in that section, a car owner paying 20 percent of the cost would have the State fix his vehicle, normally through a tuneup, to increase fuel efficiency.

The Federal Government and States should not be turned into tuneup stations to have people properly maintain their vehicles, something which they should do out of their own pockets.

The majority correctly states that section 822 is a voluntary program, but it is not voluntary for the Federal Government which is compelled to establish a carrot-and-stick approach to entice States to engage in potentially disastrous and certainly burdensome actions.

The participating State must create two new programs just in case someone might decide to volunteer to scrap their car or have the Federal Government pay 80 percent of their repair costs. The burden on States could be enormous.

My friends, the authors, might say the State would not be hurt because the Federal Government provides funds through grants for those programs, but we have no idea how much that will cost. We do not know because we have had no hearings and no studies on this section.

We all know the Federal Government never provides enough money to States to enact programs and, in uncertain times such as these, I do not think we should approve ill-conceived and uncertain measures when we do not know the bottom line pricetag.

How is the State going to administer the public notification and salvage of parts? Who may participate in the parts salvage? Will that be open to individuals or restricted to businesses? And how will a State value and sell the parts of the cars? We simply do not know.

In closing, those of us who are cosponsoring this amendment have had only a brief time to look at this section. We believe it is the wrong approach. Our amendment will strike section 822 from the bill.

Madam President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, first, I am disappointed that the Senator from Colorado has chosen to propose striking this provision entirely. The provision is clearly written in a way that provides absolute maximum flexibility to States to participate or not participate.

The Senator starts out with the argument that we do not know how much this will cost. That is right because this is strictly an authorization. It will cost whatever we decide to appropriate for this program. Congress will still have to make a judgment as to whether to appropriate anything for this program.

This is a grant program to States that want to participate. We will either put some money in to fund this grant program or we will not, and we will specify each year the amount of funds we think should be made available to the Department of Transportation to fund this program.

It is clear it is a purely voluntary program on the part of States. There are some States that have vehicle scrappage programs in place today. There may be other States that would want to consider that. The purpose of the provision is obvious. The purpose of the provision is to try to assist with getting extremely fuel-inefficient vehicles, high-emission vehicles off the road where there is a desire on the part of the owner of the vehicle to either improve the efficiency of that vehicle or to trade that vehicle in and get something else. That is the clear intent of these programs that some States have adopted.

What we are saying is that the Federal Government would be authorized through the Department of Transportation to assist States in these programs to the extent that we appropriate money to support them.

The argument by the Senator from Colorado is that this is a terrible burden on people with low incomes. There is obviously a misunderstanding about what this provision says. This is purely a voluntary provision. Nobody is required to do anything under the language of this section 822. If an individual wants to continue driving a 30-year-old vehicle, that is their option. There is no penalty; there is no requirement they do anything. They clearly would not even have the opportunity to do anything if they were in a State that did not have one of these vehicle scrappage programs.

If they were in a State that did have a vehicle scrappage program, then at least if that program was receiving Federal funds, the State could use some of those Federal funds under the program that is designed by the State. The individual could use some of those funds to compensate for having the vehicle scrapped or to repair the vehicle so that it is more efficient, so that it has fewer emissions. That is clearly the purpose of it.

As to the argument that this will cause a problem with the salvage of valuable parts for vehicles, there is a specific provision in the bill that the Secretary cannot provide any funds to a State under this program. The Secretary could not provide funds unless the State's plan allows for giving public notification before any parts are scrapped so that those parts could be purchased or auctioned or otherwise salvaged.

And as to the objections that the Senator has cited, we heard similar objections to an earlier version of this section. Frankly, we thought we had accommodated the concerns that were brought to us and modified the amendment in order to do that.

Now, of course, after making the modifications, we are faced with an amendment to strike the section entirely. I think it is good public policy for the Federal Government to assist States that want to have these programs. I do not see why it is in the public interest to strike a provision that enables the Secretary of Transportation to pursue this, to the extent the Appropriations Committee puts in funds to support the program.

So I very much hope we will not adopt the Senator's amendment and have this provision stricken from the bill. To my mind, it is a good provision. It provides an opportunity for States to move ahead with these programs where they would like to do that and where Federal funds are made available.

As I see it, it is not onerous in any respect as to either what States are required to do or what individuals are required to do. The entire effort is purely voluntary.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

BIPARTISAN CAMPAIGN REFORM ACT OF 2002—MOTION TO PROCEED

CLOTURE MOTION

Mr. DASCHLE. Madam President, I move to proceed to H.R. 2356, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 318, H.R. 2356, a bill to provide bipartisan campaign reform:

Russell D. Feingold, Tom Daschle, Tim Johnson, Byron Dorgan, Bob Graham, Daniel Inouye, Joe Biden, Patty Murray, Jim Jeffords, Jeff Bingaman, Debbie Stabenow, Max Baucus, Ben Nelson of Nebraska, Harry Reid, Richard J. Durbin, Jon Corzine, Tom Carper.

Mr. DASCHLE. Madam President, I withdraw the motion to proceed.

The PRESIDING OFFICER. The motion to proceed is withdrawn.

Mr. DASCHLE. Madam President, as I indicated to Senator LOTT and as I indicated yesterday to a joint leader meeting, we would be required to file cloture on the motion to proceed to the campaign finance reform bill today, this afternoon. We have been working patiently with our colleagues who have opposed campaign reform now for some time. I am still hopeful that perhaps we can reach an agreement which will allow us to vitiate this cloture motion, and if that can be done, we will vitiate the vote on cloture on Friday and we will move forward, but time has run out.

It is essential we at least file cloture today on the motion to proceed in order to accommodate a worst case scenario on campaign finance reform. I have put all of our colleagues on notice that this is one piece of legislation that must be completed prior to the time we leave for the Easter recess. So we will have the cloture vote on Friday, if it is required. We will then be on the bill on Monday. I will notify our colleagues that we will file cloture on Monday for a Wednesday cloture vote, and assuming we get cloture on Wednesday, we will be in session all night Wednesday night, all night Thursday night, and we will then have our vote on Friday.

So Senators should be aware, it may be unusual but we will be involved in an all-night session Wednesday and Thursday night in order to complete our work on the bill by Friday.

Now again, it is my hope that perhaps we can reach some agreement with regard to the package of technical amendments. We have not been able to do it to date. I am concerned that time is quickly running out, but we are certainly more than willing to continue our discussions. I have run out of time in terms of our ability to assure we can have the cloture votes at a time that will accommodate completing our work by the end of next week.

So I thank my colleagues. I especially thank the distinguished Senators MCCAIN and FEINGOLD for their extraordinary work and effort in getting us to this point.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I thank the majority leader for his steadfastness in this effort. It has been a long odyssey, and as we have reached crucial points he has been extremely helpful in moving this process along. It has been pretty clear in the last few weeks that the opposition has chosen to delay consideration of the bill. So I thank him and look forward to trying to reach an agreement with the opponents of the bill so we are not required to follow the scenario as outlined by the majority leader. I am not sure we can get an agreement without that scenario being presented. So I thank him for that.

For the benefit of my colleagues, Senator MCCONNELL approached me a short time ago. He said he wanted to continue negotiations on a so-called package of technical amendments and that he would not insist that a substantive amendment be considered on it. I will be glad to, along with my colleague Senator FEINGOLD, consider any technical changes that are purely technical in nature, but we have found out in the course of this long odyssey we have been involved in that words do have meaning and some people view words that are technical as not technical.

We require the agreement of all of our colleagues who have been involved in this issue, including Members of the House, and we have to be sure of a certain methodology that would be taken up in the other body. So we will be glad to continue to negotiate. I hope we can reach agreement, but under no circumstances would our failure to reach an agreement on a technical package of amendments impede the process we are now embarked on of reaching final resolution on Shays-Meehan/McCain-Feingold before we leave for the next break.

I wish to make it clear, I am willing, along with my colleagues, to work on so-called technical amendments, but in no way would they impact the final passage of the bill because they are technical in nature. That is the name of them. So I, again, thank the majority leader. I thank my friend Senator FEINGOLD, and perhaps—and I emphasize ''perhaps''—we can reach some amicable agreements to get this thing done without causing discomfort to the schedules and lives of our colleagues.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I know the Senator from Wisconsin wishes to say a few words, but before these two men leave, I wanted to be able to say to them it is not often in this body that one can make such a significant difference as they have done with campaign finance.

I can remember in 1986, I woke up one morning and the State of Nevada was covered with signs of my opponent. I thought to myself, what a tremendous waste of money. Why would he be wasting money on signs? They cost so much. So I filed a complaint with the Federal Election Commission. Two years later I get a response that they have done something technically in violation.

The fact is, the signs were paid for by the State party. That was the beginning of this rush of corporate money. From that time, 1986 to 1998, 12 years, it changed dramatically. Between JOHN ENSIGN and HARRY REID, from signs paid for by the State party, there was $20 million spent in the State of Nevada, not counting independent expenditures. The vast majority of that was corporate money. That is not going to happen when this legislation takes effect.

I am so grateful to these two men for what they have done to make my life more understandable. I will still have to work hard to raise money, but I will not have to go to people and ask for large sums of money for the State party, or for myself for the State party, however it worked, however one had to do it just right.

I know the Senator from Arizona has indicated he appreciated Shays-Meehan. Well, I appreciate the work they have done, also. I admire those two