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Senate

The Senate met at 10:01 a.m. and was called to order by the Honorable BILL NELSON, a Senator from the State of Florida.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Rabbi Hazdan.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Sovereign of the Universe and Father of Mankind, in these soul stirring times we need Thy guidance and Thy blessing. Serious is the challenge that free countries and America face. We seek peace, but we must safeguard life and liberty from possible onslaughts of godless ruthless, and unprincipled aggressors.

Earnestly we seek Thee and we invoke Thy blessing upon all assembled here in this shrine of freedom. Thy faithful servants, the Senators who have been chosen to speak for our Nation, stand upon a pedestal of power, of privilege, and responsibility. Do Thou, O gracious guardian, ever direct their deliberations that their vision and wisdom may make America a better country in which to live, and thus strengthen the national foundations of our beloved Republic.

May we, the citizens of the United States, ever be reverent toward Thee, our loving G-d, loyal to our obligations as Americans, honorable in our dealings with our fellow men, compassionate to the unfortunate, be as brothers to the oppressed, the persecuted, and the homeless everywhere.

Gracious Sovereign who is the ruler of the universe, do Thou bless and guide and guard the President of the United States, these Senators and all associated with them who labor zealously for the welfare of our Nation and for the advancement of the cause of democracy throughout the world.

May the biblical ideals of freedom and fraternity, of justice and equality enshrined in the American Constitution become the heritage of all people of the earth.

We ask this in Thy name, our Father in heaven. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BILL NELSON led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 11, 2002.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mr. NELSON of Florida thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Nevada.

SCHEDULE

Mr. REID. Mr. President, as the Chair announced, the Senate is now resuming the consideration of the energy reform bill. We expect the Senator from California to be here momentarily to offer an amendment. I believe the subject matter of that will deal with ethanol. This will be offered, I hope, within the next few minutes.

The consideration of this legislation will be interrupted as a result of the unanimous consent request granted last night. The Senate is slated to resume the election reform measure at 11:30 a.m. today, with 30 minutes of debate remaining prior to the Senate conducting up to three rollcall votes at 12 noon today. That 30 minutes will be equally divided between Senator DODD and Senator MCCONNELL. Once the election reform measure has been disposed of, the Senate will resume consideration of the energy bill with other votes this afternoon and this evening.

I say to all Senators, we need to move this legislation along. I sound like a broken record. We have been told on several occasions that the ANWR amendment was going to come forward. It will come forward today in some fashion or form. I think it is fair to say if this is not offered by Senator MURKOWSKI or someone of his choosing, either I or someone else will offer it. ANWR must come before the Senate and we must debate this issue; I hope everyone understands. Whoever wants to offer it wants it just right, and I think the just right time has arrived. We need to have this amendment before the Senate. As was indicated yesterday, it may become necessary to offer the same language in the House bill so we can get this debate underway and this legislation completed.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will now resume consideration of S. 517, which the clerk will report.

The assistant legislative clerk read as follows:

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

Pending:

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

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

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

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

Landrieu/Kyl amendment No. 3050 (to amendment No. 2917), to increase the transfer capability of electric energy transmission systems through participant-funded investment.

Graham amendment No. 3070 (to amendment No. 2917), to clarify the provisions relating to the Renewable Portfolio Standard.

Schumer/Clinton amendment No. 3093 (to amendment No. 2917), to prohibit oil and gas drilling activity in Finger Lakes National Forest, New York.

Durbin amendment No. 3094 (to amendment No. 2917), to establish a Consumer Energy Commission to assess and provide recommendations regarding energy price spikes from the perspective of consumers.

Dayton amendment No. 3097 (to amendment No. 2917), to require additional findings for FERC approval of an electric utility merger.

AMENDMENT NO. 3114 TO AMENDMENT NO. 2917

Mrs. FEINSTEIN. Mr. President, I rise today to open the debate on the so-called renewable fuels or ethanol mandate in the Senate energy bill. I strongly believe the fuel provisions in this legislation are egregious public policy, that they amount to a wish list for the ethanol industry, and the Senate has to consider the impact of these provisions on the rest of the Nation.

Frankly, I believe it is terrible public policy. Frankly, I believe this amounts to a wealth transfer of literally billions of dollars from every State in the Nation to a handful of ethanol producers. Frankly, I believe this mandate amounts to a new gas tax in the Nation.

Here are my objections to the renewable fuels requirement in the Senate energy bill: First, despite limited clean air benefits, the mandate will almost triple the amount of ethanol in our Nation's fuel.

Second, even if States do not use this ethanol, they are required—forced—to pay for it anyway.

Third, forcing more ethanol into gasoline will only drive prices up at the pump.

Fourth, since over 98 percent of the production capacity of ethanol is based in the Midwest, it is extremely difficult to transport large amounts of ethanol to States where it is not produced.

Fifth, I am very concerned the limited number of ethanol suppliers in the United States will be able to exercise their market power and drive up price. This is exactly what happened last year in the West when electricity and natural gas prices soared due to supply manipulation by out-of-State energy companies.

Sixth, there may not be enough ethanol produced in the United States to meet future demand.

Seventh, almost tripling the amount of ethanol we produce raises serious health and environmental questions. Tripling it is a big step into the unknown, environmentally and healthwise. I hope to show this in my remarks.

Finally, because ethanol is subsidized, mandating more of it will divert money from the highway trust fund. What I mean by this is there is a 5.4-cent-per-gallon tax credit for ethanol that will continue to divert more and more resources to ethanol instead of the highway trust fund where every State gets its essential resources to reduce traffic congestion and improve the safety of roads and bridges.

Let me explain each objection, one at a time. Let me begin by talking about my concerns with mandating more ethanol than is needed. This bill forces California, my State, to use 2.68 billion gallons of ethanol over the 9 years it does not need to meet clean air standards.

Look at this chart. The red is the amount of ethanol California will be forced to use from 2004 to 2012 under the mandate in the Senate energy bill. The blue is the amount of ethanol we would use without the mandate, largely in the winter months in the southern California market.

Here you see, to meet clean air standards, by 2004, we will be forced to use 126 million gallons. This bill forces us to use 276 million gallons in 2004 and it forces us to use 312 million gallons in 2005 and it ratchets up every year until we are forced to use, by the end of this mandate, 600 million gallons of ethanol in 2012 when we only need to use 143 million gallons to meet clean air standards.

What kind of public policy would do that? What kind of public policy would require a State to use a dramatic amount more of ethanol, an untested health and environmental additive to gasoline, that it doesn't really need? Is that good public policy? I do not think it is.

What makes it even more egregious—and the reason I use the word ''egregious'' is if we do not use it, if we trade it, we are forced to pay for it anyway. That is the massive transfer of wealth that takes place under this amount. No one knows how much more consumers will be forced to pay, but a recent study by the Department of Energy indicates that prices will increase 4 to 10 cents a gallon across the United States if this ethanol mandate becomes law.

A study sponsored by the California Energy Commission indicates that in a State such as California, where ethanol is not produced, gas prices could double and even reach $4 per gallon. This chart shows the real hazard this mandate is on both coasts. In California, where it is estimated the price increase is .096 cents per gallon. Then in other states: Connecticut, it will increase the price of gasoline 9 cents a gallon; Delaware, 9 cents a gallon; New Hampshire, 8 cents a gallon; New Jersey, 9 cents a gallon; New York, 7 cents a gallon; Pennsylvania, 5 cents a gallon; Rhode Island, 9 cents a gallon; Virginia, 7 cents a gallon; Massachusetts, 9 cents a gallon; Missouri, 5 cents a gallon—and on and on and on. This is bad public policy.

California does not have the infrastructure in place to be able to transport large amounts of ethanol into the State, therefore any shortfall of supply—either because of manipulation or raw market forces—will be exacerbated because the State will be reliant on ethanol from another area of the United States.

According to a recent report issued by the GAO, over 98 percent of the U.S. ethanol production capacity is located in the Midwest. Here it is: In the West, 10 million gallons—that is all we produce; in the Rocky Mountain region, 12 million gallons; the South, here, 15 million gallons; and the east coast, 4 million gallons.

In the Midwest, which is the big beneficiary of this ethanol mandate—nobody should doubt that—they produce 2.27 billion gallons of ethanol. So the ethanol is all produced in the Midwest.

There is only one ethanol plant in California today, so it is going to be impossible for California to respond to any ethanol shortage. As the GAO reports:

Ethanol imports from other regions are vital. However, any potential price spike could be exacerbated if it takes too long for supplies from out-of-State (primarily the Midwest where virtually all the production capacity is located) to make their way to California.

Since there is no quick or effective way to send ethanol to California as of yet, more time is needed to develop the proper ethanol delivery infrastructure. One of the amendments I will be sending to the desk essentially delays the beginning of this by an additional year to give us the time to get the infrastructure.

This is why it is important. Because moisture causes ethanol to separate from gasoline, this fuel additive cannot be shipped through traditional gasoline pipelines. So it needs a whole new infrastructure. Ethanol needs to be transported separately by truck, by boat, and by rail, and blended into gasoline after arrival. Unfortunately, this makes the 1- to 3-week delivery time from the Midwest to either coast—either to California and the west coast, or to the east coast—dependent upon good weather conditions as well as available ship, truck, and train equipped to handle large amounts of ethanol. Again, this is a tripling of the ethanol use in America over the next 9 years.

I believe everyone outside of the Midwest will have to grapple with how to bring ethanol to their States. According to the California Energy Commission:

> The adequacy of logistics to deliver large volumes of ethanol to California on a consistent basis—

This is the key. Gasoline is sold every day. You can't just import it once and then forget it for 3 weeks. Every single day on a consistent basis is uncertain.

A recent report sponsored by the same energy commission predicts that there will be future logistical problems since the gasoline supply is currently constrained with demand exceeding the existing infrastructure capacity.

This means that California is already at its refining capacity. It is actually at about 98 percent of refining capacity. If there is insufficient transportation infrastructure to ship large amounts, this just makes the problem worse.

I don't see any way for California to avoid experiencing a new energy crisis. This one would be a direct result of an unnecessary Federal requirement that increases our mandatory use of ethanol far beyond what we need to use to meet the clean air standard.

The fact that there are limited numbers of suppliers in the ethanol market reminds me of the situation with electricity a year ago when prices soared in the West because of a few out-of-State generating firms dominating the market. What do I mean by that?

According to the GAO, the largest ethanol producer is Archer Daniels Midland. That is this company. They have a 41-percent share of the ethanol market. The entire ethanol market really consists of these companies: Minnesota Corn Producers, 6 percent; Williams Bio-Energy, 6 percent; Cargill, 5 percent; High Plains Corporation, 4 percent; New Energy Corporation, 4 percent; Midwest Grain, 3 percent; and, Chief Ethanol, 3 percent.

These eight companies corner the market on ethanol. There is a market concentration of ethanol. That is a danger signal for all of us—a concentrated market, and a huge mandate that triples.

ADM has a 41-percent market share. The top eight firms have a 71-percent market share. The GAO finds their market share to be ''highly concentrated.''

How can those in the West who suffered last year believe these firms will not abuse their market power to drive prices up? If we learned anything from the energy crisis last year, it is that when there is not an ample supply or adequate competition in the marketplace, prices will soar, and consumers will pay.

Mr. President, I ask unanimous consent to have printed in the RECORD an op-ed by Peter Schrag that appeared in the Sacramento Bee on January 30.

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

[From the Sacramento Bee, Jan. 30, 2002]

CAN CALIFORNIA AVOID THE NEXT ENERGY MESS?

(By Peter Schrag)

The two sets of terms aren't corollaries, but close enough. The Bush administration has ruled that without an ''oxygenate'' additive such as ethanol or MTBE, now being phased out because of water pollution problems, California gasoline won't burn cleanly enough to meet air-quality standards. It thus won't give the state a waiver from the federal requirement. But as a leading environmentalist says, the decision is based a lot more on political science than science. And it could cost California motorists close to a half-billion a year.

And that's where ADM comes in. The monster agribusiness company, which calls itself supermarket to the world, markets about half the ethanol produced in this country. ADM's contributions to politicians of both parties—some $4.5 million in the 1990s, plus some $930,000 in soft money in the 2000 election cycle alone, including $100,000 for the Bush inauguration last year—put it ahead of Enron on many lists of political-influence peddlers.

The investment, bolstered by intensive lobbying from Midwest farmers, is paying off handsomely. The president says that ethanol, a ''renewable'' fuel that comes mostly from corn, not only reduces emissions but also fosters energy independence.

The claim is dubious. Many studies indicate that ethanol, while reducing carbon monoxide emissions, increases the emission of smog-producing and other toxic compounds. A 1999 report commissioned by the U.S. Environmental Protection Agency itself called for an end to the requirement. That, the panel said, ''will result in greater flexibility to maintain and enhance emission reductions, particularly as California pursues new formulation requirements for gasoline.

The Sierra Club, the Natural Resources Defense Council, the Clean Air Trust and other environmental groups echo the findings. But Washington hasn't paid much attention. Despite evidence that ethanol has contributed nothing to energy independence, every gallon of gas with ethanol gets a 5.4-cent federal subsidy (without costs $600 million a year in federal highway funds). And as MTBE is being phased out—in California, Gov. Gray Davis has set Jan. 1, 2003, as the deadline—ADM and other ethanol producers stand to gain handsomely.

Davis has lobbied vigorously for a waiver of the ethanol requirement, arguing, with considerable evidence, that California's auto and fuel standards will achieve the same or even better results without ethanol. He's also suing the federal EPA.

According to a North American Free Trade Agreement claim by Methanex Corp., a Canadian producer of MTBE, Davis himself got $200,000 from ADM during the 1998 gubernatorial campaign and allegedly was flown to ADM headquarters in Decatur, Ill., to meet with company officials. MTBE didn't have to be phased out, Methanex says; the problem is not the compound but the flawed underground tanks from which it leaks. Davis' phaseout order, says the claim, suggests still more influence peddling.

But in this case, ADM's investment hasn't paid off. There's been overwhelming pressure in California, as elsewhere, to get MTBE out of gasoline as quickly as possible. Davis is not doing ADM's bidding; he's trying to straddle a line between cleaner water and higher gas prices. Chances are he'll extend the MTBE phaseout and try to negotiate with Congress for (at least) more flexibility on ethanol.

Unlike Enron, ADM is not likely to implode; there's no sign of accounting shenanigans, no ''partners'' where red ink can be hidden. But six years ago, ADM was forced to pay $100 million in what was then the largest price-fixing fine ever imposed. In 1998, three of its senior executives, including Chief Operating Officer Michael Andreas, son of former board chairman Wayne Andreas, were sentenced to prison.

The case, said a federal appeals court, reflects ''an inexplicable lack of business ethics and an atmosphere of general lawlessness. . . . Top executives at ADM and its Asian co-conspirators . . . spied on each other, fabricated aliases and front organizations to hide their activities, hired prostitutes to gather information from competitors, lied, cheated, embezzled, extorted and obstructed justice.'' These are not the kind of guys you want to depend on when you fill your tank.

California's gasoline situation will probably never become the crisis that electricity was last year—and in this case, no one can blame the state or its politicians. But if something doesn't give before the end of the year, the state will not only be paying for ethanol it doesn't need, but also be subject to sudden supply shortages.

California may be able to produce some of its own ethanol, but most will have to come from the Midwest, either by ship (down the Mississippi, which sometimes freezes) or by train. Without a federal waiver, every gallon of ethanol not available at the refinery means a shortage of 14 gallons of gas. If ever there was a price-spike formula, this one is it.

Last week, California's Republican gubernatorial candidates once again rehashed last year's energy crisis. Somebody ought to start asking what they'd do about the next one.

Mrs. FEINSTEIN. Mr. President, in this article, Schrag mentions:

> Now that ''energy crisis'' and Enron have become household words, Californians had better get familiar with ethanol and Archer Daniels Midland.

ADM is already an admitted price-fixing firm. Three of its executives have served prison time for colluding with competitors.

In 1996, ADM pled guilty and paid a $100 million fine for conspiring to set the price of an animal feed additive. That is the company that has a 41-percent share of ethanol.

The ethanol industry tells us they will be able to produce enough ethanol to meet future demands under this mandate. But what if some of the planned ethanol plants fail to be built? This is a key point. Plants could be delayed, or not coming online at all. We are finding this with the electricity-generation facilities right now in California. Plants that said they were going to come in, because of the economy, or because of their own financial conditions, or one thing or another, have decided no—they are not really going to go ahead with it. What is to preclude that same thing from happening with respect to ethanol? The answer to the question is nothing precludes it.

The GAO reports:

Projected capacity may be lower if some plants cease production, plants under construction don't come online in time, or some new plants' plans do not materialize.

The ethanol industry is asking this Nation to make a blind leap of faith that there will be a sufficient amount of ethanol in the future. In fact, projections of the future domestic ethanol supply are based upon numbers supplied by ethanol producers themselves. We are taking a very big risk here. We should know it.

I am also particularly concerned about the long-term effect of nearly tripling the amount of ethanol in our gasoline supply. What effect will this have on our environment? What are the health risks of ethanol?

The answers are truthfully largely unknown. That is the rub, too. I believe it is bad public policy to mandate an amount of ethanol that is way above what is required to meet clean air standards before scientific and health experts can fully investigate the impact of ethanol on the air we breathe and the water we drink.

There was a 2-percent oxygenate requirement put in some time ago. One of the oxygenates that was chosen was MTBE. Now we find that MTBE has contaminated 10,000 wells in California, the water supply for Santa Monica, the Santa Clara Valley reservoirs, Lake Tahoe, and a number of other places in California. We now find that MTBE may well be a human carcinogen. We learned all of this, the horse is out, and the barn door is shut. Now we are going to do the same thing with respect to ethanol.

Just what are the environmental ramifications of more ethanol in our fuel supply?

Although the scientific opinion is not unanimous, evidence suggests that, one, reformulated gasoline with ethanol produces more smog pollution than reformulated gas without it. We have reformulated gasoline. That is why we don't need to use it. The finding is that there is more smog pollution with ethanol than if States simply went to reformulated gasoline.

Second, ethanol enables the toxic chemicals in gasoline to seep further into ground water and even faster than conventional gasoline.

Ethanol is also made out to be an ideal renewable fuel, giving off fewer emissions. Yet on balance, ethanol can be a cause of more air pollution because it produces smog in the summer months. Smog is a powerful respiratory irritant. It affects a large amount of the population. It has an especially pernicious effect on the elderly, on children, and individuals with existing respiratory problems such as asthma. And asthma is going up in America. It is time we begin to ask why.

A 1999 report from the National Academy of Sciences found:

[T]he use of commonly available oxygenates [like ethanol] in [Reformulated Gasoline] has little impact on improving ozone air quality and has some disadvantages. Moreover, some data suggests that oxygenates can lead to higher Nitrogen Oxide (NO_X) emissions.

Nitrogen oxides are known to cause smog.

The National Academy report also found that ethanol-blended gasoline will ''lead to increased emissions of acetaldehyde''—a toxic pollutant.

Thus, ethanol is both good and bad for air quality. And we triple it. That is the unknown. That is the big step into the unknown we are taking. To me, it would make sense to maximize the advantages of ethanol and minimize the disadvantages. This bill, this mandate does not do that. This is exactly why States should have flexibility to decide what goes into their gasoline in order to meet clean air standards. Ethanol should not be mandated, certainly not at this level.

Why are some forcing smog pollution into our air during the summer?

Evidence also suggests that ethanol accelerates the ability of toxins found in gasoline to seep into our ground water supplies. The EPA Blue Ribbon Panel on Oxygenates found that ethanol ''may retard biodegradation and increase movement of benzene and other hydrocarbons around leaking tanks.''

Now, benzene is a carcinogen. Just know what we are doing.

Let me quote the EPA Blue Ribbon Panel on Oxygenates. Ethanol ''may retard biodegradation and increase movement of benzene and other hydrocarbons around leaking tanks.''

According to a report by the State of California entitled, ''Health and Environmental Assessment of the Use of Ethanol as a Fuel Oxygenate,'' there are valid questions about the use of ethanol and its impact on ground and surface water. An analysis in the report found that there will be a 20-percent increase in public drinking water wells contaminated with benzene if a significant amount of ethanol is used—a 20-percent increase in public drinking water wells contaminated with benzene, a known carcinogen.

We are tripling the amount of ethanol, and we are tripling it when it isn't needed to meet clean air standards. What kind of public policy is this? It is egregious public policy. It is wrong public policy. If you think I am passionate about it, you are right.

So what is the rush to force more ethanol on the American motorists if it will only drive up the price of gasoline and produce mixed environmental results?

On top of that, how can the Senate favor protecting the ethanol industry from liability? And this is the clincher in this bill: They are protected from liability. So if you get sick from it, if it pollutes our wells, if benzene increases, you cannot sue. What kind of public policy is this?

I urge my colleagues to look at pages 204 and 205 of the energy legislation where a so-called safe harbor provision gives the ethanol industry unprecedented protection against consumers and communities that may seek legal redress against the harm ethanol may cause. I am very pleased to say that my colleague, Senator BOXER from California, will have an amendment which will eliminate this safe harbor provision.

More ethanol will force the Government to collect less gasoline tax revenue for the highway trust fund. This is a very big consideration. It is huge.

Let me argue this point. Ethanol is exempted from 5.3 cents of the Federal motor fuels tax. The Congressional Research Service has indicated that the ethanol mandate in this bill will divert $7 billion over the 9 years away from the highway trust fund, which States use to pay for essential transportation projects. And that is on top of the cut that is in the Bush budget.

So per gallon of gasoline today, 18.4 cents goes into the trust fund. With the tripled amount of ethanol, CRS estimates there will be a $7 billion loss in the highway trust fund over the next 9 years—a $7 billion loss. That is enough in itself to vote against this legislation.

California is able to produce special gasoline that is the cleanest burning gasoline in the country today. We meet clean air standards with reformulated gasoline. The State only needs to use ethanol in the winter months to meet clean air requirements. That is why the State has continually asked the Federal Government for a waiver of the 2-percent oxygenate requirement.

Yet time and time again, the ethanol industry has flexed its political muscle in the White House, in the Senate, and in the House to force California to use fuel additives the State does not need. This time is no different. And it is clear to me that all of this is merely serving to prop up an industry that would fall apart without overwhelming Government subsidy and action.

I am very concerned about the repercussions this mandate may have on the price and supply of gasoline. I cannot vote for this bill with this mandate in it. It is bad public policy. It is egregious public policy.

The California Energy Commission again points out:

The combination of limited local capacity, restrained imports, limited storage, and a strong demand, has caused the California gasoline market to become increasingly unstable, with wild price swings.

The bottom line is that my State's gasoline market is extraordinarily volatile and vulnerable. And this is the fifth largest economic engine in the world. People have to get to work, and gasoline fuels the economy as well as automobiles. And we are going to do this to it?

In 1999, fires at Tosco and Chevron refineries during the summer forced the price of gasoline to double in California.

This bill will strain California's gasoline supply even further with a Federal ethanol mandate that risks plunging California and other States into the next energy crisis. Every indicator I have seen points to this ethanol requirement as having unanticipated side effects, such as supply problems and resulting in higher gasoline prices for the consumer.

So by passing this legislation, the Senate will be making California's and the Nation's gasoline more expensive by mandating a fuel additive with a negative value as an energy source and a mixed value for the environment.

On balance, it makes no public policy sense. I want to make clear, once again, my strong opposition to this greedy and misguided renewable fuels requirement. The mandate is a dangerous step that could force gasoline prices to soar, cause shortages of fuel, create more smog, and usher in the next energy crisis.

Plain and simple, it is bad policy to charge all consumers more to benefit a collection of very few ethanol producers. I hope this commentary will begin an honest debate in the Senate about the ethanol provisions of the Senate energy bill and what they will really do.

I know Senator SCHUMER is going to follow up on this. However, I take this opportunity to indicate that there will be a number of amendments from those of us on the west coast and those of us on the east coast. We intend to press this debate. We do not intend to let this bill go forward if we can prevent it.

I begin with one of my first amendments. Another diabolical thing in this bill is essentially to state that if a waiver is provided, if a State asks to waive—this is on page 195 of the bill—the Administrator, in consultation with the Secretary of Energy, may waive the renewable fuels requirement in whole or in part on petition by one or more States by reducing the national quantity of renewable fuel required under this section based on a determination by EPA, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or the environment of a State or a region or the United States; and that based on a determination by the EPA Administrator, after public notice and opportunity, there is an inadequate domestic supply or distribution capacity to meet the requirement.

In simple English, this means that if there is an emergency, the ethanol mandate can be temporarily suspended.

This is the rub: The bill, as currently drafted, gives EPA 240 days in an emergency to make a decision. That is a good part of a year to decide whether or not to grant a waiver. This is unconscionable. In other words, if you can't obtain enough ethanol and you have an emergency and you petition to waive it, it takes 240 days. What do you do for 240 days?

This, in my view, is ridiculous. Can you imagine if in a few years there is an ethanol shortage, there are problems getting enough ethanol to New York or to California and our two Governors ask for a waiver and we have to wait 240 days to get it? Our economy would take a devastating blow if such a situation were to occur.

To make this waiver more reasonable, I am offering this amendment to require the EPA to respond in a reasonable time to an emergency request by a State for a waiver. This amendment will give the EPA 30 days to rule on a waiver so consumers will not unduly suffer. By reducing the time period, the Administrator will have not 240 days but 30 days to decide whether or not an emergency waiver should be approved. We can ensure that any price spikes or supply shortage will be as temporary as possible.

I believe that 240 days is in there for a reason: Because if your gasoline spikes in price, as we think it is, you can't stop it. It goes on for the 240 days.

I will end my remarks. I reserve the right to come back for additional remarks. One of the things I would like to go into is how energy inefficient this ethanol proposal really is because ethanol increases the need for gasoline, it does not reduce it. MTBE reduces the amount of gasoline you need. So if you are short refinery capacity, MTBE works to your advantage. Ethanol does exactly the opposite. If you don't have that refinery capacity, you are stuck. It is a big problem.

I would like to do more on that, but at the present time I send an amendment to the desk and yield the floor. I notice the distinguished senior Senator from New York is here and will continue our opposition to this ethanol mandate.

I yield the floor, if I might, to the Senator from New York.

The ACTING PRESIDENT pro tempore. Without objection, the pending amendments are set aside and the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3114.

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

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

The amendment is as follows:

(Purpose: To reduce the period of time in which the Administrator may act on a petition by 1 or more States to waive the renewable fuel content requirement)

Beginning on page 195, strike line 19 and all that follows through page 196, line 4, and insert the following:

"(B) PETITIONS FOR WAIVERS.—

"(i) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 30 days after the date on which the petition is received by the Administrator.

"(ii) FAILURE TO ACT.—If the Administrator fails to approve or disapprove a petition within the period specified in clause (i), the petition shall be deemed to be approved.

AMENDMENT NO. 3030 TO AMENDMENT NO. 2917

The ACTING PRESIDENT pro tempore. The Chair recognizes the senior Senator from New York.

Mr. SCHUMER. Mr. President, I thank my colleague for her strong and eloquent remarks. I ask unanimous consent to lay aside the pending amendment and call up amendment No. 3030 and ask for its consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 3030.

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

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

The amendment is as follows:

(Purpose: To strike the section establishing a renewable fuel content requirement for motor vehicle fuel)

Beginning on page 186, strike line 9 and all that follows through page 205, line 8.

On page 236, strike lines 7 through 9 and insert the following:

is amended—

(1) by redesignating subsection (o) as subsection (p); and

(2) by inserting after subsection (n) the following:

"(o) ANALYSES OF MOTOR VEHICLE FUEL CHANGES".

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. SCHUMER. Mr. President, I compliment my colleague from California for her fine remarks on this issue, which I share. We have a serious problem in this bill, a problem that most Members don't know about. There is a hidden gas tax in this bill. It is not going to be hidden after today.

This bill will raise the cost of gasoline on average in America more than the nickel gas tax did back in 1993, when I was not a Member of this distinguished body but which caused so much controversy.

I urge my colleagues to pay careful attention over the next few days as many of us bring up this issue. It is complicated. It is anti-free market, I say to my friend from Oklahoma who I know has been a strong defender of free market principles, when I agree with him and when I disagree with him. It is something that should not be in this bill. I think it could be the death knell of this bill, as the Senator from California said. I myself—and I know many others—cannot vote for this final bill with this provision included.

Let me express my concerns about this unprecedented new ethanol mandate provision which was quietly inserted into the Senate energy bill a few weeks ago without any debate. The provision accomplishes two goals not being disputed by my amendment. One is banning the use of MTBEs which has resulted in groundwater pollution all over the country. The second is scrapping the oxygenate mandate that led so many States to make such heavy use of MTBEs in the first place.

The proposal in the bill provides an anti-backsliding provision to require continued efforts on clean air. Though those provisions could be stronger, we are not opposing any of those parts of the bill. But beyond those provisions, this new amendment adds an astonishing new anti-consumer, anti-premarket requirement that every refiner in the country, regardless of where they are located, regardless of whether the State mandates it or not, regardless of whether the State chooses a different path to get to clean air, must use an ever-increasing volume of ethanol. If they don't use the ethanol—and this is the most amazing part of the bill—they still have to pay for ethanol credits.

Now, our amendment—the amendment I have introduced—would simply strike that provision, plain, simple, and clean. As to the provision we are striking, simply put, what it does is it requires all gasoline users, our consumers, to pay for ethanol whether or not they use it. It is nothing less than an ethanol gas tax levied on every driver—the mom who is driving the kids to school, a truck driver who earns a living. Every gasoline user in this country will pay.

Under this ethanol gas tax, gas prices will rise significantly, even under the best of circumstances. I am first going to bring this part out because I think this part will get the most attention in terms of people understanding how bad this provision is. Using Department of Energy numbers, impartial Hart/IRI Fuels Information Services estimates that gasoline prices will increase by a staggering 4 cents to 9.7 cents per gallon, depending on the region. Should there be market disruptions, which my friend from California brought up, the price would go much higher because without the gasoline they need, the ethanol they need, boom, it goes way up. It also favors some regions over others, so that California would pay the most—about 9.7 cents a gallon. So would New England. My State of New York would pay about 7 cents. But every part of the country would pay more—every single part. Even in the Midwest, where there is lots of ethanol production, the average price of gasoline would go up 4 or 5 cents a gallon.

Listen to this, my colleagues. In the heart of farm country—and I want to help farmers, as I think I have shown in my few years here—both Iowa and Nebraska had a referendum on the ballot to require this kind of provision and rejected it. Well, if the voters in the heart of farm country, in the heart of ethanol country, were against this provision, how are we in the Senate imposing this on every part of the country? I don't know what their philosophy is, but let me read from the Des Moines Sun Register:

> An ethanol mandate would deny Iowans a choice of fuels and short circuit the process of establishing its own worth in the marketplace. The justification is to marginally boost the price of corn. If that were the goal, other measures would be far more effective.

How about the Quad City Times editorial entitled "Ethanol Only Proposal Doesn't Help Consumers."

How about the Grand Island (Nebraska) Independent: "Ethanol use should not be a forced buy."

How about the Omaha World Herald: "More Alcohol, Less Choice."

These are all editorials. I don't know about these newspapers. I doubt they are philosophically like the New York Times; yet they are thinking this is a bad proposal. I want to read for you about your States. This is a low estimate, but this is how much the price of gasoline will go up if this provision is kept in the bill, if our amendment is defeated. I will read every State. I think you ought to know it. This is important. The minimum is 4 cents, and in many it is 4 cents. In many it is higher. Keep your ears perked. Alabama would go up 4 cents a gallon; Alaska, 4 cents; Arizona, 7.6 cents; Arkansas, 4 cents; California—the senior Senator from California is here—9.6 cents a gallon; Colorado, 4 cents; Connecticut, 9.7 cents a gallon; Delaware, 9.7 cents; District of Columbia, 9.7 cents; Florida, 4 cents a gallon; Georgia, 4 cents a gallon; Hawaii, 4 cents a gallon; Idaho, 4 cents; Illinois—I just read in today's newspaper how the price of gasoline is going through the roof in Illinois. That would be an additional 7.3 cents a gallon. We are going to tell the drivers in Chicago and Springfield and East St. Louis, where the price is through the roof already, we are going to impose a mandate that will raise their price 7.3 cents a gallon. How can we?

Indiana, 4.9 cents; Iowa, 4 cents; Kansas, 4 cents; Kentucky, 5.4 cents; Louisiana, 4.2 cents a gallon; Maine, 4 cents; Maryland, 9.1 cents; Massachusetts, 9.7 cents a gallon; Michigan, 4 cents a gallon; Minnesota, 4 cents a gallon; Missouri, 5.6 cents a gallon; Mississippi, 4 cents; Montana, 4 cents; Nebraska, 4 cents a gallon for a product we don't make in New York, that we might not even use?

I have spoken to some of the refiners in our area. They think we can meet the clean air mandate in a lot cheaper and better way. If we choose to, we still have to buy the ethanol credit. My goodness.

Nevada, 4 cents; North Carolina, 4 cents; North Dakota, 4 cents; Ohio, 4 cents; Oklahoma, 4 cents; Oregon, 4 cents; Pennsylvania, 5.5 cents a gallon; Rhode Island, 9.7 cents; Tennessee, 4 cents a gallon; Texas, 5.7 cents a gallon; Utah, 4 cents a gallon; Vermont, 4 cents a gallon; Virginia, 7.2 cents a gallon; Washington, 4 cents a gallon; West Virginia, 4 cents; Wisconsin, 5.5 cents a gallon; Wyoming, 4 cents a gallon.

The reason it varies, of course, is the availability of ethanol. It is very hard to ship. You can't create a pipeline—even though that could be expensive to do—the way you can for oil. So the ethanol has to be reduced, and you can see it is mainly in a few States in the heartland, where nice, hard-working people live, in the middle of the country.

If you are far away from these ethanol plants, it is hard to get to; it is hard for you to get the ethanol. It usually has to be produced, put on a truck, a barge, sent down to Mississippi, and then, by boat, sent all around the country and then loaded back, put on a truck, and put into the gasoline. You can see why it is so expensive.

Now, that is in normal times. Should there be market disruptions, of which you can be sure-as-shooting, if we are going to impose this huge mandate requiring more ethanol to be added to gasoline than we produce in the United States right now, there are going to be disruptions and the price of gasoline could double.

This is one of these quiet little amendments that could come back to haunt every one of us. I have been here in the Congress—only 4 years in the Senate but 18 in the House. Every so often, there is an amendment and people vote for it and don't pay much attention, and a year later the public gets wind and says: What the heck have those guys done? Everybody here says: I didn't know or, oh, we didn't realize it. The Senator from California, I, and the others joining us in this debate are putting you on notice: This is one of those amendments. Beware. If there was ever an amendment quietly put in a bill that should have a skull and crossbones on it, be careful, this is it. So pay attention.

Now, my State has already banned the use of MTBEs. We don't take that out in this bill. So have 12 other States, including Arizona, California, Colorado, Connecticut, Illinois, Kansas, Michigan, Minnesota, Nebraska, New Hampshire, South Dakota, and Washington. All have banned MTBEs. A number of other States are in the process of taking action as well because MTBEs pollute the ground water.

Every one of those States that has banned MTBEs is going to be in an impossible dilemma. Their citizens are demanding they ban MTBE, but with the oxygenate requirement in place, they cannot successfully do so.

Last year President Bush's administration denied California's petition to waive the oxygenate requirement, despite the State's ability to comply with air quality standards without it. In New York, we are in the same position. This denial forced the State to defer its critical ban on MTBE and suffer ground water contamination. New York State is now considering requesting a waiver, and I expect their request will be met with the same denial.

We are between a rock and a hard place. Our citizens' health and the environment are being held hostage to the desire of the ethanol lobby to make ever larger profits. We all know one company is way ahead of everybody else in producing ethanol. That was brought out by my colleague from California. I am not going to bring it out—maybe I will since we are at the beginning of the debate.

This chart, which was prepared by my colleague from California, shows that 41 percent of the ethanol comes from one company. This is what we are doing in this great free market, capitalistic economy: We are requiring everybody to buy this stuff, and one company has 41 percent of the market—one company.

We are setting ourselves up for a huge fall, the kind of price spikes we have seen occasionally in California, in Illinois, and in other places. We are going to see them everywhere. They are going to pop up like weeds if we increase the demand for ethanol when only one company is making it and there is a natural bottleneck. It is not quite like electricity, but it is not that far away, electricity being an actual monopoly.

The bottom line is for many States that are outside the Corn Belt and lack the infrastructure to transport and refine ethanol, the most efficient method of achieving clean air goals will be to reformulate gasoline without using large amounts of ethanol.

Again, I have talked to leaders in the refining industry in my area, and they believe they can do it and do it rather easily. States outside the Corn Belt that do not currently use much ethanol will have to pay to have the ethanol, as I say, trucked across the country or floated on barges to the Gulf of Mexico and loaded on to tankers.

Those States will also have to pay to retrofit their refineries. Every refinery that does not now use ethanol will have to be refitted to add ethanol to the gasoline. Both of these would represent significant increases in costs for refineries supplying my State. Retrofitting would cost millions of dollars, and under this bill New York would incur millions more in ethanol transportation costs.

What is the public policy for mandating the use of ethanol? I have not heard one. If you believe ethanol works, as the Iowa, Nebraska, and Illinois newspapers said, let the market determine it. This is a mandate that sort of assumes we know ethanol is best for everybody, and most people do not believe it is.

We all know what is going on here. The Senator from California mentioned it. It is the ethanol lobby, their power. But we also have one other thing. They made their deal with the petroleum industry, and so we have this provision that does not allow one to sue. I am surprised that so many people on both sides of the aisle who have maintained the right to sue in every other area now say: Never mind. The provision is renewable fuels safe harbor.

There is another reason, too, and this is probably the most legitimate reason. I know many of my colleagues from the Midwest want to help their farmers who are suffering. We know that. I want to help those farmers. I have voted for large amounts of agricultural subsidies to help the farmers in the West and the South with their row crops. I did not used to do that when I was in the House, but as I traveled around my State, I learned the burdens that farmers face.

It is a heck of a lot different if the Government makes a collective decision to help support the price of a crop to keep farmers in existence than an inefficient, jerry-built contraption that does not just make this what the Government does but, rather, forces every consumer to pay. When we have done agricultural subsidies, the rationale has been cheap food. This is not cheap gasoline. This is more expensive gasoline, and it absolutely makes no sense to help our farmers in this way. If it did, I suspect this amendment would have been debated in the open, but instead, as I said, there has been no debate.

I, frankly, wrestled with my conscience whether to go forward. I do want to help my colleagues in the farm areas, but this one was so far off the charts and so deleterious to my constituents, in terms of raising the price of gasoline, that I just could not come to do that.

I say to my colleagues from the Midwest, figure out better ways we can help the farmers, and I say that as somebody who has been supportive of doing that before.

Let me show my colleagues how crazy this proposal is. Currently, refiners across the Nation use 1.7 billion gallons of ethanol. That is what refiners use right now. Starting in 2004, a mere 2 years away, they would be required to use 2.3 billion gallons of ethanol.

Right away we are asking them to use a lot more ethanol. If the production does not happen, we know what is going to happen: a price spike.

We ratchet up that number to 5 billion gallons of ethanol in 2012 and increase it every year by a percentage equivalent to the proportion of ethanol in the entire U.S. gas supply after 2012 in perpetuity. That means that from 2012 on, the Nation's ethanol producers will have a guaranteed annual market of over 5 billion gallons, which every gasoline consumer in this country will pay at the pump.

It will stifle any development and new ways of finding cleaner gasoline and cleaner burning fuels. It means if someone comes up with a better way, it does not matter. It means a huge investment in infrastructure. I would rather have that money go to build our highways, for God's sake, than to build new ethanol refineries.

In my State, our highways are hurting, and we are going to be debating in the appropriations bill whether to cut Federal highway funding.

The ethanol mandate will reduce the amount of money that goes into the highway trust fund. In addition, it will cost our consumers more as well. If we want to build a big infrastructure, do not create a whole new ethanol infrastructure which the market is not demanding, build more highways. It makes no sense.

One other point I have made already, this safe harbor provision is sort of the cherry on top of the icing on top of the cake, the evil cake it is. The safe harbor provision gives unprecedented product liability protection against consumers and communities that seek legal redress from the manufacturers and oil companies that produce and utilize defective additives in their gasoline. Not just ethanol; all of them. That was the sort of deal, I guess, that was made.

So for those who believe in their consumers, God forbid, and a refinery makes a huge mistake and puts something terrible in the gasoline that either pollutes the air or is defective, you cannot sue. We have held that insurance reform be over the right to sue. Much legislation ends up shipwrecked on the shoals of the battle of tort reform, and yet in this bill we say not only never mind, we put in a safe harbor provision that makes one's jaw drop.

The Presiding Officer was out of the room, but as I stated, it will raise the cost of gasoline in his great State of Delaware some 9.7 cents a gallon by the time this is implemented, something I think the drivers in Dover, Wilmington, Rehoboth, and all the other beautiful cities of Delaware would dare not want to pay.

For consumers throughout this country, this ethanol gas tax is a one-two punch. First, consumers will be forced to pay more at the pump to meet arbitrary goals that boost the sale of ethanol but are not necessary to achieve the bill's air quality goals.

Second, consumers will face restrictions from suing manufacturers and oil companies, and they will have less incentive to ensure the additives they manufacture and use are safe. The provision denies consumers and communities appropriate redress, eliminates an important disincentive to pollute, and creates a dangerous precedent for future environmental policy.

In conclusion, I support the anti-backsliding air quality provisions. I want to see our air cleaner without dirtying our ground water. I do not want to be put between that rock and hard place, but I strongly oppose creating a mandatory ethanol market, whether it is used or not, and providing the producers of that ethanol with extraordinary legal protections to boot. The ethanol industry already benefits from billions of dollars in direct farm subsidies and a 54-cent-per-gallon subsidy. If my colleagues want to subsidize that more, let us debate that in the Senate. Who knows? I might support it. But do not make our drivers pay for it and do not mandate it.

Ethanol, which is twice as expensive as gasoline, right now would not be economically viable but for the massive Federal subsidies it already receives. On top of that, with the phaseout of MTBEs, regardless, the demand for ethanol by free market processes is going to go up. States near the Corn Belt will probably use more ethanol. So ethanol is in good shape.

All that is not enough to satisfy the ethanol lobby. As I said, do not take the word of a New Yorker or a Californian. Look at the voters in Iowa and Nebraska, the heartland—where if anyplace on the face of this continent or in this country would benefit from this mandate, they would—they both recently defeated efforts in those States to create a statewide ethanol mandate.

They knew, as I hope we will learn in this body, that mandated ethanol is an indefensible public policy and will unnecessarily hurt consumers all across the country. To my colleagues, defeat the ethanol gas tax.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from New York for his comments. I thought they were excellent. I appreciate him naming every State that will have an effective gas tax, and stating that this methanol mandate is a tax hike anyway one looks at it. I do not think there is any doubt there is going to be an increase in gas prices. I do not doubt them at all.

I also appreciate his concern for farmers. I come from a State that is the largest farming State in the Union. I have spent time in the central valley of California. I know what farmers go through, and I appreciate it.

I am also faced with the problem in my State of forcing a tax hike for something that we do not need to meet clean air standards, which has questions about its environmental value as well as its real questions about what it might do to the public health, that prevents anybody's right to sue if there is a real hazard that comes about. This, to me, is unbelievable.

I will take a couple of moments on the subject of what ethanol does in gasoline. I mentioned in my remarks that ethanol is also fundamentally different from MTBE because the two oxygenated additives react differently when mixed with gasoline. I think this is an important point because this is not going to help the energy shortage. It is going to exacerbate it.

The same amount of ethanol, as opposed to MTBE, actually contracts fuel so it takes more to produce the same amount of gasoline.

The report, sponsored by the California Energy Commission, predicts replacement of MTBE by ethanol will result in a supply shortfall of 5 to 10 percent for the California gasoline pool as a whole. Thus, California's gasoline supply is not going to go as far as it did.

That is critical because we are at 98 percent of refining capacity. So I do not know how we meet the need without a huge price spike that will result from a shortage of gasoline, and that is why I think for my State this mandate actually produces a very egregious gas spike. It also can impact refineries very critically.

So what I have tried to point out today is that essentially this mandate triples the amount of ethanol from 1.7 billion gallons used nationally today to 5 billion gallons nationally by 2012.

Secondly, because of the way the credit situation is set up, one pays whether they use it or not.

Thirdly, what it does to gas prices.

Fourthly, the market concentration of ethanol: 41 percent from one company, 71 percent from eight companies. That in itself creates a problem that if there is a shortfall the price can be manipulated.

I have mentioned the environmental problems, that we can anticipate the smell in the summer months will get worse, not better, because of the use of ethanol. I also indicated that essentially over the 9 years everybody should know that this is a $7 billion cut in the highway trust fund.

There is another point I would like to make. The ethanol mandate essentially helps the producer. Only 30 percent goes to the farmers, and about 70 percent goes to producers. This is a windfall for those companies, any way you look at it. The New York Times ran an editorial pointing this out, mentioning that an energy economist estimated 30 percent of the cost will end up in the pockets of farmers, while about 70 percent will go to the processors, such as ADM. This mandate is a ridiculously expensive way to subsidize farmers.

Additionally, it cuts imports by about only 9,000 barrels, of about 8 million barrels. So no one can say this saves a great deal of our energy requirements related to fuel.

I ask unanimous consent this be printed in the RECORD.

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

[From the New York Times, July 8, 1994]

THIS CLEAN AIR LOOKS DIRTY

The Environmental Protection Agency has effectively ordered refiners to add corn-based ethanol to make gasoline environmentally friendly. But the added ethanol will not clean the air beyond what the 1990 Clean Air Act would already require; nor will it, as advocates claim, raise farm income very much or significantly cut oil imports.

What the E.P.A.'s rule will do is take money from consumers and taxpayers and hand it over to Archer Daniels Midland, which produces about 60 percent of the nation's supply of ethanol. It is certainly no coincidence that A.D.M.'s chief executive, Dwayne Andreas, is a major political contributor; he donated $100,000 to a recent Democratic fund-raising dinner. The Clean Air Act requires high-smog areas to phase in use of ''reformulated'' gasoline whose weight is at least 2 percent oxygen; the goal was to reduce pollution by replacing gasoline with oxygenates. The E.P.A. order would now add another requirement: 30 percent of the oxygenates would have to come from ''renewable'' resources—which in reality means corn-based ethanol.

Because the oxygen content of reformulated gasoline remains unchanged, the order will not reduce smog-creating emissions. But by forcing refiners to use ethanol rather than less expensive oxygenates like methanol, the rule will drive up the cost of gasoline. Indeed, ethanol remains a high-cost additive even though it benefits from substantial tax breaks. And some experts argue that ethanol may be environmentally damaging because coal used in producing it contributes to carbon dioxide emissions, adding to global warming.

David Montgomery, an energy economist for Charles River Associates, estimates that only 30 percent of the cost of ethanol will wind up in the pockets of farmers while about 70 percent will go to processors like A.D.M. So the rule is a ridiculously expensive way to subsidize farmers. And the addition of ethanol will cut imports by only 9,000 barrels out of about eight million barrels a day.

Carol Browner, head of the E.P.A., asserts that the policy will spur development of renewable energy sources. But the impact looms small when stacked against the obvious defects. President Clinton is twisting high-minded environmental promises into low-minded favors for special interests.

ADDITIONAL GASOLINE COSTS FROM PROPOSED RENEWABLE FUELS STANDARD FOR YEARS 2003–2007 (AVERAGE INCREASE IN $/GAL)

Hart Downstream Energy Services (Hart) compiled the following information based on the recent analysis from the Department of Energy, Energy Information Administration (EIA). According to EIA's analysis, the impact of the fuels provisions contained in S517 will cause conventional gasoline prices to rise by 4 cents per gallon, and Reformulated Gasoline (RFG) prices to rise by approximately 9.75 cents per gallon.

Assuming annual growth in U.S. gasoline demand of 2 percent, Hart measured the impact on each individual state by calculating the total gasoline cost increase and the total gallons of conventional gasoline and/or RFG sold in each state.

State	Gasoline price increase
Alabama	0.04
Alaska	0.04
Arizona	0.076
Arkansas	0.04
California	0.096
Colorado	0.04
Connecticut	0.097
Delaware	0.097
District of Columbia	0.097
Florida	0.04
Georgia	0.04
Hawaii	0.04
Idaho	0.04
Illinois	0.073
Indiana	0.049
Iowa	0.04
Kansas	0.04
Kentucky	0.054
Louisiana	0.042
Maine	0.04
Maryland	0.091
Massachusetts	0.097
Michigan	0.04
Minnesota	0.04
Missouri	0.056
Mississippi	0.04
Montana	0.04
Nebraska	0.04
New Hampshire	0.084
New Jersey	0.091
New Mexico	0.04
New York	0.071
Nevada	0.04
North Carolina	0.04
North Dakota	0.04
Ohio	0.04
Oklahoma	0.04
Oregon	0.04
Pennsylvania	0.055
Rhode Island	0.097
South Carolina	0.04
South Dakota	0.04
Tennessee	0.04

State	Gasoline price increase
Texas	0.057
Utah	0.04
Vermont	0.04
Virginia	0.072
Washington	0.04
West Virginia	0.04
Wisconsin	0.055
Wyoming	0.04
Aggregate Annual Cost Impact of All 50 States: $8,389 Billion	

Source: Energy Information Administration (EIA), ''Impact of Renewable Fuels Provisions of S1766,'' March 12, 2002. Compiled by Hart Downstream Energy Services.

AMENDMENT NO. 3115 TO AMENDMENT NO. 2917

Mrs. FEINSTEIN. I send another amendment to the desk which delays the beginning date from 2004 to 2005. It is sent to the desk on behalf of Senator BOXER and myself.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself and Mrs. BOXER, proposes an amendment numbered 3115.

Mrs. FEINSTEIN. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To modify the provision relating to the renewable content of motor vehicle fuel to eliminate the required volume of renewable fuel for calendar year 2004)

On page 189, line 3, strike ''2004'' and insert ''2005''.

On page 189, line 5, strike ''2004'' and insert ''2005''.

On page 189, line 8, strike ''2004'' and insert ''2005''.

On page 189, in the table between lines 10 and 11, strike the item relating to calendar year 2004.

On page 193, line 10, strike ''2004'' and insert ''2005''.

On page 194, line 21, strike ''2004'' and insert ''2005''.

On page 196, line 17, strike ''2004'' and insert ''2005''.

On page 197, line 4, strike ''2004'' and insert ''2005''.

On page 199, line 4, strike ''2004'' and insert ''2005''.

On page 199, line 17, strike ''2004'' and insert ''2005''.

Mrs. FEINSTEIN. This is modest and delays the implementation of the ethanol mandate by a year, eliminating a requirement to use 2.3 million gallons of ethanol in 2004 and will give States more time to make essential infrastructure, refinery, and storage improvements.

This is an essential modification since virtually all ethanol, as has been explained, comes by tank—not pipeline—from the Midwest.

Although the ethanol industry says they can meet the future demand, virtually every single expert we have talked with has said delivery interruptions and shortfalls are likely, if not inevitable.

I ask I be included as a cosponsor of the amendment of Senator SCHUMER to strike the renewable fuels section of this bill.

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

Mrs. FEINSTEIN. Mr. President, I send to the desk to be printed in the RECORD an editorial from the Sacramento Bee entitled ''Highway Robbery,'' which essentially characterizes what this does to the highway trust fund, how it hurts the country, how energy experts show that producing ethanol from corn requires more energy than the fuel produces, and that the ethanol mandate would make the country more fossil fuel dependent, not less.

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

[From the Sacramento Bee, Apr. 8, 2002]

HIGHWAY ROBBERY—CORN IS FOR EATING, NOT FOR DRIVING

Here's another piece of the ethanol idiocy in Washington: Not only will Californians soon have to pay more for gasoline laced with corn liquor, but as a result, we'll have less money to alleviate congestion on our roads.

Blame this nonsense on Senator Majority Leader Tom Daschle, D–S.D., and President Bush. They are pushing a provision for the Senate energy bill that would require gasoline producers to use rising amounts of ethanol. Ethanol is mostly made from corn in states that Bush would dearly like to win in the next election.

The measure would eliminate the current requirement in the Clear Air Act that smoggy areas use gasoline containing an oxygen additive—either ethanol or MTBE. But then it goes ahead to require that refineries triple their purchases of ethanol for gasoline by 2012.

The mandate hurts consumers in obvious ways: It will drive up the cost of driving, taking dollars out of the pockets of motorists and putting them into the coffers of Archer Daniels Midland, the Enron of the Corn Belt, which dominates the ethanol market. (Why is it that the politicians who are eager to give back their Enron donations seem to have no trouble taking money from—and giving billions in benefits to—a company that was convicted of price fixing a few years ago?)

The mandate will also hurt the country. Although ethanol is touted as a renewable fuel, a recent study by Cornell University scientist David Pimentel shows that producing ethanol from corn actually requires more energy than the fuel produces. The ethanol mandate would thus make the country more fossil-fuel dependent, not less.

But the mandate will also hit in a less obvious way: It will take dollars away from transportation investment. That's because ethanol already gets another federal subsidy—the federal fuel tax at the pump is a nickel less on fuel containing ethanol. If the Daschle-Bush ethanol mandate is passed, federal revenues for transportation repair, operation and construction will plummet by nearly $3 billion a year, transportation experts estimate.

So this is what Californians get from the proposed Daschle-Bush ethanol bailout—higher prices at the pump and more crowded roads. It gives the term ''highway robbery'' a whole new dimension.

Mrs. FEINSTEIN. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MURKOWSKI. Mr. President, I have listened to portions of the debate this morning. Obviously, on the issue of ethanol we will have extended discussion, but I am sympathetic to the concerns expressed by the Senator from California and the Senator from New York. It addresses an underlying situation in this country of which we should all be aware. The mandate on ethanol in the energy bill is quite clear, and the realization that the ethanol industry is not prepared, does not have current capacity.

As a consequence, more gasoline will have to be used. That brings into focus the reality of where our gasoline comes from; it comes from crude oil. Where does crude oil come from? Most of it comes from overseas. We are seeing a price increase for a couple of reasons. The effectiveness of the OPEC cartel, which some time ago set a floor of $22 and a ceiling of $28, is shown with the price of oil up to $27. We are seeing a situation escalate in the Middle East. Saddam Hussein, who is supplying this Nation with roughly a million barrels a day, has indicated he is going to cease production for 30 days. Venezuela, our neighbor, that we depend on from the standpoint of proximity, is on strike. It is estimated the United States, in the last few days, has lost 30 percent of its available imports. These are the underlying issues associated with the debate in the sense of price.

Where does gasoline come from? It comes from crude oil. Where does crude oil come from? From overseas, because we have increased our dependence on those sources. It gets more complex when considering the motivation occurring as a consequence of the policies of Saddam Hussein and Iraq. He is paying the families of those who sacrificed their lives to kill people in Israel. It used to be $10,000 per family; now it is $25,000 per family. This whole thing is escalating. It is escalating as a consequence of the costs of oil increasing because that is where the cashflow emanates.

Procedurally, may I make an inquiry as to where we are on the timing and so forth?

The PRESIDING OFFICER. There is an order to proceed to another measure at 11:30.

Mr. MURKOWSKI. I ask unanimous consent for 4 more minutes, until such time as I see Members are ready to proceed.

The PRESIDING OFFICER. The Chair will note the presence of the manager for the majority. Is there objection to the request to proceed for 4 minutes?

Mr. DODD. No objection.

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

Mr. MURKOWSKI. Mr. President, let me summarize the dilemma. By our own inaction, we are seeing, if you will, greater vulnerability as this country increases its dependence on imported oil. As I have indicated, Venezuela is on strike. Iraq has terminated its production. We are told there is a grave threat in Colombia by revolutionists who are threatening to blow up the pipeline. There are complications now that the Saudis have been accused of funding, if you will, terrorist activities associated with the deaths of Israelis and the bombings, human bombings that have taken place.

As we address this vulnerability, we have to recognize the reality. It focuses in on the current debate on ethanol. As we look at where we are, we are going to have to have more gasoline in California; we are going to have to have more gasoline in New York. The price is going to go up.

Our alternatives, it seems to me, are quite obvious. We should reduce our dependence on imported sources. That brings us to the ANWR debate which will be taking place very soon.

Finally, the Schumer amendment would strike the renewable fuels standards, as we know, contained in section 819 of the bill. That portion called for mandated use of renewable motor fuels such as ethanol and biodiesel. This mandate is part of a larger package of provisions on MTBE and boutique fuels, and I am certainly supportive of reducing the boutique fuels.

I am not usually a big fan of mandates, but the renewable fuel standards will reduce our dependence on foreign oil.

I will have more to say later, but I encourage my colleagues to participate in this discussion and recognize the significance of our increased vulnerability and why we are going to be using the gasoline when in reality we will be paying for it.

I find it ironic that California is dependent on Alaska, and as Alaskan oil declines, that dependence is going to shift over to the importation of oil to California from Iran, Iraq, wherever—Saudi Arabia. Of course, New York is dependent on Venezuelan oil as well. If we do not do something domestically, we are going to pay the piper.

I yield the floor.

EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 565, which the clerk will report.

The senior assistant bill clerk read as follows:

A bill (S. 565) to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal Elections, and for other purposes.

Pending:

Roberts/McConnell amendment No. 2907, to eliminate the administrative procedures of requiring election officials to notify voters by mail whether or not their individual vote was counted.

Clinton amendment No. 3108, to establish a residual ballot performance benchmark.

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes of debate equally divided between the Senator from Connecticut, Mr. DODD, and the Senator from Kentucky, Mr. MCCONNELL, or their designees.

MODIFICATION TO AMENDMENT NO. 3107

Mr. DODD. Mr. President, I ask unanimous consent that amendment No. 3107, previously agreed to, be modified with the technical correction that I now send to the desk.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The modification to the amendment is as follows:

At the appropriate place in the bill, insert page 13, line 12 through page 14, line 7 of the amendment.

Mr. MCCONNELL. Mr. President, this is a big day for the Senate. After a year and a half of discussions, negotiations, introduction, and reintroduction of legislation, we are finally prepared to pass a comprehensive, truly bipartisan election reform bill.

I say ''finally,'' but the truth is, a year and a half is lightning fast in the Senate. Senator TORRICELLI and I proposed a comprehensive election reform bill before the dust had settled in Florida. Shortly after, Senator TORRICELLI and I joined with Senator SCHUMER to put together yet another bill which garnered the support of 71 Senators—fairly evenly split between Democrats and Republicans. Senator DODD, meanwhile, introduced legislation that was supported by all Democratic Senators.

Four months ago, Senators DODD, BOND, SCHUMER, TORRICELLI, and I reached a bipartisan compromise. That was brought before this body in February. Through the passage of thoughtful amendments offered by my colleagues on both sides of the aisle, we have substantially improved the underlying bill. The final product is legislation which ensures that all Americans who are eligible to vote, and who have the right to vote, are able to do so, and to do so only once. This bill strengthens the integrity of the process so that voters know that their right to vote is not diluted through fraud committed by others. This legislation will make American election systems more accurate, more accessible, and more honest while respecting the primacy of States and localities in the administration of elections.

I look forward to a House-Senate conference so that soon we may move even closer toward enactment of a law that will improve America's election systems.

I thank Senator DODD for his steadfast and persistent leadership on this issue. He truly has been the champion of promoting accessibility in elections. My thanks to Senator BOND who gave us our rallying cry behind this bill, ''making it easier to vote, and harder to cheat.'' This bill does just that and Senator BOND deserves the lion's share of the credit for that accomplishment. I also thank Senator SCHUMER, who joined with me nearly 1 year ago to advance a new approach to this issue. Any my thanks to Senator TORRICELLI, who has been there from the beginning with me in this exercise. I thank you all for your hard work and perseverance which has brought us to this triumphant moment.

Before I yield the floor, I would like to reiterate my strong opposition to the Clinton amendment which we will vote on shortly. The amendment creates a federally mandated acceptable error rate that is a one size fits all number. This approach is completely contrary to every other provision of this legislation.

If adopted, this amendment would do three things:

No. 1, Deliver the Department of Justice into our home States to prosecute our State and local election officials for choices made by or errors committed by voters;

No. 2, Undermine the sanctity of the secret ballot and

No. 3, Force the elimination of many voting systems used across this country.

On that last point, I urge my colleagues who hail from States which use paper ballots, mail-in voting or absentee voting to take a close look at this amendment. Your States will have a choice: change their systems or recruit top notch legal talent to defend themselves in court.

This choice will also be faced by States using lever machines, punch cared systems, optical scans, and DRE machines.

If this amendment is agreed to, perhaps we should move to increase the Justice Department appropriation so that it can ready a team of lawyers for each State.

Finally, I thank my staff on the Rules Committee: Brian Lewis, Leon Sequeira, Chris Moore, Hugh Farrish, and our staff director, Tam Somerville—all of whom have been deeply involved in this issue from the beginning—and, from Senator DODD's staff, Shawn Maher, Kenny Gill, Ronnie Gillespie, we have enjoyed working with them.

Also, on Senator BOND's staff, Julile Dammann and Jack Bartling have been truly outstanding. It has been a pleasure to work with them.

On Senator SCHUMER's staff, Sharon Levin; and, on Senator TORRICELLI's staff, Sarah Wills—we appreciate the opportunity to work with all of these folks in developing this legislation.

I see my colleague from Missouri is here. I yield the floor.