have more respect for than the Senator from West Virginia. So we thank him for those comments.

HONORING OUR ARMED FORCES

Mr. PRYOR. Mr. President, today I rise to talk about the ongoing war in Iraq, but more importantly to recognize a few of those soldiers who sometimes get lost in the mounting rolls of casualty listings and to speak to the reality of war as seen through the eyes of a State that has a long tradition of sending young men and women onto the battlefield.

I have been in every county in my State many times, and I cannot think of one county in Arkansas that does not have some sort of war memorial. In fact, most of those are at the county courthouse. In fact, War Memorial Stadium is in Little Rock; it is where the Razorbacks play their games. You can go all over the State and see memorials to men and women who have served and died in World War I, World War II, the Korean War, Vietnam, and now we are adding memorials for those who have died in Iraq. In fact, in some parts of Arkansas, you can visit the graves of Revolutionary War soldiers who actually—even though Arkansas wasn't even a State or a territory during that time, we have taken those graves, honored them, and we are proud that they migrated to the area known as Arkansas. We feel connected to the Revolutionary War through them.

Sometimes it is easy to feel disconnected from the war effort. Even though there is 24-hour news coverage dominated by visions of our men and women in uniform fighting for freedom in Iraq, the pictures, words, and stories can have a numbing effect. We start paying attention to other matters, and we try to live our daily lives and try to put the echoes of war in the background. But sometimes all it takes is one event to snap us back, to grab our attention and make us more attuned to the conflict we face.

The tragic events in Iraq in April have brought with it 115 American military fatalities; major combat in Fallujah; and a rush of kidnapping, bombings, and other insurgent attacks that have terrorized not just American soldiers but innocent Iraqis.

April has also brought our full attention as a Nation back to the war in Iraq. Almost a year later, we fully realize there is still work to be done militarily and diplomatically, and that our mission is not yet accomplished.

As for the citizens of Arkansas, we have in the past few weeks experienced both the joy and pain that is associated with being a standard bearer for freedom and democracy. We are a country that has and will continue to risk life and limb, not only to protect our freedom and liberty but to extend those same opportunities to all people in all places. It is something of which we can and should be proud. But as we know, it often comes with the most precious sacrifice.

On April 22, we were fortunate enough to welcome home 106 Army National Guard soldiers, members of the 1123rd Transportation Company based in Marked Tree, AR, and Blytheville, AR. Also, more than 60 Army Reserve soldiers from Company C of the 489th Engineer Battalion returned to their home bases in Arkansas last week after spending more than a year in Iraq. These units spent more than a year in Iraq helping rebuild Iraqi cities, providing protection and logistical support, and destroying enemy weapons.

I commend these men and women for their brave service. Some of them were away from their families for far longer than they expected, but they are now home, and I, along with all Arkansans and all Americans, welcome them back.

Mr. President, while Arkansans rejoiced in the news of having a collection of our men and women return safely, we at the same time faced the harsh reality that some of our men and women would pay the ultimate sacrifice for freedom.

On Saturday, April 24, four soldiers, all members of the Arkansas Army National Guard's 39th Infantry Brigade, were killed in Taji, Iraq, as a result of hostile fire when rockets hit their camp. An additional soldier was killed a day later when a roadside bomb detonated near Sadr City.

To let my colleagues know, there are approximately 4,200 troops in the 39th Infantry Brigade, including about 2,800 Arkansans from 47 hometown units. The balance of the troops are from 10 other States.

The 39th was officially called to active duty last September, and I watched their progress as they trained and prepared to fulfill their mission.

In January, I traveled to Fort Hood, TX, to visit troops from the 1st Cavalry Division and the 39th Infantry Brigade. During my trip, I witnessed demonstrations of topnotch training and cutting-edge equipment that will enable these soldiers to successfully carry out their mission in Iraq.

I again visited them at Fort Polk, LA, with other members of Arkansas's congressional delegation. I was truly proud of what I witnessed. I saw Arkansans who had undergone long days of training and preparation and were aware of the dangerous conditions and challenges that lay ahead for them in Iraq. However, they remained in high spirits and were determined to carry out their mission.

I am inspired by these men and women, patriots all, who have taken determination and commitment to a new level. I know the sacrifice and the dedication of the 39th will help bring stability and democracy to the streets of Iraq.

We wished these soldiers well, knowing it was a matter of days before they would be sent to Iraq. In March, they were sent over. Since their departure, we have all gone to bed with prayers in our minds and hope in our hearts that all the members of the 39th would return home safely. The events of the past few weeks have prevented this from happening, although we remain hopeful.

I stand here today to extend my deepest sympathies to their families and honor them for their commitment and sacrifice. The brave men and women who have surrendered their lives this weekend so others might enjoy freedom include:

U.S. Army CPT Arthur ''Bo'' Felder, 36, of Lewisville, AR. He had served in the National Guard since 1986, a year after he graduated from Lewisville High School. Felder served as a youth director at St. Luke Missionary Baptist Church in North Little Rock.

U.S. Army CWO 3 Patrick Kordsmeier, 49, of North Little Rock, AR, who died tending the soldiers injured in the first blast when he was killed by a second attack. He was up for retirement before the war in Iraq began, but he asked for an extension so he might serve. He was born in Little Rock. He reminds me of that phrase in the Bible where it talks about there is no greater love than one who lays down his life for a friend. That is exactly what he did;

U.S. Army SSG Stacey Brandon, 35, of Hazen. He was a prison guard for the Arkansas Department of Correction and later worked at the Federal prison in Forrest City;

U.S. Army SSG Billy Orton, 41, of Humnoke, AR. His wife and children reside in Carlisle, AR, and his mother in Hazen;

U.S. Army SP Kenneth Melton, 30, of Batesville, AR. Melton was traveling as part of a protection team with battalion leaders when a roadside bomb exploded, taking his life.

The events of this past weekend almost double the number of troops my State has previously lost during the war in Iraq. Arkansas has lost eight soldiers prior to this weekend.

To put this in perspective, no single day during Vietnam saw as many Arkansans killed by hostile fire as this past Saturday. In fact, Saturday's events are the bloodiest for Arkansas's soldiers since December 2, 1950, when five Arkansans were killed during combat in Korea.

I also honor the other eight soldiers who gave their lives during combat in Iraq. They include:

U.S. Army SFC William Labadie, 45, of Bauxite, AR, who died 2 weeks after being deployed. Labadie was also assigned to the 1st Cavalry, 39th Brigade, Troop E–151 Cavalry, Camp Taji in Kuwait;

U.S. Army SP Ahmed ''Mel'' Cason, 24, died on April 4 in Baghdad. He was assigned to the 2nd Battalion, 5th Cavalry Regiment, 1st Cavalry Division in Fort Hood. Cason grew up in McGehee and many of his relatives now live in Maumelle, AR;

U.S. Army 1LT Adam Mooney, 28, of Cambridge, MD. His helicopter went down in the Tigris River in Mosul,

Iraq, during a search for a missing soldier. His wife now lives in Conway, AR;

U.S. Army MSG Kevin Morehead, 33, a special forces soldier from Little Rock who had previously received a Bronze Star with valor in Afghanistan, died on September 12, 2003, from hostile fire in Ramadi, Iraq;

U.S. Army SP Dustin McGaugh, 20, of Derby, KS, died on September 30 in Balad, Iraq. His mother resides in Tulsa, OK, and his father in Springdale, AR. McGaugh grew up in Springdale and joined the Army ROTC after he graduated from high school in 2001;

U.S. Army PFC Jonathan M. Cheatham, 19, of Camden, AR, my father's hometown. He was assigned to the 489th Engineer Battalion, U.S. Army Reserve, North Little Rock, AR. He was killed while riding in a convoy that came under a rocket-propelled grenade attack on July 26 in Baghdad;

U.S. Marine Corps PFC Brandon Smith, 20, of Washington, AR, died March 18, 2004, in Qaim, Iraq, on the eve of the anniversary of the war. He was trying to help comrades under attack when he was killed by mortar fire;

U.S. Navy Hospital Corpsman Third Class Michael Vann Johnson, Jr., of Little Rock, AR. He was the first Arkansan to die during Operation Iraqi Freedom. In fact, one of my staff in Little Rock was visiting a doctor several days ago and it so happened he started talking to the woman who was assisting in the doctor's office, and it was Michael Vann Johnson's mother. It happened to be the 1-year anniversary of his death in Iraq.

We have not lost nearly as many as other States, but our loss is just as real. The grieving is just as sorrowful, and the fear that there may be more coming is just as frightening, but our resolve is just as strong.

This is a very real war for the people of my State. It impacts every community. It seems as if everybody in my State knows of someone who has served, is serving, or who will serve in Iraq.

We might not all agree on how we got where we are. We might not all agree with all the decisions that have been made by this administration. But we stand behind our troops and are truly inspired by their dedication. We are proud of our professional soldiers, Guard members and reservists who left behind their families and way of life to fight in a land that is not theirs for people they do not know.

The soldiers we have lost will never be forgotten. They, along with all our soldiers, will be remembered for their strength and dedication in bringing independence to the Iraqi nation, and they will be defined as heroes of the 21st century.

Mr. President, I yield the floor.

Mrs. MURRAY. Mr. President, I rise today to honor Petty Officer Nathan B. Bruckenthal for his service to the United States Coast Guard and his commitment to his country. Petty Officer Bruckenthal was killed in action in Iraq on April 25, 2004, as he sought to intercept a marine vessel attempting to launch a terrorist attack.

Petty Officer Bruckenthal's death reminds us of the dangerous mission that the Coast Guard performs every day, at home and overseas, in support of the Nation's defense.

It is with a deep respect for the Coast Guard and the many valiant Americans who serve in the Coast Guard that I come to the floor today to pay tribute to the first Coast Guardsmen killed in Iraq. U.S. Coast Guard Damage Controlman Third Class Nathan B. Bruckenthal was killed along with two U.S. Navy sailors, Petty Officer First Class Michael J. Pernaselli and Petty Officer Second Class Christopher E. Watts, trying to protect oil terminals off the coast of Iraq. A coordinated suicide bombing attack struck members of the coalition Maritime Interception Operations team as they attempted to board a small boat that threatened the Khawr Al Amay Oil Terminal.

This tragic loss of the first Coast Guard member killed in battle since Vietnam highlights the critical and often overlooked role of Coast Guard operations in Operation Iraqi Freedom. At the height of combat operations, the Coast Guard had approximately 1,250 personnel deployed to Operation Iraqi Freedom for port and coastal security, maritime law enforcement, humanitarian aid, maintenance of navigational waterways, contingency preparedness for environmental terrorism, and training the newly established Iraqi coast guard. Coast Guard support to Operation Iraqi Freedom continues today with approximately 300 people supporting these vital operations.

Petty Officer Bruckenthal enlisted in the Coast Guard 6 years ago. I am proud to say his service included 2 years in western Washington at the Coast Guard Station Neah Bay. In addition to protecting the safety of lives at sea, he was a dedicated citizen of the Clallum County community. Petty Officer Bruckenthal made time to volunteer as a Neah Bay fire fighter, an emergency medical technician, a reserve police officer, and a coach for the Neah Bay High School. He was known for his terrific work with children and his passion for law enforcement.

As many brave members of our armed forces, Petty Officer Bruckenthal was serving on his second tour in Iraq. He served from February 2003 to May 2003 in Operation Iraqi Freedom where he received the Armed Forces Expeditionary Medal and the Combat Action Ribbon. He returned for a second tour in Iraq beginning February 2004. This was an extremely difficult and complex mission; particularly trying to distinguish between the enemy and the average citizens. Coast Guard is carrying a very heavy load in protecting the northern Arabian Gulf and the oil fueling stations which are essential to the recovery of the Iraqi economy.

I have long ties to the Coast Guard. In my leadership roles on the Transportation and Homeland Security Appropriations Subcommittees, I have often noted the tremendous task the Coast Guard faces in terms of securing our Nation's ports and cargo terminals. I have applauded their efforts in addressing the security issues facing our country's ports. The 13th Coast Guard District is known as guardians of the Pacific Northwest. They have a presence in 14 locations throughout my State and are responsible for monitoring 200 facilities in Washington, including 60 designated water front facilities that handle oil and hazardous materials.

We know that many fine young American soldiers, sailors and airmen have made the ultimate sacrifice in the fight against terrorism and terrorists and in Iraq and Afghanistan. I have personally written to 25 families of service men and women with ties to the State of Washington who have died while serving in Operation Iraqi Freedom and Operation Enduring Freedom. Now, sadly, a proud member of the Coast Guard has joined the list of Americans killed in action in defense of our country. We extend our deepest sympathies and respect to Petty Officer Bruckenthal's family and friends. We join the Coast Guard family in honoring Petty Officer Nathan Bruckenthal. We will remember his brave service to the Coast Guard, to our Nation's defense, and to us all.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business, and after my remarks that the Senator from New Mexico, Mr. BINGAMAN, be allowed to speak.

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

ENVIRONMENTAL POLICIES

Mr. SMITH. Mr. President, I am pleased to be addressing a Texan, the Presiding Officer, at this moment. I wish to speak about a Texan. I was serving in the Senate for 4 years when I got a call from the Governor of Texas, George W. Bush, to ask if I would give him some time and consider his candidacy for the Presidency of the United States.

I was privileged to travel to Austin, and an hour's meeting turned into a half a day's meeting, as I found in this good man a man of the West, a man who understood from whence he came in rural parts of Texas.

I represent the State of Oregon. I come from the dry side of Oregon, a side not unlike many parts of Texas. People do not think of Oregon in those terms, but many parts of Oregon are arid. My neighbors are people who farm the earth, fish the rivers, the ocean, and they harvest timber from our mountains.

I had served for 4 years as a Senator, working with President Clinton and his administration, trying to make sense of his Northwest Forest Plan, and other proposals of his administration that had an enormous effect upon the State of Oregon.

It was interesting to watch the election results 4 years ago and to see the diversity of voting between urban and rural places. Overwhelmingly, rural people voted for George W. Bush, as did I because I am from a rural place.

In my first meeting with George W. Bush, I began to discuss the issues of the people I serve and who elected me. I could tell in an instant that he got it, that he understood. He understood water. He understood ranching. He understood farmers.

Should he be elected, I asked him as he formulated his environmental policies to please not forget the people who I thought would vote overwhelmingly for him. I asked him to please try to better balance the environmental policies of the Federal Government so we did not forget our human stewardship as we try to implement our environmental stewardship.

We have just observed the 34th annual Earth Day. I know many in the environmental community are assembling an arsenal of millions of dollars to run against George W. Bush and suggest that the air has gotten dirtier, the water is fouler, and that the earth is more imbalanced because of his tenure.

He has not forgotten those who have elected him. He has not forgotten rural people. He has reconsidered and rebalanced some proposals, and the air is cleaner, the water is cleaner, and the land is doing fine. We have made enormous environmental progress in our country and sometimes we do not stop to celebrate all the progress we have made.

I remember as a boy growing up in Bethesda, MD, one could not safely go in the Potomac River because it was so polluted. We can do that today because of the EPA, an Agency established by Richard Nixon and the Congress. We can do that because of all of the efforts that have gone on before.

I used to be somewhat concerned and frustrated as President Clinton would go to Virginia and West Virginia and decry rural poverty, when I recognized that much of the poverty occurring in my State was as a direct result of Federal policies. It used to be that in the State of Oregon, for a long time, we harvested tremendous amounts of timber. We had a very vibrant timber industry in our country.

Indeed, from the Pacific Northwest region alone we would average about 4 billion board feet a year. I think President Clinton recognized that maybe that was more than was sustainable. He promised the timber industry and the people of the forest in Oregon that he would give them 25 percent of their average harvest—that is 1 billion board feet. We have probably harvested 10 percent of that since that promise was made, and I have witnessed tens of thousands of family wage jobs evaporate.

When that happens, it is not just jobs that go away. There are problems with alcoholism, spousal abuse, crime, hopelessness, suicide, and a loss of dignity. So when one wants to know where a lot of our jobs went, they went away because of conscious Federal policy.

Right now, as we barely utilize our resources in Oregon and in America, we are overcutting in Canada. The spotted owl does not know the difference. In fact, as we overcut in Canada, we watch our forests burn at record rates. George W. Bush, fortunately, true to his word, helped with this Senate and the House of Representatives to pass a forest health initiative. It is a modest step but it is designed to make communities safer, improve environmental health, and to harvest timber. All of those things will begin to be enjoyed by the people of Oregon again: a better environment and a better economy. Some of those jobs can come back.

I lamented when Michael Kelly, the late columnist, lost his life in Iraq. He put the natural resources conflict quite eloquently in a column he wrote in 2001. He said that the battle of values over land use and environmental policies, while often framed as between man and beast, is better understood as between increasingly poor and powerless rural voters and increasingly rich and powerful urban and suburban voters.

Kelly went on to note that the Endangered Species Act ''has been exploited by environmental groups whose agenda is to force humans out of lands they wish to see returned to a pre-human state.''

For my counterparts in the East, some of whom think all resource extraction on public lands should be off limits, I would like to give you a sense of how vast the Federal presence is in my State. This picture is of an area known as the Biscuit Fire. The Biscuit Fire consumed lands larger than the State of Rhode Island, or four times the size of the District of Columbia. It destroyed countless acres of roadless areas, wilderness, spotted owl habitat, and salmon spawning grounds. I ask how that moonscape leaves the environment better. I know it left the people worse.

The Federal Government owns over 50 percent of the State of Oregon, which amounts to almost 33 million acres; greater than the total acreage of 22 other individual States. So it is safe to say Federal land management policies have a significant impact on the people, the economy, the environment, and the environmental health of my State.

I am proud we have a President who understands the implications of Federal policies on rural America. This President understands that humans are part of the environmental equation, and he is working to maintain domestic resource industries and to return strength to rural economies.

So as he gets attacked in this campaign, I hope the people of Oregon will understand there is a human side to this equation, and they will remember the compassionate conservatism he campaigned on is being restored in rural places: a little compassion, a little balance.

In 2002, President Bush came to Oregon. He saw firsthand the destruction and dislocation caused by these catastrophic wildfires. On occasion, I was able to share with him the importance of rebalancing policies, even as it related to producing electricity. For a long time there were serious people in powerful places advocating the demolition of hydroelectric power on the Columbia and Snake Rivers. It is the product of our prosperity in this country that we have come to a place where too many think electricity comes from a light switch, gasoline comes from a service station, and timber comes from the local hardware store. But all of these things come from rural places, from industries that provide us the power and the means to enjoy the American way of life. President Bush has had the good sense to resist some of these proposals that went too far and, when appropriate, to rebalance them so people can have a place again in the environmental equation.

This President also is strongly committed to species conservation. Sometimes that is missed. In fact, it will never be included in the ads of environmental organizations, but this President's budget for fiscal year 2005 includes $100 million for the Pacific Coastal Salmon Recovery Fund, which is a $10 million increase from the year before. The combined Federal funding request for Pacific salmon mitigation and recovery is over $719 million, and this commitment is paying off. Ten years ago a little over 200,000 chinook and 160,000 steelhead returned to the Bonneville Dam. But in 2003, nearly a million chinook and 365,000 steelhead returned to that dam.

This President has also understood the need for a comprehensive national energy policy, and that energy security is vital to our national security, to say nothing of our economic security. He has championed the research and development of new fuel cell technology that would lessen our dependence on imported oil. He has supported energy conservation and tax credits for the production of electricity from renewable sources.

As energy prices remain high, and as our economy rebounds, the need for a national energy policy will only continue to become more and more urgent.

President Bush is not going to get credit for these things in the ads of certain advocacy groups, but I hope the American people will remember to credit him for his care for rural people and places, for his tangible efforts to restore lost family-wage jobs as it relates to fishing, farming, forestry, and energy production. I hope people will also remember our air is cleaner, our water is cleaner—we are making tremendous progress. While some will say this has been rolled back, or that has been changed, it is usually because something has gone too far and a little common sense, a little compassionate

conservatism was needed to be restored to the equation.

On Earth Day I had wanted to come and say these things to defend the President, as he is being attacked so liberally, but time on the floor was not allowed that day. So I am here this day to put in this reminder and ask the American people to remember: President Bush is a good steward. More than that, he is a good man.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). Under the previous order, the Senator from New Mexico is recognized.

Mr. CORNYN. Will the Senator from New Mexico yield for a unanimous consent request?

Mr. BINGAMAN. I am glad to yield.

Mr. CORNYN. I ask unanimous consent that following the remarks of the Senator from New Mexico, I be recognized for such remarks that I may make.

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

The Senator from New Mexico.

AMENDMENT NO. 3051

Mr. BINGAMAN. Madam President, I thank my colleague from Oregon for his courtesy in reserving my opportunity to speak.

The pending business before the Senate is the Domenici amendment which has been offered to the Internet tax bill. I thought it would be useful to try to talk about that legislation and the substance of that legislation, at least to some extent this afternoon, before we get to a cloture vote tomorrow. This amendment, of course, is the Energy bill. For those who have not focused on it, this is the amendment I hold in my hand. It is 913 pages. It is called the Energy Policy Act of 2003.

Unfortunately, not a lot has changed since the beginning of the floor debate that we had in the Congress last May, or when we debated the energy conference report last November. We have before us proposed legislation that I believe does not command the broad public support that we need in order to have a national energy policy.

I would cite three categories of problems with the bill. First, I will talk about some of the objectionable provisions in the bill and give examples of concerns in that area. Second, I will talk about some meritorious provisions which the Senate has previously passed as part of the Energy bill that we acted upon in this Congress and in the previous Congress but which have been deleted from this bill, which I think is a mistake. Finally, I will talk about the legislative thicket that we would be wading into if in fact we invoked cloture on this amendment.

First, let me talk about this category of objectionable provisions that are contained in the Domenici amendment. There are fairly good provisions in the bill as well. Let me say that at the outset. Many of those are ones we have included in legislation previously passed in the Senate. I do not mean to imply that there are not good provisions in the bill. But let me start the list of examples of objectionable provisions by talking a little about electricity and the efforts that we made in the Senate regarding the regulation of electricity markets.

The new amendment substantially fails to protect electricity consumers from market manipulation, including most of the schemes that were used in California by Enron and other companies that were acting in the same way that Enron was. It makes illegal only one specific practice that was used by Enron, that is round-trip trading. It potentially leaves an inference that Congress does not view the other schemes as equally problematic.

The Senate voted last year, 57 to 40, for a broad ban on market manipulation. I strongly believe that was the right way for us to vote on this issue. I do not understand the rationale for ignoring a past strong Senate vote on this subject in an effort to prohibit market manipulation.

The amendment also contains a proposal to shift the cost of constructing new transmission from one set of parties in the electric utility industry to another. Trying to legislate rate design is probably never a good idea. In the form of so-called participant funding that is contained in this amendment, it is particularly egregious. Its effect would be to create a huge disincentive for the construction of new transmission by corporations that are not already in a substantial monopoly position in a given region.

Why should we want to cut down on the number of companies interested in building generation and transmission? I fear that is what this amendment, as it currently stands, would do. The new amendment repeals the Public Utility Holding Company Act. It does so, however, without any other provisions being added to ensure that electric or gas mergers or acquisitions had to be in the public interest, without any real protection for the ability of State public utility commissions to protect consumers against cross-subsidization or other abuses.

If there were such protections, it would be my inclination to support the repeal of PUHCA, and I have supported the repeal of PUHCA in the past. But I think a world of untrammeled mergers of electric utility companies is going to turn out to be bad for electricity consumers.

The amendment also overreaches, in my view, in the response to the standard market design rulemaking. It basically throws into question the Federal Energy Regulatory Commission's authority to issue rules of general applicability that are other than the standard market design rule. If we have another price crisis in this country as we have in California, the Federal Energy Regulatory Commission will be unable to intervene as it ultimately did in California and in the West. Since standard market design is, for all practical purposes, a dead issue at this point, I do not see why we are still trying to address it in the clumsy way it is addressed in the amendment.

Let me move on from electricity and the whole issue of oil and gas.

With respect to the dependence on foreign oil, the bill has some problematic provisions, both on the efficiency side and on the supply side. One provision in the amendment would increase U.S. gasoline demand over the current law by 11 billion gallons by 2020. Given today's prices at the pump, that would seem to me to be a step in the wrong direction.

With respect to oil and gas production, the bill mixes up the worthy goal of getting more energy development on Indian lands with provisions that weaken the National Environmental Policy Act process—the NEPA process—with the change in the trust relationship between Indian tribes and the Department of the Interior. The trust relationship has nothing to do with energy, and the change contemplated by this bill is vigorously opposed by several Indian tribes. I do not know why it needs to be included in this amendment either.

The new amendment adds some other new provisions related to the oil and gas industry that, in my view, are likely to backfire when they actually get implemented. The first of these provides the cost of NEPA analyses can be pushed off on oil and gas producers to be recovered by them at some future date from their royalty stream to the government, if one ever develops from the lease for which the NEPA work was done. This is essentially a mandate that producers give the Federal Government the equivalent of an interest-free loan with the producers paying for something they thought they had already paid for through their taxes.

If this amendment were to become law, there would be much greater pressure to let producers bear the entire cost of preparing the Government's NEPA documents with a theoretical cost recovery by them at some point in the future. I do not think this is good public policy.

A second provision that could backfire is the very detailed micromanagement of the permit approval process in the Government with extremely tight deadlines like a 10-day deadline for agency action. This is likely to result in a great deal of paperwork to explain why the 10-day limit was exceeded for such permits, and the effort spent on generating all of the defensive paperwork will probably come at the expense of actually getting permits done.

What we need and what I have strongly supported is getting more resources into the field offices of the Department of the Interior to eliminate the backlogs that are there at the present time. That is what we should be focused on—not on micromanaging the bureaucratic process.

With respect to coal, the new amendment waters down the Clean Coal Technology Program in some very important ways. It lowers the fraction of funds in the program that needs to be spent on the cleanest technologies from what we have previously agreed to here in the Senate. It also sets up a brand new competing program to the Clean Coal Technology Program. Under that program, the Federal Government will contribute up to $1.8 billion to the utility industry to help foot the bill for off-the-shelf coal and pollution control technology for existing coal plants. I don't see how this subsidy makes sense from the point of view of energy, or the environment, or our budget situation.

With respect to renewables, the new amendment authorizes grants to burn biomass for energy, but then it fails to protect old-growth forests. Under the amendment, old-growth forests could be cut down with Federal grants for use as an energy source. I think that is objectionable. An imperative for Federal energy policy legislation has to be to recognize the ways in which energy use and energy policy is intertwined with the environment.

In this area, the amendment we have before us has some major failures. If enacted, it would be the first statute in years to substantially roll back environmental protections for our citizens and those rollbacks have nothing to do with improving our energy security.

For example, the amendment loosens ozone attainment standards nationwide. To its credit, EPA in the last few weeks has taken definitive steps in the opposite direction; that is, for tough standards for ozone control. I don't know why we should vote in the Senate to undercut the progress the EPA is making. Further changing ozone standards is a topic that has never received Senate consideration in the past on any energy bill.

The particular provision I am describing here materialized for the first time in one of last year's closed-door conference discussions.

The conference report also exempts oil and gas construction sites from the Clean Water Act, even large sites that have been under regulation for years. It contains numerous provisions that are inconsistent with a thoughtful environmental review process under NEPA.

I could go on at some length here pointing out problems in the bill.

I have a letter I received today from Trout Unlimited and various Indian tribes in the Northwest and other outdoor sportsmen's groups—41 groups in total—that talks about problems they see with the hydroelectric provisions in this amendment. It is a letter sent to all Senators and I am sure all Senators have received it.

They say:

> We urge you to oppose cloture on the amendment and support amendments to fix or eliminate the hydro provisions from the energy bill.

They also go on to say:

> At this point, the adoption of the hydropower title would significantly complicate the implementation of these new rules and would lengthen the licensing process.

I ask unanimous consent that the letter be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. BINGAMAN. Madam President, these are some of the many problems contained in the pending amendment. I am sure colleagues will come to the floor and mention others they particularly are focused on.

Let me talk about the second class of problems which consists of the good and needed energy policy provisions the amendment leaves out, even though those in most cases I am going to discuss are ones we in the Senate have passed as part of the Energy bill we sent to conference.

First of all, the amendment steps backward from the old conference report that was brought to the Senate last fall in one important area; that is, in renewing the Federal Government's ability to enter into emergency savings performance contracts. This is one of the Federal Government's primary tools for improving energy efficiency in Federal facilities. I don't know why we would not want to include that in any energy bill we passed here in the Senate. We have included it in the bills we have passed previously.

Second, the new amendment lacks something that enjoys majority support in the Senate; that is, a renewable portfolio standard for electricity.

Along with the tax incentives in the FSC/ETI bill, this measure is essential, in my view, in order to give new certainty to the fledgling market to allow economies of scale to drive down costs and improve manufacturing capacity for renewable energy equipment in the United States.

The Energy Information Agency agrees with this analysis. They have come up with their own analysis that shows this renewable portfolio standard is effective in getting more renewables into the market beyond what tax incentives would do. That would relieve some of the pressure on national gas prices over the long term.

Another problem that is unaddressed in the bill deals with distributed generation such as combined heat and power at industrial facilities. The amendment does not address the barriers that have been erected to uniform interconnection of distributed generation to the grid. It is not enough to have the technology; we need to rid ourselves of the redtape that is keeping the technology from being used. The amendment, unfortunately, does not do that.

With respect to reducing our dependence on foreign oil, the new amendment leaves out another important proposal that has overwhelming support in the Senate. That would be the innovative amendment offered last year by Senator LANDRIEU to promote oil savings economy-wide. That amendment passed this body 99–1 as part of our debate of an energy bill. Again, I see no reason why that should not be included if we are going to, in fact, pass an energy bill.

The new amendment also entirely ducks the important issue of climate change. Climate change is closely related to energy policy because the two most prominent greenhouse gases—that is, carbon dioxide and methane—are largely released due to energy production in use. Every study of how to mitigate the possibility of global climate change comes up with a list of policy measures which relies heavily on increased energy efficiency and new energy production technologies with lower greenhouse gas emissions. Because of this connection, much of the energy policy and much of the climate change policy has to be discussed together. To do one is, by implication, to do the other; to ignore one while doing the other is to risk unfortunate and unintended consequences.

The Senate has previously passed energy bills with numerous provisions to ensure that we integrate climate change strategy with energy policy, develop better climate change science, and that we focus on breakthrough technologies with better environmental performance, and the United States takes the lead in exporting the clean energy technologies we develop. These provisions do not receive even the slightest consideration or mention in the amendment that has been put forward. Leaving climate change out of the energy legislation is a very shortsighted approach, both in terms of energy policy and in terms of our overall relations with the rest of the world.

Finally, let me talk about this third major problem, and that is the way we are being asked to go about legislating on energy with this cloture vote on this amendment added to the Internet tax bill. This has to do with the fact that all of the above problems are encompassed in the 913-page amendment. Because it is a second-degree amendment, all 913 pages are, at the moment, unamendable. It is a take-it-or-leave-it proposition for the Senate at this point.

Let us suppose a cloture is invoked on this second-degree amendment and it was then adopted to the first-degree Daschle amendment. At that point, Senators who wish to change language currently contained within the Domenici amendment could only do so by offering a complete substitute amendment for the whole 913-page amendment. Senators who wish to add new subject matter, not seeking to change what is currently in the Domenici amendment, would do so by offering amendments that would be added onto the end of the amendment. But whenever the first substitute amendment fixing a problem within the Domenici amendment was adopted, no further amendments to the amended Daschle amendment would be in order.

To have further amendment opportunities, Senators would then have to agree to adopt the Daschle amendment to the underlying text of S. 150. At that point, Senators with new ideas could still add new amendments addressing those new ideas but—and this is significant—Senators who still want to address problems remaining in the text would have to write so-called ''bigger bite'' amendments.

As an example of what I am talking about, a Senator wishing to change something on page 600 of this 913-page amendment would have to write an amendment containing part of S. 150 and the first 599 pages of the Domenici amendment, and then the Senator would have to make sure the amendment made substantive changes both to the text of S. 150 and to the Domenici amendment. Successful amendments of this sort could take bigger bites that would unwittingly screen out other such amendments other Senators might want to offer.

If this sounds convoluted as a way to do business in the Senate, that is because it is. If anyone wants to stand up and say this amendment would be fully amendable even if we invoke cloture tomorrow, I guess there is some technical argument to the effect that is true, but the reality is, all Senators with interests in changing specific problems in this 913 pages would find themselves at a considerable and perhaps overwhelming disadvantage compared to the normal way we go about amending bills in the Senate.

So for both substantive and procedural reasons, I think proceeding to invoke cloture on the Domenici amendment is not the best course of action for the Senate. I believe we have better options for enacting energy issues in this Congress than this convoluted amendment situation. Those options would be to take the most pressing energy needs and promising energy opportunities and act directly on those without getting mired in the many controversies that are contained in this amendment.

The Senate has already made a start in that direction. Over the past few months, the Senate has incorporated both large chunks and smaller pieces of the energy conference report into other legislation it has either passed or hopefully is going to pass. The prime example, of course, is the unanimous agreement to incorporate the Senate's bipartisan energy tax package into the FSC/ETI bill. We have also acted separately on LIHEAP reauthorization, the Low-Income Home Energy Assistance Program reauthorization, putting that in a separate bill, S. 1786, which passed the Senate on February 12. Other sections of the Energy bill were put into the highway bill, which has also passed the Senate.

I have pointed out for some time now that there are a number of additional provisions from the conference report that have broad bipartisan support that we could act on. Instead of mixing them with the Internet tax bill, we ought to separate them and pass them individually.

One such provision, of course, is the legislation related to electricity reliability. Congress has been working on this over three Congresses now. Senator CANTWELL has proposed free-standing legislation and has come to the Senate floor twice now and asked unanimous consent to pass this bill. Her requests have been denied. I urge my colleagues to let this bipartisan bill pass. There is no reason why this much needed provision should be held hostage to more controversial energy provisions.

Another noncontroversial energy provision is related to the Alaska gas pipeline. The needed fiscal incentives to build the pipeline are now in the FSC/ETI bill. That is a great development. Why can't we go ahead and pass the provisions to streamline the regulatory approvals for the pipeline by unanimous consent? I am not aware of anyone in the Senate who objects to doing that.

A third example where the Senate could act very easily, in my view, would be to renew the authority for energy savings performance contracts. This is an important energy matter that has broad bipartisan support. I pointed that out. As I have also pointed out, it has been totally deleted from this amendment.

I could go on and point to other provisions related to the oil and gas industry, to energy efficiency, to research and development, and to other topics that are probably also easy enough to pass on a bipartisan basis. It does not make sense to take the position that we cannot do any single thing related to energy unless we tie it to the resolution of every other controversial issue in energy policy. In my view, that is counterproductive.

I hope my colleagues will agree with me that the current amendment before the Senate is not the path we should take to move forward.

I think there has been too much partisanship on energy in this Congress. In my view, that is unfortunate. Taking an especially partisan approach to formulating the policy has not been a recipe for success. I hope the Senate will not proceed forward with this amendment and will proceed forward with the underlying Internet tax bill. I do not believe this amendment provides the right balance between energy supply, energy efficiency, and the protection of the environment. We can do better for this Nation by passing the sensible energy provisions that are broadly supported in this body, and passing them soon.

Madam President, I yield the floor.

EXHIBIT 1

TRIBAL NATIONS AND RIVER CONSERVATIONISTS CALL ON THE SENATE TO OPPOSE CLOTURE ON SENATOR DOMENICI'S SECOND DEGREE AMENDMENT TO ADD THE ENERGY BILL (S. 2095) TO THE INTERNET TAX BILL—PROVISIONS HARMFUL TO RIVERS AND FISH MUST BE FIXED OR ELIMINATED IN THE ENERGY BILL

APRIL 28, 2004.

DEAR SENATOR: Last year, the conference committee agreed to profound changes to the Federal Power Act contained in the proposed hydropower title of the Energy Bill. These changes turn 80 years of law on its head by significantly changing Sections 33(b), 4(e), and 18 of the Federal Power Act. Under the new statute, States, Tribes and interested citizens would, for the first time, be afforded inferior status in the process for establishing fish passage and other public land protections on hydropower licenses. Today, Senator Domenici is trying to add the Energy bill, S. 2095, containing these provisions to the Internet Tax Bill. We urge you to oppose cloture on his amendment, and support amendments to fix or eliminate the hydro provisions from the Energy bill.

Under these provisions, a given license applicant would offer alternative conditions contrary to what the Secretaries of the Interior, Commerce, or Agriculture may have recommended, and provide them with an unfair and exclusive opportunity to specify the level of protection for public lands (including Indian lands) or implementation of fish passage. Perhaps the most disturbing aspect of this language is the establishment of a new administrative appeals process in the form of a ''trial-type'' hearing. Both this new ''hearing'' and the right to require the agencies to accept alternative conditions are available only to dam owners. Other interests already full parties to FERC proceedings, including states, tribes, irrigators, landholders, and environmental are prohibited from gaining party status in this process. To suggest that State and Tribal governments or local citizens should not be able to exercise their role as full parties to hydro licensing when hydropower dam operators proposed alternatives that could damage fisheries and public lands is nothing less than an attack on basic democratic principles.

Today, there is even less reason to adopt the language from last year's conference. On July 23, 2003, FERC finalized new rules that establish a new licensing process—Integrated Licensing—designed collaboratively by industry, FERC, State and Tribal governments and the public interest community. See ''Hydroelectric Licensing Under the Federal Power Act; Final Rule,'' 68 Fed. Reg. 51069–51143 (August 25, 2003). This new process specifically addresses the longstanding concerns that inadequate interagency coordination has resulted in delays and unnecessary costs in licensing decisions. Under this process, licensees along with the other parties are provided with opportunities to work collaboratively with the conditioning agencies on the development of public land protections and fishways in FERC licensing. The process will run on a strict clock to assure a relicensing decision before expiration of an original license, as the hydropower industry requested. The rules also require FERC to conduct consultation with tribes affected by the licensing. At this point, the adoption of hydropower title would significantly complicate the implementation of these new rules (for example, by requiring Commerce, Agriculture and Interior to undertake their own further rulemakings), and would lengthen the licensing process. Without question, they will add a new layer of red tape to a process that has not even been given a chance to work.

Yesterday, amendment was offered to the Internet tax legislation on the Senate floor that includes the Hydropower Title. We ask you to vote ''no'' on cloture for Senator Domenici's amendment. We also ask you to oppose any efforts to attach or otherwise pass the hydropower title and its provisions that are so contrary to the interests of State and Tribal governments and local citizens. Let's give these new FERC regulations an opportunity to work.

We thank you for your continued leadership on this issue to ensure that our nation's rivers remain a public resource for all to use and enjoy.

The PRESIDING OFFICER. The Senator from Texas is recognized under the previous order.

Mr. CORNYN. Thank you, Madam President.

THE 9/11 COMMISSION

Madam President, earlier, I spoke on the importance of the 9/11 Commission maintaining its credibility given the important mission that organization has undertaken to determine, first, a factual record of the events leading up to 9/11, and then to make recommendations to Congress and various Government agencies on how we can continue to protect our homeland against any further terrorist attacks on our own soil.

I spoke about the need of one of the Commissioners, Commissioner Jamie Gorelick, to provide information about her knowledge of relevant facts. She, of course, was Deputy Attorney General during the Clinton administration under Attorney General Janet Reno.

I also made one other point that I think bears repeating here now; that is, this is not about blame. The only person and the only entity to blame for the events of 9/11 are al-Qaida and Osama bin Laden. This is not about blaming the Clinton administration or the Bush administration. This is about getting to the facts. This is about getting good recommendations based on all the information and then making the American people safer as a result.

On Monday, Senator LINDSEY GRAHAM and I asked the Justice Department to produce any documents they may have in their possession relating to Jamie Gorelick's involvement in establishing policies preventing the sharing of critical terrorism-related information between intelligence and law enforcement officials. It is the fact that those have now been made public and, indeed, posted on the Department of Justice's Web site at www.usdot.gov which brings me back to the Senate floor to briefly mention why I think Ms. Gorelick's testimony is even more important to explaining what she did as a member of the Justice Department under Janet Reno to erect and buttress this wall that has been the subject of so much conversation and why it is so much more important that she do so because the 9/11 Commission's credibility is at stake.

Documents posted today on the Justice Department's Web site substantially discredit Ms. Gorelick's recent claims that, No. 1, she was not substantially involved in the development of the new information-sharing policy, and, No. 2, the Department's policies under the Clinton-Reno administration enhanced rather than restricted information sharing.

Madam President, these documents—and they are not particularly lengthy, but they do raise significant questions about the decision of the Commission not to have Ms. Gorelick testify in public. Indeed, the only testimony we know she has given has been in secret or in camera, to use the technical term. These documents make it even more important that we get her explanation for these apparent inconsistencies and contradictions.

Indeed, the document that Attorney General Ashcroft declassified and released during the course of his testimony —giving his very powerful testimony about the erection and the buttressing of this wall that blinded American law enforcement and intelligence agencies from the threat of al-Qaida and Osama bin Laden—these new documents reveal, indeed, Ms. Gorelick did have a key role in establishing that policy, which was ultimately signed off on and approved by Attorney General Janet Reno; indeed, that she received and rejected in part and accepted in part recommendations made by the U.S. attorney for the Southern District of New York with regard to this wall.

Specifically, Madam President, as you will recall, the first attack on American soil that al-Qaida administered was, in all likelihood, the World Trade Center bombing in 1993. Indeed, the document that Attorney General Ashcroft released pointed out that Mary Jo White, the U.S. attorney for the Southern District of New York, was concerned about an ongoing criminal investigation ''of certain terrorist acts, including the bombing of the World Trade Center,'' and that ''[d]uring the course of those investigations significant counterintelligence information [had] been developed related to the activities and plans of agents of foreign powers operating in [the United States] and overseas, including previously unknown connections between separate terrorist groups.''

Well, in response to some draft proposals for establishing criteria for both law enforcement and intelligence, counterterrorism officials, Ms. Gorelick noted that the procedures that were adopted at her recommendation by the Justice Department under Attorney General Janet Reno went beyond what is legally required. Indeed, I spoke earlier about the fact that the USA PATRIOT Act brought down that law that had been established both by this policy and, indeed, by policies that had preceded it.

But it is important, in these new documents that have just been revealed today, in response to my request and Senator GRAHAM's request, that there is, indeed, a memorandum by Mary Jo White dated June 13, 1995, in which she was given an opportunity to respond to the proposed procedures that have maintained and buttressed this wall that blinded America to this terrible threat.

Mary Jo White, in part, said—and the documents are on the website so anyone who wishes can see the whole document, but she said, in part:

It is hard to be totally comfortable with instructions to the FBI prohibiting contact with United States Attorney's Offices when such prohibitions are not legally required. . . .

She goes on to say:

Our experience has been that the FBI labels of an investigation as intelligence or law enforcement can be quite arbitrary depending upon the personnel involved and that the most effective way to combat terrorism is with as few labels and walls as possible so that wherever permissible, the right and left hands are communicating.

Indeed, it was this lack of communication, which I think is universally acknowledged, that contributed to the blinding of America to the threat of terrorism leading up to the events of 9/11. So Ms. White made what she called a very modest compromise and some recommendations for change to this proposed policy.

In the interest of fairness and completeness, let me just say the documents reveal there were two memoranda by U.S. Attorney Mary Jo White, and they contain recommendations for revisions of the policy, and that Ms. Gorelick, through and in cooperation with Michael Vatis, Deputy Director of the Executive Office for National Security, accepted some of those proposed changes and rejected others.

But then in these documents, again, which were finally disclosed today in response to Senator GRAHAM's and my request, there is a handwritten note from Ms. Gorelick that says:

To the AG—I have reviewed and concur with the Vatis/Garland recommendations for the reasons set forth in the Vatis memo. Jamie.

So it is clear Ms. Gorelick was intimately involved with consideration of the arguments, both pro and con, on establishing this policy which, according to her own memo, went well beyond what the law required. Thus, it becomes even more clear she is a person with knowledge of facts that are relevant and indeed essential to the decisionmaking process of the 9/11 Commission.

I wish it stopped there, but it does not. Indeed, it appears these new documents contradict or at least require clarification by Ms. Gorelick of subsequent statements that she has made on the 9/11 Commission. For example, in a broadcast on CNN's Wolf Blitzer Reports, Wolf Blitzer asked her:

Did you write this memorandum in 1995 . . .

By reference, this was the one that was declassified by Attorney General Ashcroft that established these procedures building the wall and blinding America to this terrible threat.

He asked:

Did you write this memorandum in 1995 that helped establish the so-called walls between the FBI and CIA?

Ms. Gorelick said:

No. And again, I would refer you back to what others on the commission have said. The wall was a creature of statute. It existed since the mid-1980s. And while it is too lengthy to go into, basically the policy that was put out in the mid 1990s, which I didn't sign, wasn't my policy in any way. It was the Attorney General's policy, was ratified by Attorney General Ashcroft's deputy as well on August of 2001.

In other words, Ms. Gorelick, notwithstanding the fact that her initials as Deputy Attorney General appear on the very memos considering recommendations, both pro and con, with regard to establishing these procedures, in spite of the fact she appears by these documents to have been intimately involved in the adoption and establishment of these procedures, said: I didn't sign this memorandum and it wasn't my policy.

Well, at the very least it is clear that it was the policy of the Attorney General, based on her explicit recommendation, and that she consciously adopted in some cases and rejected in others the recommendation of the U.S. attorney for the Southern District of New York with regard to sharing of information between law enforcement and counterintelligence authorities.

Finally, another example of an apparent contradiction, and maybe one that Ms. Gorelick could explain if she would testify in public, as I and others have requested, before the Commission, she said in an op-ed that appeared in the Washington Post, April 18, 2004, entitled ''The Truth About the Wall,'' in giving the various reasons for her side of the story in response to the testimony of Attorney General Ashcroft and the revelation of this previously classified document:

Nothing in the 1995 guidelines prevented the sharing of information between criminal and intelligence investigators.

That appears to directly contradict what is contained in these documents. I would imagine if asked to provide her own testimony, Mary Jo White, the now retired former U.S. attorney for the Southern District of New York, would beg to differ.

The primary purpose of this is not to cast blame. We know where the blame lies. But it is important the 9/11 Commission get an accurate record, a historical record of the events leading up to September 11. If, in fact, there is a way for Ms. Gorelick to shed some light on this subject, indeed, if there is a way for her to clarify or reconcile the apparent contradictions between what these newly released records demonstrate and her public statements and writings, then she ought to be given a chance to do so.

If she does not avail herself of that opportunity, if the Commission refuses to hear from this person in public and to give the American people the benefit of this testimony in public in a way that they have done with Attorney General Janet Reno and former FBI Director Louis Freeh, current FBI Director Robert Mueller, George Tenet, Director of Central Intelligence, and Attorney General John Ashcroft, if they refuse, if they continue to refuse to avail themselves of this public testimony and the opportunity for questions to be asked about these apparent contradictions, they will have administered a self-inflicted wound. The public will be left, at the conclusion of the 9/11 Commission, with grave doubts about the impartiality and the judgment of the Commissioners who have refused to allow the American people the benefit of this relevant and important testimony.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

INTERNET TAXES

Mr. WYDEN. Madam President, as we move to conclusion of the debate on the question of Internet taxes and votes tomorrow, as has happened so often over the last 8 years that we have dealt with this issue, a lot of Senators have asked for some examples of how all this would work because it is obviously an extraordinarily complicated issue, and the terminology is pretty dense. What I wanted to do was give Senators a sense of what we are talking about.

Of course, under the McCain proposal, Senator ALLEN and I would simply say, with respect to Internet access, it is tax free. You have already paid for it. It is like buying a carton of milk. You have already paid for it once. You should not have to pay for it again when you pour it on your cereal. That is essentially what the McCain compromise would do.

The proposal offered by the Senator from Tennessee takes a very different kind of tack. I wanted to give a very specific example of how it would work and why I am opposed to what he has been advocating. The Senator from Tennessee, in his proposal, stipulates that there would be no taxes on services used ''to connect a purchaser of Internet access to the Internet access provider.''

That certainly sounds like a laudable goal and something everyone should support. But because the Senator from Tennessee nowhere defines what the word ''connect'' means, I am of the view that proposal alone means that scores of jurisdictions in our country would be able to subject a simple message, sent by a Blackberry via DSL, to scores of taxes.

I want to walk through exactly why I believe that. Let us say, for purposes of discussing an example, you send a Blackberry message via DSL from Providence, RI, to Portland, OR. You type your message in and you hit send.

The first connection—again, I am citing that because it is the language of the Alexander proposal—is with a cell tower in Providence. This would then be connected to a Verizon local phone line somewhere in the Northeast. Then it would be connected to a switch, again somewhere on the east coast. The message at that point is connected to AT&T at a network in one of their many facilities on the east coast. AT&T would then shoot the message across scores of States and connect it at a Qwest switch in Portland, in my home State. That Qwest switch then connects the message to a cell tower in Portland. And then, finally, it connects it to the friend in Portland.

The way that message is sent could involve as many as 100 different connections—the concept that is not defined in the Alexander proposal. But depending on how the word ''connect'' is defined—and it is not laid out anywhere in the proposal of the Senator from Tennessee—you could have hundreds of jurisdictions imposing taxes on the one message I have just described as being sent on a Blackberry from Providence, RI, to Portland, OR.

The reason why that is the case is the Alexander proposal states no taxes would be applied on services used to connect a purchaser of Internet to the Internet access provider. But in the example I just gave, what you would have is scores of jurisdictions across the country saying they are not the exempted connection. They would say they are not the exempted connection, and then they would be off to the races, in terms of imposing these special taxes.

So we are going to have a chance, I think tomorrow, to extend this debate a bit longer. I think people are going to be pretty close to ecstasy to have this debate wrap up, given how long it has gone. But I want to take a minute and try to recap what I think are the central kinds of questions.

From the very beginning, those who have been involved in this effort have tried to promote technological neutrality. We have come back again and again to say all we would like is to make sure that what happens in the offline world is applicable to the online world. We have said it does not make sense today to discriminate against the future, which is broadband delivered through DSL. Certainly, that would be the case if cable gets a free ride and DSL gets hammered.

I am of the view the message you get today under the Alexander proposal—instead of that message, ''you've got mail,'' the message will be ''you've got special taxes,'' and you will have those special taxes because terms like the one I have described this afternoon are not defined.

As I have talked about in the last couple of days, we have pointed out the revenue estimates, which are always so dire in terms of lost revenue on the part of the States and localities, and time after time—and we have debated this in the last 8 years—those revenue projections have not come to pass. I know Senators and their staffs right now are being bombarded by some officials from State and local governments, saying they are going to lose

enormous amounts of money, and this is going to drain their revenue base, and it will have calamitous financial ramifications.

But as you listen to those projections—and I know they are pouring into Senators' offices—we have heard those arguments again and again, and they have not come to pass. I point out, for example—and I will quote—in 1997, the National Governors Association said the Internet Tax Freedom Act ''would cause the virtual collapse of the State and local revenue base.''

The chairman of the Commerce Committee worked with myself and Senator STEVENS and others, and we passed the legislation. The Governors said that revenue base was going to collapse. But in the next year, local and State tax revenues were up $7.2 billion. That is one example from over the last 8 years and the journey we have had in the debate over this legislation.

The same thing happened in 2001. Those who opposed our legislation said: The growth of e-commerce represents a significant threat to State and local tax revenues and they might lose tax revenue in the neighborhood of $20 billion in 2003.

According to the National Association of State Budget Officers, State sales tax collections rose from $134.5 billion in 2001 to $160 billion in 2003, an increase of more than $25 billion in 2 years.

We heard again and again this would be devastating to mom-and-pop stores on Main Streets, and pretty much the Main Streets of Maine and Oregon would shrivel up because of the special fix that was provided for sales online. Over the entire period this law has been on the books, the number of sales online has gone up something like 1.5 percent. It has been a tiny fraction of our economy.

The fact is, the major development over the 8 years we have had this legislation on the books is we have essentially seen most of our businesses go to ''bricks and clicks.'' If you walk on the streets of Maine, or the streets of Oregon, our smallest businesses so often are able to expand their sales because they have a significant online component, and people from all over the world can shop at a small store in Maine or Oregon. I think as the Chair will note, these small stores don't have big advertising budgets. They cannot send people all over the world to market their products. Because of the Internet, they are in a position to have a global marketplace. So major development in this field, rather than wiping out Main Street stores, has helped them.

Senator LEAHY brought in a small merchant from Vermont who talked to us specifically about the extraordinary gains they have been able to make as a result of the convenience provided by Internet shopping, which will certainly be harmed if the Alexander legislation were to pass.

I imagine we will continue to pummel this subject a bit more tomorrow. Having been involved in this issue for 8 years, I think it is fair to say the decision the Senate makes on this subject will say a whole lot about the future of the Internet. We learned this morning, as the chairman of the Commerce Committee pointed out, we are already lagging behind in terms of broadband investment. That is the wave of the future. I think small towns in Maine and in Oregon—when we talk about access, for example, to the Net and new technology, it is not going to come about through cable, because cable is going to be very reluctant to make those major investments in small towns, such as those that the distinguished Presiding Officer represents, and my small towns. It is going to come about essentially through broadband, delivered via DSL, and the fact is, today, DSL in many jurisdictions is singled out for special and discriminatory treatment. If we were to not update the law, that would be a trend that would be sure to accelerate.

So I think this is going to be an extremely important vote tomorrow. This is a law that has worked. I will wrap up with this one comment I have mentioned to colleagues, as we have talked about this over the years. I have not found a single jurisdiction anywhere that can point to an example of how they have been hurt by their inability to discriminate against the Internet. That is all we have sought to do over the last 7 years. We said treat the Internet as you treat the offline world. When we started, that was not the case. If you bought a paper the traditional way in a number of jurisdictions, you would pay no taxes. If you bought the online edition of that very same paper, you would pay a tax. That was not technologically neutral. So we passed the first Internet tax freedom bill to deal with that kind of example.

For over more than 5 years, this is a law that has worked. Under the McCain compromise that we will vote on tomorrow, we would simply be updating that law to incorporate the kinds of technologies that evolved over the last few years.

I wanted to make sure tonight that people understood with a specific example of a message that would go from Providence, RI, to Portland, OR, how the vagueness in terms of the definitions in the Alexander legislation would, in my view, subject a simple message sent by BlackBerry via DSL to scores of new taxes. I cannot believe any Senator would want that to happen, and that is why I am hopeful we will get support for the McCain compromise and be able to move forward to final passage of the legislation.

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

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators permitted to speak for up to 10 minutes each.

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

JOHN RHODES MEMORIES

Mr. COCHRAN. Mr. President, it has come to my attention that the family of former Congressman John Rhodes of Arizona has established a special Web site: www.johnrhodesmemories.org for the purpose of collecting memories from friends and former colleagues of this outstanding statesman.

When I was elected to serve in the U.S. House of Representatives in 1972 one of the first House leaders I came to know was John Rhodes, who was serving as chairman of the House Republican Policy Committee. Together with Congressman Gerald Ford, who was the Republican leader, he helped shape our legislative priorities and worked closely with President Nixon to formulate Republican Party policies.

The memories I have of John Rhodes include his impeccable manners, his courtesy, his warm, big smile, his good judgement and his honesty. He was well liked by all Members of the House, Republicans and Democrats.

It was foregone conclusion when Gerald Ford was selected by President Nixon to be his Vice President that John Rhodes would be elected by House Republicans to be the Republican leader. He was unopposed and elected unanimously.

He served as leader with distinction during a very challenging time. The Watergate experience decimated House Republicans, but he helped put us on the road to political recovery and eventual majority status. Even though he and I left the House about the same time—he to retirement and I to election to the Senate—we would get together occasionally at meetings of SOS, a group that meets every week to discuss mutual interests and ideas for the improvement of the country and beyond.

In summary, all my memories of the Honorable John Rhodes were good ones. His death on August 24, 2003, saddened all who knew him. He was a true friend and a great Congressman.

UKRAINIAN DEMOCRACY

Mr. LEVIN. Mr. President, the demise of the Soviet Union, in 1991, provided an opportunity for millions of people to chart their own destiny as people free from the yoke of repressive communism. At that time, there was great hope that a free and prosperous Ukraine could become a member of the