

I do remind my colleagues that a cloture motion was filed on the conference report during yesterday's session, and that cloture vote will occur on Friday morning.

As we all know, we are scheduled to consider several major pieces of legislation over the next few days. In addition to the appropriations measures and the Medicare reform package, there will be other conference reports that will become available for Senate consideration, and we will attempt to clear those measures for Senate action as they arrive.

In addition to that, we will also continue to work through nominations on the Executive Calendar. There are some roadblocks right now, but we are doing our very best to address those. There are a number of important nominations that are ready for confirmation, including judicial nominees who should be cleared, the Department of Homeland Security positions, a number of ambassadors, Health and Human Services officials, and the list goes on and on. They are ready for confirmation.

I understand there are Members who are objecting to all of those nominations. I urge my colleagues to allow us to schedule votes on at least the non-controversial nominations. Some of those nominations are being held up by colleagues who say nothing is going to go through. At least let the non-controversial nominations proceed. It is clear we can't, in these final few days, be held hostage to unrelated matters on these important nominations.

I mentioned the Senate will need to work this weekend in order for us to finish all of our business. We will have a clearer picture as to what to expect over the course of the weekend as this day progresses. I do alert everyone that the likelihood of being in Saturday is very high and possibly for a period of time on Sunday as well.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. DASCHLE. Mr. President, the majority leader has been consulting with us with regard to the schedule. I share his view that there is an opportunity here for us to complete our work, if we can find a way to resolve the remaining issues before the Senate. We have a lot of work to do on conference reports, on the omnibus legislation, and on certain nominations.

I will say there are a number of holds on the nominations in part because of a misunderstanding perhaps with the White House on a particular nominee that has to be resolved if we are to move forward on these nominations. I am hopeful that can be done perhaps as early as today. That is one of the major obstacles to addressing successfully a number of other nominees.

This is going to be a busy week. I certainly urge our colleagues not to make

plans for Saturday or Sunday until we know better what the scheduling entails. I think it would be important for us to give our Members adequate notice with regard to the schedule, perhaps once or twice a day updating people as to what the schedule may hold. We will certainly work with the majority leader in attempting to address the many challenges we face with regard to the legislative schedule yet before us.

I yield the floor.

The PRESIDENT pro tempore. The majority leader.

Mr. FRIST. Mr. President, the Democratic leader and I have been in consultation and will continue to be in consultation over the course of the day—as he suggested, pretty much every few hours—to facilitate what is going to be a challenge in moving in a reasonably orderly way all that we have on the table.

I do want to mention in my opening comments that we are very close to addressing Healthy Forests. I plead with everyone, hopefully over the course of this morning, to resolve whatever remaining issues there are in terms of holding up that legislation. If we go to conference quickly, that very important legislation will be addressed. I think we are just about there. We were just about there last night. If we can get that over the goal line this morning, that would be helpful.

The PRESIDENT pro tempore. The minority leader.

Mr. DASCHLE. Mr. President, I am pleased the majority leader mentioned Healthy Forests. I would have done it if I had remembered. Of course, Senator COCHRAN and I had a very good conversation yesterday. Based on that conversation and his assurances that extraneous material would not be included in conference, we are prepared to go to conference now.

We have had good success in reaching agreement on the forest health provisions of the bill. There are other issues that still remain to be addressed. I share the view of the majority leader that we are now at a moment where I think we ought to try to complete our work. It would be great if at the end of the day we could set aside the pending legislation and pass that conference report. I think we are going to get a good broad bipartisan vote on the legislation. I applaud those who have taken us to this point. This is good legislation. It deserves support. I look forward to finishing work on that bill as well.

I yield the floor.

RESERVATION OF LEADER TIME

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

ENERGY POLICY ACT OF 2003— CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will re-

sume consideration of the conference report accompanying H.R. 6, which the clerk will report.

The legislative clerk read as follows:

Conference report to accompany H.R. 6, an act to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDENT pro tempore. The Chair is in doubt. Under the previous order, the Senator from New Mexico was to be recognized first.

Under the previous order, the Senator from California is now recognized for 60 minutes.

Mr. REID. Mr. President, we received word Senator DOMENICI would not be here this morning. Of course, he is managing this bill. Whenever he comes, we will work him into the order.

The PRESIDENT pro tempore. The Chair thanks the Senator from Nevada. (Mr. SMITH assumed the chair.)

Mrs. FEINSTEIN. Mr. President, I have come to the floor as a Californian to say there is very little in this Energy bill for California. There is very little to prevent future blackouts. There is nothing to protect consumers from manipulation and gaming of the system that we experienced a few years ago.

There is nothing to improve our Nation's energy security by increasing fuel economy standards. In short, from a California perspective, I see this bill as one giant giveaway to special interests, particularly the ethanol, the MTBE, the oil, the gas, and the nuclear power industries of this country.

I had hoped that this Congress, and in particular the Energy Committee on which I serve, following the Western energy crisis and last summer's blackout in the Northeast, would pass a sensible bill that would improve our Nation's energy supply while protecting consumers, the environment, and the economy. But as I read this bill, that is not the case. This Energy bill was drafted behind closed doors, without any input from Democratic conferees or from those of us on my side of the aisle on the Energy Committee. Simply put, it is one of the worst pieces of legislation I have seen in my time in the Senate.

It is interesting that today on every Member's desk is a summary of editorials. There are over 100 editorials from newspapers, large and small, all across this great country saying "oppose this bill." In fact, 100 newspapers around the country have come out opposed to the bill and editorialized against it. I will quote from one of them. Let me begin with the newspaper whose editorial policy is generally very conservative, and that is the Wall Street Journal. Let me read what the Wall Street Journal says about this legislation:

We realize that making legislation is never pretty, but this exercise is uglier than most.

The fact that it's being midwived by Republicans, who claim to be free marketers, arguably makes it worse. By claiming credit for passing this comprehensive energy reform, Republicans are now taking political ownership of whatever blackouts and energy shortages ensue. Good luck.

Now I will go to yesterday's Denver Post. The editorial is entitled "Energy Bill Full of Pork."

The bill does include funds for energy conservation, including some incentives for "green" construction, but some sound suspicious. Some \$180 million will pay for a development in Shreveport, LA. That project will use federal tax money to subsidize the city's first-ever Hooters restaurant. What a new Hooters has to do with America's energy situation may be best known to U.S. Rep. Bill Tauzin, a Louisiana Congressman and key player in the secret conference committee talks.

The bill provides no real vision, represents no real improvement in policies and laws. It is vexing that Congress did not seize an opportunity to improve the national energy picture. Congress should start over next year.

Let me now go to the Northeast, a large newspaper, the New York Times:

The oil and gas companies were particularly well rewarded—hardly surprising in a bill that had its genesis partly in Vice President Dick Cheney's secret task force. Though they did not win permission to drill in the Arctic National Wildlife Refuge, they got a lot of other things, not only tax breaks but also exemptions from the Clean Water Act, protection against lawsuits for fouling underground water and an accelerated process for leasing and drilling in sensitive areas at the expense of environmental reviews and public participation. Meanwhile, the bill imposes new reliability standards on major electricity producers, but it is not clear whether it would encourage new and badly needed investment in the power grid.

Now let me go to the Midwest to the Chicago area, the Chicago Tribune.

Despite all the years of partisan haggling that preceded it, the approximately 1,400-page energy bill that Republicans unveiled over the weekend, and which Congress is expected to vote on this week, is no masterpiece of compromise or even effective legislation.

It is more like a jigsaw puzzle with hundreds of unrelated pieces crammed together. A few initiatives are worthwhile, most look more like a laundry list of special-interest subsidies. Together, they don't add up to a policy that will promote energy self-sufficiency or stable prices.

Then let's go to one of the Chair's own newspapers, the Anchorage Daily News, which states:

What's left is a grab bag of lesser measures and pet projects patched together in hopes of gaining enough votes to pass in the House and Senate. The result is an energy bill that likely will pass—but not a coherent energy policy for a nation critically dependent on imported energy supplies.

Then let's go to the Houston Chronicle, and I will not read it all:

The most pressing problem facing the Nation is its increasing reliance on imported oil and gas. Yet the bill ignores several obvious avenues for progress.

The Republican draft of the bill set no standard for renewable sources of power, such as solar and wind. The latter will provide 2 percent of Texas' electricity supply and one day could spell the difference be-

tween air conditioning and brownout. There is no reason for Congress to ignore these pollution-free, alternative energy sources, and the conference committee should adopt a Senate amendment requiring expanded production of renewable energy.

Now, let me take a moment here to elaborate on this point. On Monday, during the Energy Conference, I was pleased an amendment requiring utilities to generate 10 percent of their energy from renewable sources was included in the bill. Unfortunately, this provision was stripped out of the conference report by the House just hours later. Although the bill does have requirements for renewable energy in government buildings, that is not enough. We need to encourage the use of this clean technology at a national level.

Finally, I would like to move to the west coast, to the largest newspaper, the Los Angeles Times. Their editorial is entitled "An Energy Throwback." They say:

It's clear why Republican leaders in Congress kept their national energy policy bill locked up in a conference committee room for the last month, safe from review by the public. Taxpayers, had they been given time to digest the not-so-fine print in the pork-laden legislation, would have revolted.

Let me begin my impression of the bill with its costs. The editorials from around the country show that this bill increases energy production at the expense of both the taxpayers and the environment. A group called the Taxpayers for Common Sense has estimated that this bill will cost \$72 billion in authorized spending, and \$23 billion in tax giveaways. That is \$95 billion in spending over the next 10 years.

I ask unanimous consent to have that report printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mrs. FEINSTEIN. Taxpayers for Common Sense points out that there is nearly \$13 billion for the oil and gas industry, \$5.4 billion for coal, \$1.4 billion for the nuclear power industry, \$4.16 billion for ethanol, \$4.9 billion in energy efficiency, \$1.7 billion for auto efficiency and fuels—that includes ethanol—\$11 billion for LIHEAP and weatherization, \$21 billion for science research and development, \$2.15 billion for freedom car and hydrogen research, and \$764 million for miscellaneous provisions.

Now, I am in favor of some of these programs, but the cost of this is enormous. The Senate should think twice about these massive spending increases, especially given our rising Federal deficit. I do not want to leave my children and my grandchildren saddled with these debts.

Let's also consider the fact that this bill does not deal with global warming, does not deal with fuel efficiency standards, does not deal with consumer protections, and does not deal with energy security.

From a western perspective, and particularly a California perspective, we

have to look at the western energy crisis and ask the question: Will this bill help in the future? My analysis of the bill leaves me with the conclusion that the answer is no.

I have often pointed out in this Chamber that the cost of energy directly before the crisis was \$7 billion. That was in 1999. It rose to \$27 billion in 2000, and \$26.7 billion in 2001. In 1 year, the cost went up 400 percent in California. There are Members of this body who said: Oh, California, it is your fault, you have a broken system, you don't have adequate supply to meet demand. A 400 percent increase is not the product of supply and demand, it is the product of gaming and manipulation.

Now, 3 years later and after \$45 billion in costs, we have learned how the energy markets were gamed and abused. In March of 2003, the Federal Energy Regulatory Commission issued its final report on price manipulation in the western markets, and what did it find? It confirmed that there was widespread and pervasive fraud and manipulation during the western energy crisis.

The abuse in our energy markets was in fact pervasive and unlawful. So you would think an Energy bill coming out a few years after this crisis would take a look and say we ought to prevent this from ever happening again, we ought to put policies and those procedures in this bill to prevent it, we ought to strengthen the Federal Energy Regulatory Commission's ability to produce just and reasonable rates and ensure that rates remain just and reasonable across this Nation. But this bill does not do this. Rather, this bill actually impedes the ability of Federal and State agencies to investigate and prosecute fraud and price manipulation in energy markets. These provisions would make it easier to manipulate energy markets, not harder to manipulate energy markets.

This bill sends this country in the wrong direction. Rather than preventing Enron-type schemes, such as Fat Boy, Ricochet, Death Star, and Get Shorty, this bill weakens the oversight over energy markets. It guts the Federal Energy Regulatory Commission's ability to enforce just and reasonable rates.

Between now and 2007, the FERC will be in court, litigating the meaning of this electricity title rather than enforcing the State administration of just and reasonable rates to electricity customers. FERC will be powerless to respond to market crises like the one that occurred in the West between 2000 and 2001.

I am also particularly concerned about the provision in the bill which directly affects the so-called sanctity of contract provision. California was overcharged by as much as \$9 billion for the cost of energy as a result of long-term electricity contracts that were entered into under desperate circumstances at the height of a gamed

energy crisis. These contracts were not based on just and reasonable rates, they were based on rates that were inflated as a result of gaming and manipulation. California has filed at FERC for refunds.

This sanctity of contract provision, however, would mean FERC would never provide any further refund in the California case. So it shuts out California from any further recourse. No one from California should vote for this Energy bill. The provision places the importance of the physical contract above the importance of enforcing just and reasonable rates. In other words, it says even if you signed a contract in a situation that has been gamed and manipulated by fraud, you are still bound to that fraud-inspired contract. That is what we are doing in this bill.

In my view, this is simply absurd. We need to be strengthening FERC's ability to enforce just and reasonable rates, particularly in a deregulated market, not weakening it. And the irony is that FERC recently announced a settlement in which El Paso Corporation and its subsidiaries would pay \$1.6 billion to resolve a complaint that the company withheld supplies of natural gas into California, driving up prices for gas and electricity during the State's energy crises in 2000 and 2001.

This was precisely the incident about which I tried to see the President—he wouldn't see me at that time—because we knew that the price from San Juan, NM, to southern California, which should have been \$1 per dekatherm, was \$60 per dekatherm, which was a manipulated price based on the withholding of space in the El Paso pipeline. We now know that that was correct because El Paso has paid \$1.6 billion: Fact.

This bill does nothing to prevent gaming and manipulation in the natural gas market. The bill does increase penalties for electricity gaming and fraud, but does nothing to increase the low penalties for manipulation of the natural gas market. It is estimated that El Paso's price manipulation cost consumers and businesses \$3.7 billion, yet this bill fails to give the FERC the power it needs to ensure that this kind of price manipulation does not happen again.

Now I would like to speak about what should be for the east coast and the west coast one of the most egregious provisions in the bill, and that is this ethanol mandate. This mandate is essentially a hidden gas tax. It will increase automobile emissions in the most polluted areas of the country and will not reduce our dependence on oil. Not only is this mandate unnecessary but it may have serious unintended environmental consequences because the environmental studies on ethanol have not been done. Yet this bill forces consumption of ethanol beyond that which is needed. So this bill is pushing an untested product that States such as mine don't need to meet clean air standards.

There are several reasons I am adamantly opposed to mandating the increase in ethanol consumption from 3.1 billion gallons a year to 5 billion gallons over the next 7 years. Not only do I believe the mandate is unnecessary but I am concerned about unintended environmental consequences. Let me tell you why. This is not just off the top of my head. This summer, for the first time, 70 percent of southern California's gasoline was blended with ethanol. Partially as a result, southern California endured its worst smog season since 1998. Why? Ethanol produces smog.

For the first time in 5 years, southern California experienced a stage 1 smog alert. As of September, the greater Los Angeles metropolitan area had experienced 63 days of unhealthy air quality, when ozone levels exceeded Federal standards. That number far exceeds the 49 days of unhealthy air quality during 2002 and the 36 days in 2001.

That is with 70 percent of its gasoline blended with ethanol. So the air got worse; it didn't get better.

The number of unhealthy days this year was almost more than twice that of two other of the smoggiest areas of the country, the San Joaquin Valley and Houston, TX, which exceeded the Federal health standards for 32 days and 25 days, respectively. What ethanol has done for southern California is make it more smoggy, not less smoggy. It is a culprit. It is worsening smog. I think we are mandating it in this bill willy-nilly because of greed.

The Secretary of the California EPA concluded, and this is his direct quote:

Our best estimate is that the increase in the use of ethanol-blended gasoline has likely resulted in a 1-percent increase in emissions of volatile organic gases in the South Coast Air Quality Management District in the summer of 2003. Given the very poor air quality in the region, and the great difficulty of reaching the current Federal ozone standard by the required attainment date of 2010, an increase of this magnitude is of great concern. Clearly, these emission increases have resulted in higher ozone levels this year than what would have otherwise occurred and are responsible for at least some of the rise of ozone levels that have been observed.

Not only does this bill do harm to California, it increases the use of ethanol-blended gasoline, and that will threaten my State's long-term trend toward cleaner air. It will make it more difficult, and it may well make it impossible.

Without major emission reduction in the next several years, air quality officials warn that the region may miss a 2010 clean air deadline to virtually eliminate smoggy days. If the deadline isn't met, the Los Angeles region could face Federal sanctions amounting to billions of dollars.

That is why I oppose this ethanol mandate. That is why I say to those who are supporting it that you are doing us grievous injury.

Furthermore, the bill as written threatens the highway trust fund, the

funding stream that allows States to construct and maintain our roads.

Let me tell you how. Gasoline taxes generate about \$20 billion per year for the highway trust fund, and they comprise about 90 percent of the overall money for the fund. Because this bill subsidizes ethanol with transportation dollars, any increase in the use of ethanol will mean a decrease in the amount of money going into the highway trust fund. In fact, California will lose approximately \$900 million over the next 7 years just because of this provision. The loss of highway funds for the entire country will amount to \$10 billion over the next 7 years because of this ethanol mandate. It is egregious public policy.

I am also concerned about the price impact this mandate will have on the cost of gasoline at the pump.

Proponents of the ethanol mandate argue that gas price increases will be minimum, but the projections don't take into consideration the real world infrastructure constraints and concentration in the marketplace that can lead to high price hikes. We all know that when one entity controls most of the marketplace, that entity can move price as it sees fit. And that is the situation we have here.

Everyone outside of the Midwest will have to grapple with how to bring ethanol to their States in amounts prescribed and mandated since the Midwest controls most of the ethanol production. California has done more analysis than any other State on what it will take to get ethanol to our State. The bottom line is that it can't happen without raising gas prices. Our analysis shows that we can't bring ethanol to our State without increasing gas prices.

As I said, California has done more analysis on what it will take to bring the required amount of ethanol to our State than any other State, and has found that it will have cost consequences at the pump. Proponents of the ethanol mandate argue that gas price increases will be minimal. But the projections don't take into consideration the infrastructure and strength and the concentration in the marketplace that exists. Everyone outside of the Midwest will have to grapple with how to bring ethanol to their States since the Midwest controls most of the production.

I am also concerned about the limited number of ethanol suppliers in the market today. This high market concentration will leave consumers vulnerable to price hikes as it did when electricity and natural gas prices soared in the West because of a few out-of-State generating firms dominating the market.

As I have watched all of this, every time you have out-of-State companies dealing with an unregulated energy-related marketplace you have problems. I don't know why. But I suspect there really isn't the connection with the consumer. Many of the companies driving the energy crisis in California

weren't in California. I wonder if they would do the same thing to their State that they did to our State. I am not a fan of the way the marketplace is structured today. And into this lack of structure and lack of price responsibility, we bring a whole new component. That component is that one company is the dominant producer in the highly concentrated ethanol market.

ADM today controls 46 percent of the ethanol market. That is only what is produced today. The company has an even greater control over how ethanol is distributed and marketed. ADM does not have a sterling record. It is an admitted price fixer and three of its executives have served prison time for colluding with competitors. I cannot look at ADM and say we have a pristine corporate citizen who controls this marketplace, its production, its distribution and will have any compassion for price responsibility. I do not believe giving firms such as this, this kind of control, is good public policy.

One could ask, Do I have any more grievous complaints? The answer is yes. The list goes on and on.

Let me take up MTBE. In this bill, there is a liability waiver so nobody can sue for the fact that MTBE has been found to be defective by a court of law. Not only that, it is a retroactive liability protection for MTBE producers. This provision offers them immunity from claims that the additive is defective in design or manufacture. It makes this liability protection retroactive to September 5 of this year thereby wiping out hundreds of lawsuits brought by local jurisdictions all across America. This retroactive immunity is a perverse incentive to those who pollute because it says to them, OK, you have done all of this damage; nonetheless, it does not really matter. You do not really have any liability. All these suits will be wiped out.

This bill does not ban MTBE nationwide despite what has happened in huge numbers of States, including my own. It gives MTBE producers \$2 billion in what is called "transition assistance" to transition out of a product they are allowed to continue to produce and export. So they can accept \$2 billion and continue to produce a flawed product that we know contaminates ground water, that we know leaches out of ground water wells, creates plumes of benzene, could possibly be carcinogenic, and pollutes drinking water so it is undrinkable and what do they get for doing this? \$2 billion in this bill. Now I ask, is that good public policy? Remember, the courts have already found it to be a defective product. This is not me speaking; it is the courts.

I first learned about MTBE when the mayor of Santa Monica came to see me and told me that one-half of their entire water supply was contaminated with MTBE and could not be used. As I delved into it and investigated the claims further, I came to learn there were at least 10,000 sites contaminated

in California. Since then, about a year ago, it is now 15,000 sites in California.

California is not alone. Last year the EPA estimated there are 15,051 sites in California. Nationally there are 153,000 contaminated ground water sites.

The States with the most pollution include California and Florida. Florida has 20,273 contaminated ground water sites—more than California. Florida is heavily impacted with MTBE pollution. Illinois has 9,546 contaminated sites. Michigan has 9,087 sites. Texas has 5,678 sites. Wisconsin has 5,567 sites. New York has 3,290 polluted sites. Pennsylvania has 4,723. It is State after State after State. They total 153,000 polluted drinking water sites. This bill does not make MTBE illegal; this bill gives MTBE \$2 billion, and they cut out the ability of local jurisdictions to sue to be able to clean up these sites with the money. If that is not perverse public policy, if that does not create an incentive to do bad things, I don't know what does.

As I said, the courts ruled that MTBE is a defective product. Actually, this relates to a case in my State so I think it is relevant to mention this case. It is a case brought by the South Lake Tahoe Public Utility District. The court held Shell, Texaco, Tosco, Lyondell Chemical, which is ARCO Chemical, and Equilon Enterprises liable for selling a defective product, gasoline with MTBE, while failing to warn of its pollution hazard. The court forced these MTBE producers to pay the water district of South Lake Tahoe \$60 million to clean up the mess.

The industry, in fact, knew of the problems with MTBE yet decided to include it in gasoline. They deny all of this, but a court has found it to be the case. In fact, let me read a comment from Exxon employee Barbara Mickelson from 1984:

Based on higher mobility and at the same time/odor characteristics of MTBE, Exxon's experience with contaminations in Maryland, and our knowledge of Shell's experience with MTBE contamination incidents, the number of well contamination incidents is estimated to increase three times following the widespread introduction of MTBE into Exxon gasoline.

This is 1984. The company went ahead and included it in their gasoline. Now, no one can sue them for a defective product in this bill.

Let me also give you an excerpt from a 1987 memorandum circulated within the Environmental Protection Agency:

Concern about MTBE in drinking water surfaced after the Interagency Testing Committee report was published. Known cases of drinking water contamination have been reported in 4 states. These cases affect individual families as well as towns of up to 20,000 people. It is possible that this program could rapidly mushroom due to leaking underground storage tanks at service stations. The tendency for MTBE to separate from the gasoline mixture into ground water could lead to widespread drinking water contamination.

That is what indeed happened as illustrated by the fact that today we have 153,000 drinking water sites con-

taminated with MTBE across this Nation. This bill does not make its use illegal. It gives the companies \$2 billion, and it prevents water districts from suing because the product was knowingly defective. There is no way you can look at a provision like this and not say this is a bad bill.

What adds insult to injury is this bill says they can continue to produce MTBE and export it to other countries so the drinking water of other countries can be polluted. How perverse can public policy be?

I am also disappointed that the conference report does nothing to increase fuel economy standards of our Nation's fleet of automobiles. We have an Energy bill. The largest contributor to global warming is carbon dioxide. The largest producer of carbon dioxide is the automobile. This bill does nothing to make automobiles more fuel efficient. What kind of an energy policy is that? In fact, the bill, again, perversely, makes it more difficult for the Department of Transportation to encourage fuel efficiency standards in the future by including a new list of criteria the Department must consider when revising standards.

I believe increasing the fuel economy of SUVs and light trucks is the single easiest step the Nation can take to reduce the emission of carbon dioxide into the atmosphere. It is the biggest single shot at reducing global warming. Yet we refuse to do it.

Earlier this year, Senator SNOWE and I introduced bipartisan legislation to close what is called the SUV loophole. We were unable to offer this legislation as an amendment to the Senate version of the Energy bill when it was on the floor.

But our bill had been evaluated by the National Academy of Sciences, that has released a study on this issue, and said it was technologically feasible to do this, and that over the next 10 years it would save the United States a million barrels of oil a day and reduce our dependence on foreign oil by 10 percent. It said it would prevent 240 million tons of carbon dioxide, the top greenhouse gas, as I have said, from entering the atmosphere each year, and it would save SUV and light-duty truck owners hundreds of dollars, ranging anywhere from \$300 a year to \$600 a year at the pump in the cost of gasoline.

CAFE standards were first established in 1975. They were fought by Detroit, just as seatbelts were fought by Detroit. At that time light trucks made up only a small percentage of the vehicles on the road. They were used mostly for agriculture and commerce. Today they are used mostly as passenger cars. Our roads look much different. SUVs and light-duty trucks comprise more than half of new car sales in the United States.

As a result, the overall fuel economy of our Nation's fleet is the lowest it has been in two decades, largely because fuel economy standards for SUVs

and light trucks are so much lower than they are for other passenger vehicles. They are 22 miles per gallon. We could have them equal to sedans and have all the savings I have just cited.

Additionally, what is interesting is that others are moving rapidly to retrofit automobiles with new fuel savings technology that is available today for use by car manufacturers. Toyota recently announced improvements in its hybrid vehicle, the Prius, making it more powerful and more fuel efficient. Toyota has announced a hybrid version of its Lexus RX 330 SUV, which is scheduled to be released in early next year.

Meanwhile, instead of moving forward, some U.S. automakers are moving backward. I was very disappointed by the announcement made by the Ford Motor Company stating Ford would not be meeting its self-imposed goal of raising the fuel economy in its SUVs by 25 percent by 2005. Additionally, Ford announced it is delaying the sale of its hybrid SUV, the Escape, another year until 2004.

Yet China has announced it is going to move quickly on imposing fuel efficiency standards on its automobiles. Of course, any American companies that produce for Chinese consumption will have to conform.

I am so disappointed to see this Energy bill does not address global climate change. We are 5 percent of the world's population. We use 25 percent of its energy. We produce the world's most greenhouse gas emissions. We are the most significant culprit driving global warming.

Despite the fact that climate change threatens our environment and our economy, this bill does nothing to address it. I think that is a major mistake. Energy and climate are inextricably linked. A truly comprehensive energy policy cannot ignore that issue. As a nation, we ignore it at our peril.

The scientific evidence of global warming is real. The problem is getting worse. People are seeing mosquitos in areas of the Arctic for the first time. Glaciers are melting around the world, from Glacier National Park to the slopes of Mount Kilimanjaro. The largest ice shelf in the Arctic is disintegrating. This ice shelf covers 150 square miles. It is 100 feet thick.

The hole in the ozone layer, which decreased in size last year, grew to its largest level earlier this year.

Climate change is also affecting some of our most treasured places. Over a century ago, 150 magnificent glaciers could be seen on the high cliffs and jagged peaks of the surrounding mountains of Glacier National Park. Today, there are only 35. The 35 glaciers that remain today are disintegrating so quickly that scientists estimate the park will have no glaciers in 30 years.

Glaciers in the Sierra Nevada, in my State, are disappearing. Many of these have been there for the last thousand years.

We are seeing similar melting around the world, from Mount Kilimanjaro in

Tanzania to the ice fields beneath Mount Everest in the Himalayas.

Dwindling glaciers offer a clear and visible sign of climate change in America and the rest of the world. We are seeing these changes. Scientists tell us to expect more. Yet this bill is silent.

We have reports from the National Academy of Sciences, the Intergovernmental Panel on Climate Change, and the Congressional Budget Office.

Let me quote the CBO report in May:

Scientists generally agree that continued population growth and economic development . . . will result in substantially more greenhouse gas emissions and further warming unless actions are taken to control those emissions.

The place to take those actions is in an Energy bill, and yet this conference report is silent.

Let me tell you what the actual effect is in my State.

Sea level has risen 6 inches in San Francisco since 1850, with the greatest change happening since 1925. As sea level rises, the salt water permeates into the delta, contaminating drinking water and ground water further upstream.

Even without climate change, it would be a struggle to supply enough water for all of the people that live in California. But report, after report, after report indicates that climate change will further threaten a water supply that is already tight.

Models from NASA, the Lawrence Livermore National Laboratories, and the Union of Concerned Scientists all indicate that climate change is likely to increase winter rain and decrease snowfall in my State.

More winter rain means winter flooding. Less snow means less water for the rest of the year. California's water supply depends on gradual snow runoff. We have spent billions of dollars on water infrastructure that depends on this runoff, and yet we still have to struggle to provide enough water for our farms, our cities, our fish, and our wildlife. This bill does nothing to help California's situation.

In 1910, half of the Sacramento River's annual runoff took place between April and July. Today that number is 35 percent, and it is continuing to decline. We can't count on this runoff. It is clearly in our best interest to address climate change. Our environment is clearly at risk. Our relations with our allies are at risk because of our reluctance to address it.

The Foreign Relations Committee has recognized the need for the United States to act. We should do so in this bill. Yet we do not. How can I, representing the largest State in the Union, support a bill that does nothing for my State—nothing?

Let me now deal with the sensitive issue of coastal protection. On the positive side, the bill no longer includes another inventory of oil and gas resources on the Outer Continental Shelf. However, this conference report takes away the States' input into an impor-

tant set of energy development projects, including liquefied natural gas facilities and other oil- and gas-related projects. These States need input into these decisions. For coastal States, this is a significant weakness in this bill, particularly States such as Florida and California and for your own State of Oregon, Mr. President. Time after time, we have said we do not want offshore energy development. This bill opens that door, and it reduces the States' input into decisions which directly affect our coastal zone waters.

The Energy bill also fails to include the renewable portfolio provision which was included in the Senate-passed bill. I heartened when the ranking member, the Senator from New Mexico, announced earlier this week that it was in. Apparently, it is now out. Solar, wind, geothermal, and biomass are generating electricity for homes and businesses nationwide. It is working in California. We need an energy policy that not only provides tax incentives for their continued development but also requires their use. I believe it is in the public interest for our Nation to require a greater development of renewable resources.

The tax provision of this bill implies that nuclear power is a form of renewable power, and it places this form of power on an equal footing in the Tax Code with traditional renewables. This production tax credit for nuclear power is the largest energy tax credit in the bill and would be the largest one in the code, equaling \$6 billion. As a nation, we still can't properly dispose of nuclear waste. This waste has a half-life of an eternity, yet we are going to produce more of it. I strongly believe this is a mistake.

This bill also weakens the Clean Air Act. Upon reviewing the bill, I was most disappointed to learn that the legislation that has really cleaned up our air, the Clean Air Act, is weakened. The 1990 amendments to the Clean Air Act, signed by the first President Bush, implemented timelines for cities to clean their air. This bill undermines the intent of those amendments by no longer requiring communities to clean up their air if they can claim that part of its pollution is a result of transported air pollution.

Most of California—all the inland areas—is a product of transported, to some degree, air pollution. Seventy percent of our State does not meet national air quality standards. So California is probably more adversely impacted by this than any other State because of strong prevailing westerly winds which drive the pollution from the big coastal areas into the valley areas. This will result in a major weakening of the Clean Air Act. Huge areas of the State, such as the Central Valley and the Inland Empire, will have reduced cleanup requirements.

Our Nation needs an energy policy that will protect consumers, reduce our dependence on foreign oil, and produce

new energy development while protecting our environment. This bill does not do that. This bill deserves to be defeated. This bill is a bad bill.

I strongly urge my colleagues to vote against this poorly crafted legislation.

EXHIBIT 1

TAXPAYERS FOR COMMON SENSE

Type or industry	Authorized spending
Oil and Gas (including MTBE/LUST)	\$12.971 billion (includes \$414 million scoring of royalty provisions).
Coal	\$5.434 billion.
Nuclear	\$5.735 billion.
Utilities	\$1.355 billion.
Renewables (including R&D)	\$4.164 billion.
Energy Efficiency (including R&D)	\$4.931 billion.
Auto Efficiency and fuels (including Ethanol)	\$1.698 billion.
LIHEAP and Weatherization Assistance	\$11.425 billion.
Science Research and Development	\$21.850 billion.
Freedom CAR and Hydrogen Research	\$2.149 billion.
Miscellaneous	\$764 million.
Total Authorization	\$72.476 billion.

BREAKDOWN OF COST ESTIMATES

Oil and Gas

Title III—\$949 million (direct and royalty exemptions).

Title IX Research and Development—Fossil Fuel \$1.997 billion.

Title XIV Miscellaneous, Subtitle B Coastal Programs—\$5 billion.

Title XV Ethanol—MTBE and other provisions—\$5.025 billion.

= \$12.971 billion.

Coal

Title IV Coal—\$3.925 billion.

Title IX Research and Development—Fossil fuels \$1.509 billion (specifically allocated to coal).

= \$5.434 billion.

Nuclear

Title VI Nuclear Matters—\$1.186 billion.

HEALTHY FORESTS RESTORATION ACT OF 2003

Mr. FRIST. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (H.R. 1904), to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendments of the Senate to the bill (H.R. 1904) entitled "An Act to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes";

and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on Agriculture, for consideration of the House bill and the Senate amendments, and modifications committed to conference: Mr. Goodlatte, Mr. Boehner, Mr. Jenkins, Mr. Gutfnecht, Mr. Hayes, Mr. Stenholm, Mr. Peterson of Minnesota, and Mr. Dooley of California.

From the Committee on Resources, for consideration of the House bill and the Senate amendments, and modifications committed to conference: Mr. Pombo, Mr. McInnis, Mr. Walden of Oregon, Mr. Renzi, Mr. George Miller of California, and Mr. Inslee.

From the Committee on the Judiciary, for consideration of sections 106 and 107 of the House bill, and sections 105, 106, 1115, and 1116 of the Senate amendment and modifications committed to conference: Mr. Sensenbrenner, Mr. Smith of Texas, and Mr. Conyers.

Mr. FRIST. Mr. President, I ask unanimous consent the Senate insist on its amendments and agree to the request of the House on a conference of the disagreeing votes of the two Houses thereon, and the Chair be authorized to appoint conferees on behalf of the Senate with a ratio of 4 to 3.

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

The Presiding Officer (Mr. SMITH) appointed Mr. COCHRAN, Mr. MCCONNELL, Mr. CRAPO, Mr. DOMENICI, Mr. HARKIN, Mr. LEAHY and Mr. DASCHLE conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the leader. It, indeed, is good news that this bill is coming over. It is my understanding that we have had successful negotiations. I am very hopeful there will be a bill before us shortly.

I yield the floor.

ENERGY POLICY ACT OF 2003—CONFERENCE REPORT—Continued

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I see no other Senators seeking recognition so I will speak for a few moments about one aspect of this bill.

First, I thank my colleague from California for her statement. She has been extremely involved in these issues from the beginning as a member of the Energy Committee. She has taken a leadership role on many aspects of the legislation in trying to see that the provisions we came up with were good for her State and good for the country.

Let me try to talk about one part of the bill. There are 16 titles to the legislation. It does go on for 11 or 12 hundred pages. I want to talk about one of those 16 titles; that is, title XII, which relates to electricity generation and transmission and distribution.

That is a very important part of the bill and one that is complicated and difficult for us to understand but one

we need to focus on because of the extreme importance it has to our economy. In my view, some of the biggest changes in law that are contained in the bill are located in the electricity title. I would also argue that the biggest retreats we are making from consumer protections are perhaps in this section as well.

During the last few years, there have been three very notable publicized developments or events in the electricity industry that have come to our attention as a nation. Not in chronological order, but first, at least in what is on the front page today and what is most immediately in mind when we think about electricity, is the blackout we experienced in the eastern part of the United States and some of the Midwest that shut down nearly a third of our Nation; the problems of how to have a reliable system for transmitting electricity and ensuring that if there is a failure somewhere, it does not cascade to the 18 States that were affected by this blackout, for example. So reliability is a serious issue, and we were made very aware of that. The President's phrase was that this was a wake-up call. I would suggest that this was a wake-up call we have not heeded adequately in the bill. I will go into why I believe that.

A second issue, of course, is what happened in California and the west coast, Oregon and Washington in particular, a couple of years ago when they had the market meltdown there and prices spiraled out of control and people saw their utility bills go up very substantially. Unfortunately, those bills have remained very high. It has had a significant impact on the economy of that part of our country. Some of that, of course, was due to manipulation of those markets, ineffective market rules. That is another area of concern that clearly should be addressed in this legislation.

The third area of concern that I cite is the financial collapse of many utilities, due in large part to the investments they have made in markets that are not central to the business of producing and selling electricity. That financial collapse has become a serious problem for many in our country as well.

This bill, in my opinion, fails to adequately address each of these problems, whether it is a liability or protection of the consumer. In the conference report before us, it blocks implementation of market rules that could prevent market manipulation. There, I am thinking about the provisions in the bill that delay FERC's ability to act not only to issue a standard market design rule, but to issue other orders of general applicability within the scope of that standard market.

It also addresses only one form of market manipulation—round-trip trading. I will get into more of a description about that, but there are other types of market manipulation we should be prohibiting in this bill. It