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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, April 9, 2002, at 2 p.m.

Senate

THURSDAY, MARCH 21, 2002

The Senate met at 9:45 a.m. and was called to order by the Honorable ZELL MILLER, a Senator from the State of Georgia.

The PRESIDING OFFICER. The prayer today will be offered by our guest Chaplain, Dr. Calvin McKinney, Pastor of the Calvary Baptist Church in Garfield, NJ.

PRAYER

The guest Chaplain offered the following prayer:

Gracious Father, beneficent Lord of all mankind, Thou who hast blessed our Nation with blessings beyond measure, with gratitude we pause in this hallowed place simply to say thank You. Thank You for Your presence with us always. Thank You for the joy Your presence brings. Thank You even for the challenge and the responsibility which is ours by virtue of said blessed presence. Your presence with us demands a witness and an example of a demonstration of righteousness, love, peace, and justice; so our prayer is that You will also bless us to be true to Your cause in all the world.

Dear Father, bless the women and men of this august body, which represents a people so blessed by Thee, to always seek Thy way and Thy will as is made clear by Thy word. Bless them in their deliberations to purpose always that such seeks Thy face. For, in so doing, "Thy will, will be done in the earth as it is in the heavens."

Lord, grant now our Senators the wisdom, courage, and tenacity to follow after Thee as they conduct the people's business. Bless them always with humility and a servant spirit. Bless

them as they work with our President and the House of Representatives, for whom we seek Thy blessings as well, in the name of Thy beloved Son. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ZELL MILLER led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 21, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ZELL MILLER, a Senator from the State of Georgia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

MEASURE PLACED ON THE CALENDAR—H.R. 2804

Mr. REID. Mr. President, I understand that H.R. 2804 is at the desk and is due for its second reading.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. REID. Mr. President, I ask that H.R. 2804 be read for a second time and I object to any further proceedings at this time.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill for a second time.

The assistant legislative clerk read as follows:

A bill (H.R. 2804) to designate the United States Courthouse located at 95 Seventh Street in San Francisco, California, as the James R. Browning United States Courthouse.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

SCHEDULE

Mr. REID. Mr. President, today the Senate will resume consideration of the Energy Reform Act. The Kyl amendment is pending. There will be 4 minutes of closing debate prior to the vote in relation to this amendment.

The majority leader asked me to notify all Members that we are attempting to work out an arrangement on the Lott amendment which has also been offered on this legislation.

We also have been working with the minority to come up with a finite list of amendments. I spoke with Senator MURKOWSKI last evening. He believes

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



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we can come up with a finite list of amendments, as does Senator BINGAMAN. If we do that, then we are going to continue to work on this bill and do everything we can to complete it the week we get back. If we don't get a finite list of amendments today, I believe the majority leader will not go to the energy bill when we get back after the recess.

RESERVATION OF LEADER TIME

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

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

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

The bill clerk read as follows:

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

Pending:

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

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

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

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

Bingaman amendment No. 3016 (to amendment No. 2917), to clarify the provisions relating to the Renewable Portfolio Standard.

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

Lott amendment No. 3033 (to amendment No. 2989), to provide for the fair treatment of Presidential judicial nominees.

Lincoln modified amendment No. 3023 (to amendment No. 2917), to expand the eligibility to receive biodiesel credits and to require the Secretary of Energy to conduct a study on alternative fueled vehicles and alternative fuels.

Kyl amendment No. 3038 (to amendment No. 3016), to provide for appropriate State regulatory authority with respect to renewable sources of electricity.

AMENDMENT NO. 3038

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 4 minutes of debate to be equally divided in the usual form on the Kyl amendment No. 3038.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I will go ahead and use the 2 minutes in opposition to the Kyl amendment, and then the sponsor, Senator KYL, will use the final 2 minutes.

The main reason to oppose this amendment is that it totally elimi-

nates, if adopted, any kind of provision in this bill that would move us toward more use of renewable fuels in the future.

We need to diversify our supply of energy in this country. We need to be less dependent on some certain specific sources and more dependent on new technology. That is possible. It is happening. It is not happening as quickly as it should.

Ninety-five percent of today's new power generation that is under construction is gas fired. That is fine as long as the price of gas stays low. But if the price of gas goes back up to what it was 18 months ago, then we are going to see a serious repercussion in the utility bills of all consumers.

This underlying amendment, which the Kyl amendment would eliminate, tries to, in a very modest way, move us toward more use of renewables. It provides that we have 1 percent in the year 2005. Various utilities around this country would be required to produce 1 percent of the electricity they generate from renewable sources. That is not an excessive demand. It goes up in very small amounts each year thereafter.

I believe strongly that the renewable portfolio standard we have in the bill is a good provision. The suggestions Senator KYL and others have made that this is going to drastically increase everyone's electricity bills is not borne out by the analyses that have been made. The Energy Information Administration has analyzed this. At the request of Senator MURKOWSKI, they have concluded that this does not raise energy prices.

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

Mr. KYL. Mr. President, let me give you the 10 reasons we should support the Kyl amendment.

No. 1, the Bingaman amendment is the command-economy amendment, a 10-percent mandate, and the Kyl amendment is for State choice.

No. 2, the Bingaman amendment is very costly, at \$88 billion over 15 years and then \$12 billion each year after that—paid for by the electricity consumers.

If you would like to know how much your electricity consumers are going to be paying under the Bingaman amendment, I have all the information right here. You had better consult this before you vote against the Kyl amendment.

No. 3, the Bingaman amendment is discriminatory. The Bingaman amendment provides that some areas subsidize people in other parts of country.

No. 4, hydro is not included. Yet, of all the renewables, hydro is about 7 percent of the electricity production. The other renewables are only about 2 percent.

No. 5, it will benefit just a few companies. According to the Energy Information Administration, wind is the only economical way to produce this power, and it is concentrated in just a few areas.

Do you know who these few special interests are? You should find out before you vote against the Kyl amendment.

No. 6, renewables are not reliable. If the Sun doesn't shine, if the wind does not blow, and if water doesn't flow, you don't get energy. But you do out of coal, gas, and nuclear.

No. 7, we are already subsidizing the renewable fuels to the tune of \$1 billion a year.

There is a big difference between encouraging, which we are doing, and compelling.

No. 8, the administration supports the Kyl amendment and opposes the Bingaman amendment.

No. 9, biomass from Federal land does not count.

No. 10, there is no principal reason to discriminate against public and private power; yet private power is included in the Bingaman amendment and public power is excluded.

I will throw in a bonus reason.

The No. 11 reason to vote for the Kyl amendment and against Bingaman is this is the opposite of deregulation, which was supposed to be the whole point of the electricity section of the pending legislation. The 10-percent mandate is regulation and not deregulation.

I urge you to support the Kyl amendment.

RENEWABLE PORTFOLIO STANDARD APPLICATION

Mr. LEVIN. Mr. President, I commend the Chairman for his fairness and diligence in setting a goal for energy suppliers to meet a renewable portfolio standard that ensures power supply from a diverse mix of fuels and technologies. I thank the Chairman and his staff for working with my staff to answer questions concerning how the renewable portfolio standard would work. We understand the definition for qualifying facilities covers existing hydro facilities including pumped storage. This is important to the State of Michigan and we appreciate the clarification.

Ms. STABENOW. Mr. President, I echo the statements of the senior Senator from Michigan, and thank the Chairman for his work on developing a strong renewable portfolio standard. My question is whether renewable power could be measured by plant generating capacity or throughout to the customer.

Mr. BINGAMAN. That is correct. Pumped hydro is included as an existing renewable. With regard to how renewable power is measured, we intend the Secretary of Energy or the Federal Energy Regulatory Commission would set a normalized level for all hydro facilities, taking into consideration capacity and generation at normal or historical average water flows. For other renewable technologies, the volume is calculated based on actual generation. There has been some misunderstanding about the Texas plan, on which my amendment if modeled. The Texas statute set an overall increase in capacity,