With that, I yield the floor, Madam President, and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

Mr. DASCHLE. Madam President, yesterday was the 1:30 p.m. filing deadline. The Baucus-Grassley amendment was not part of the substitute then so people couldn't draft amendments to that section. To be fair, I ask unanimous consent that Members have until 1 p.m. tomorrow to file first-degree amendments to the Baucus-Grassley title and that Members have until 10 a.m. Thursday to file possible second-degree amendments to those amendments.

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

Mr. DASCHLE. I thank the Chair and yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DASCHLE. Madam President, I have noted on a couple of occasions this morning that it was our intention, in close consultation with the distinguished Republican leader, to see if we might find a way to bring closure to the bill, either with or without cloture. But I ask unanimous consent that immediately following cloture, notwithstanding the cloture vote, and notwithstanding the provisions of rule XXII, the Senate resume consideration of the energy bill with the opportunity of each leader or his designee to offer seven amendments which are either energy or tax related.

The PRESIDING OFFICER. Is there objection?

The Republican leader.

Mr. LOTT. Reserving the right to object, and I will not object, I want to say again, this is the right way to proceed. We have been on this legislation for 5 weeks. We have had a full debate. Senators on both sides of the aisle have had opportunities to offer their amendments. This will give us seven more opportunities on each side. We will have to get a limit. We will have to have a process, which will not be easy for either one of us. But we have discussed this in our caucus. We are prepared to accept the limitation. This would also be the process that would get us to a conclusion by, I believe, Thursday or Friday, at the latest, of this week.

I support this initiative, and it is a bipartisan effort. I thank Senator DASCHLE for making the request. I withdraw my reservation.

The PRESIDING OFFICER. Is there objection?

The Senator from California.

Mrs. FEINSTEIN. Madam President, reserving the right to object, I would like to ask the majority leader if three amendments would be considered among his amendments. The first would be Senator SCHUMER's amendment to remove the ethanol mandate, the renewable fuels mandate from the bill; second would be Senator BOXER's amendment to remove the safe harbor provisions relating to liability; and the third would be my amendment to remove PADDs I and PADDs V from the renewable fuels requirement.

Mr. DASCHLE. Madam President, I certainly want to work with the distinguished Senator from California to accommodate her and other Senators who wish to be heard on the ethanol question. I know this is a very important matter for them. At this point, I would not be able to confirm that three of those seven amendments would be related to ethanol, although I would not want to assume that they would not be part of it.

I think we would want to negotiate with all of our colleagues to accommodate as many Senators with an interest in offering amendments as possible. Keep in mind, as I said earlier, this is in addition to, cloture notwithstanding. Those amendments that are eligible to be offered postcloture, we anticipate they would still be offered. It could be, and I would guess most likely would be, the case that one or more of those amendments would be able to be offered without the inclusion in this unanimous consent request.

Mrs. FEINSTEIN. In response to the majority leader, if I may, Madam President, we do not know at this time whether they would all be germane under the bill. Based on the fact that the majority leader is only reserving seven spaces and will not permit three spaces for this, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Alaska.

Mr. STEVENS. Madam President, I had a commitment to offer an amendment to the energy bill dealing with the right of the Eskimo people of Alaska to proceed with oil and gas development on their lands. This weekend I conferred with them and their representatives, and they would prefer not to raise that issue at this time and to allow the process to go forward in terms of the energy bill and in terms of their rights which they may wish to raise at another time but do not wish to have me raise at this time.

Under the circumstances, I want the manager of the bill to know we will not offer the amendment that would permit drilling on the lands in the Kaktovik area that are owned by the Kaktovik Eskimos, and the subsurface rights owned by the North Slope Borough. I believe the decision is a right one, and I am going to honor their request not to introduce the amendment at this time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS

Mr. REID. Madam President, I ask unanimous consent that the Senate recess begin now rather than at 12:30 p.m.

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

Thereupon, the Senate, at 12:28 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. MILLER).

The PRESIDING OFFICER. The Senator from Nevada.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Continued

MODIFICATION OF SUBMITTED AMENDMENT NO. 3274

Mr. REID. Mr. President, Senator LANDRIEU has timely filed an amendment, No. 3274, but there was a typographical error on page 2, I am told. This has been reviewed by the minority, and they have no problem with our doing this. I ask consent this be allowed.

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

Mr. REID. Mr. President, I suggest the absence of a quorum and ask unanimous consent the time be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Who yields time?

AMENDMENT NO. 3257 TO AMENDMENT NO. 2917, AS MODIFIED

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that amendment No. 3257 be modified with the change that is at the desk, the amendment be agreed to, and the motion to reconsider be laid upon the table.

Mr. REID. Mr. President, this has been cleared by Senator BINGAMAN.

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

The amendment (No. 3257), as modified, is as follows:

At the appropriate place insert the following

SEC. . CREDIT FOR PRODUCTION OF ALASKA NATURAL GAS.

(a) IN GENERAL.—Subpart D of part IV of sub-chapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

"SEC. 45M. ALASKA NATURAL GAS.

"(a) IN GENERAL.—For purposes of section 38, the Alaska natural gas credit of any taxpayer for any taxable year is the credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude, which is attributable to the taxpayer and sold by or on behalf of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45).

"(b) CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—The credit amount per 1,000,000 Btu of Alaska natural gal entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude (determined in United States dollars), is the excess of—

"(A) $3.25, over

"(B) the average monthly price at the AECO C Hub in Alberta, Canada, for Alaska natural gas for the month in which occurs the date of such entering.

"(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after the first calendar year ending after the date described in subsection (g)(1), the dollar amount contained in paragraph (1)(A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting 'the calendar year ending before the date described in section 45M(g)(1)' for '1990').

"(c) ALASKA NATURAL GAS.—For purposes of this section, the term 'Alaska natural gas' means natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude produced in compliance with the applicable State of Federal pollution prevention, control, and permit requirements from the area generally known as the North Slope of Alaska (including the continental shelf thereof within the meaning of section 638(1)), determined without regard to the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(1)).

"(d) RECAPTURE.—

"(1) IN GENERAL.—With respect to each 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude after the date which is 3 years after the date described in subsection (g)(1), if the average monthly price described in subsection (b)(1)(B) exceeds 150 percent of the amount described in subsection (b)(1)(A) for the month in which occurs the date of such entering, the taxpayer's tax under this chapter for the taxable year shall be increased by an amount equal to the lesser or—

"(A) such excess, or

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the Alaska natural gas credit received by the taxpayer for such years had been zero.

"(2) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

"(e) APPLICATION OF RULES.—For purposes of this section, rules similar to the rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

"(f) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

"(g) APPLICATION OF SECTION.—This section shall apply to Alaska natural gas entering any intake or tie-in point which was derived from an area of the state of Alaska lying north of 64 degrees North latitude for the period—

"(1) beginning with the later of—

"(A) January 1, 2010, or

"(B) the initial date for the interstate transportation of such Alaska natural gas, and

"(2) except with respect to subsection (d), ending with the date which is 15 years after the date described in paragraph (1).".

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking "plus" at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting ", plus", and by adding at the end the following new paragraph: "(24) the Alaska natural gas credit determined under section 45M(a).".

(c) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR ALASKA NATURAL GAS CREDIT.—

"(A) IN GENERAL.—In the case of the Alaska natural gas credit—

"(i) this section and section 39 shall be applied separately with respect to the credit, and

"(ii) in applying paragraph (1) to the credit—

"(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

"(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).

"(B) ALASKA NATURAL GAS CREDIT.—For purposes of this subsection, the term 'Alaska natural gas credit' means the credit allowable under subsection (a) by reason of section 45M(a).".

(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting "or the Alaska natural gas credit" after "producer credit".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 45M. Alaska natural gas.".

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the Daschle/Bingaman substitute amendment No. 2917 for Calendar No. 65, S. 517, a bill to authorize funding for the Department of Energy and for other purposes:

Jeff Bingaman, Jean Carnahan, Edward Kennedy, Patty Murray, Mary Landrieu, Byron L. Dorgan, Robert Torricelli, Bill Nelson, John Breaux, Tom Carper, Tim Johnson, Hillary R. Clinton, Jon Corzine, John Rockefeller, Daniel Inouye, Max Baucus, Harry Reid, Maria Cantwell.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on amendment No. 2917 to S. 517, a bill to authorize funding the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The yeas and nays resulted—yeas 86, nays 13, as follows:

[Rollcall Vote No. 77 Leg.]

YEAS—86

Akaka	Domenici	Lott
Allard	Dorgan	Lugar
Allen	Durbin	McConnell
Baucus	Edwards	Mikulski
Bayh	Ensign	Miller
Bennett	Enzi	Murkowski
Biden	Fitzgerald	Nelson (FL)
Bingaman	Frist	Nelson (NE)
Bond	Gramm	Nickles
Breaux	Grassley	Reid
Brownback	Gregg	Roberts
Bunning	Hagel	Rockefeller
Burns	Harkin	Santorum
Byrd	Hatch	Sarbanes
Campbell	Hollings	Sessions
Carnahan	Hutchinson	Shelby
Carper	Hutchison	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Cochran	Jeffords	Specter
Collins	Johnson	Stevens
Conrad	Kennedy	Thomas
Corzine	Kerry	Thompson
Craig	Kohl	Thurmond
Crapo	Landrieu	Torricelli
Daschle	Leahy	Voinovich
Dayton	Levin	Warner
DeWine	Lieberman	Wellstone
Dodd	Lincoln	

NAYS—13

Boxer	Clinton	Feinstein
Cantwell	Feingold	Graham

Kyl	Reed	Wyden
McCain	Schumer	
Murray	Stabenow	

NOT VOTING—1

Helms

The PRESIDING OFFICER. On this vote, the yeas are 86, the nays are 13. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 3030 TO AMENDMENT NO. 2917

Mr. SCHUMER. Mr. President, I ask unanimous consent that the amendment now pending be laid aside, and I call up amendment No. 3030 and ask for its immediate consideration.

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

Mr. SCHUMER. Mr. President, I further ask unanimous consent that following debate on the amendment, the Senate proceed to a rollcall vote on the amendment.

Mr. LOTT. I object.

Mr. SCHUMER. I withdraw that request.

The PRESIDING OFFICER. The request is withdrawn.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself and Mrs. FEINSTEIN, proposes an amendment numbered 3030 to amendment No. 2917.

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

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

The amendment is as follows:

(Purpose: To strike the section establishing a 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 PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, this is an amendment on which we have had some discussion. It is the amendment to strike the ethanol mandate, the ethanol gas tax, from the energy bill.

Once again, I want to let my colleagues know how much I understand those who are for this amendment, their desire to do it, and I particularly want to let people know how much I respect our majority leader, TOM DASCHLE, and how painful it is for me to oppose him on something about which I know he cares very much.

He is a principled, compassionate, and an extraordinary public servant. He is a friend to the people of my State and the whole country, and I thought long and hard about this but felt compelled to speak out about it.

The ethanol mandate in this bill is something we have not seen in many years. It is one of those provisions that sort of starts out quietly, sometimes passes this body and the other body, and becomes law. There are these types of provisions that come up every so often without much debate, and then a year or two later there is an outcry in the Nation. We all come back and say to one another: How the heck did this thing pass? How did it pass with so little debate? How did it pass with such detrimental requirements to such a large percentage of our population?

It happened on the catastrophic illness bill about 10 years ago. It happened on the S&L bill about 20 years ago when we allowed S&Ls to take people's hard-earned money and invest it in almost anything they wanted. Each of these amendments, as this one, has the potential to sort of breeze right through the legislative process, be signed into law because it seems all the special interests that want it are lined up behind it, and only after it becomes law is there a public outcry. I believe that will happen with this amendment, and I ask my colleagues to be very careful before they vote for it because what this mandate provision does, above all, by requiring that every State use ethanol or buy ethanol credits for their gasoline, whether they need it or not, is it will raise gasoline prices. It is like a gas tax in every State of the Union, a minimum of 4 cents to 10 cents, and probably at certain times much more than that.

If we look at the States, those on the east coast and the west coast are more affected—I have a chart with maps—and even States in the heartland will be affected as well.

Why are we doing this? We know we want to keep the air clean, but the refiners tell us ethanol is not the only way to proceed. Many environmental leaders say ethanol is at best a neutral proposition; it sometimes will reduce carbon in the air but will increase smog. At the same time, we are saying as to those additives that cause trouble and might pollute the ground, you cannot sue those who put them there.

This provision is a combination. It is almost a bewitching brew of cats and dogs that leads to trouble for the American people.

I have gone over in my previous talks what this amendment does and why it has come about, but let me say that every one of us wants to see the air clean, every one of us wants to see no backsliding in the clean air provisions, and every one of us believes there are a number of ways to do it. In some States in the Middle West, ethanol is probably the best way to do it, but in many States on the coasts, in the heartland, and in the Rocky Mountain areas, ethanol is more expensive, less environmentally useful, and a needless mandate.

Let me again read the names of some of the States where the price of gasoline will go up a lot. This is a study that is conservative and that does not deal with spikes. In Arizona, it will go up 7.6 cents; in California, 9.6 cents; in Connecticut, 9.7 cents; Delaware, 9.7; Illinois, 7.3; Kentucky, 5.4; Maryland, 9.1 cents; Massachusetts, 9.7 cents; Missouri, 5.6 cents; New Hampshire, 8.4 cents; New Jersey, 9.1 cents; New York, 7.1 cents; Pennsylvania, 5.5 cents; Rhode Island, 9.7 cents; Texas, 5.7 cents; Virginia, 7.2 cents; Wisconsin, 5.5 cents; and in all the other States it goes up 4 cents.

Some of our colleagues say this is necessary in the Middle West. They tried to pass a mandate in Nebraska and in Iowa. In both cases it was defeated. The legislative bodies of those States, which will do a lot better under ethanol mandates than New York, California, Texas or Florida, defeated it, and yet we have the temerity to impose it on every State in the Union.

Many of my colleagues on the other side advocate free market policies. I have rarely seen a greater deviation from free market policies than this proposal. As somebody said to me, first the Government subsidizes ethanol and then mandates that everybody use it. That sounds more like something out of the Soviet Union than out of the United States of America.

I, too, want to help corn farmers, and my voting record shows it, but this is going to be trickle down for the farmers. As we have mentioned before, Archer Daniels Midland controls 41 percent of the ethanol market. If the mandate is tripled, which is what we do, there will be price spikes and somebody with monopoly power—as has Archer Daniels Midland or Coke—will be able to raise the prices through the roof. Remember the California electricity crisis where someone had a virtual monopoly on a necessity? They raised the price. That is what is going to happen if we pass this ethanol mandate.

I am going to yield for a few minutes and let my colleague from California join in. But the bottom line is simple: There are better ways to clean the air for most parts of the country. This is expensive, it is a mandate, it will raise our gasoline prices, and it is so antithetical to free market policies, I find it hard to believe we are going to pass it.

I reserve the remainder of my time.

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

Mrs. FEINSTEIN. Mr. President, I rise to support the amendment of Senator SCHUMER, which is to remove the so-called renewable fuels part of the energy bill.

I am a member of the Energy Committee. You can imagine my consternation when I find a bill that is put together in the dark of night with this renewable fuels requirement that has had no hearing, no comment, no opportunity for the Energy Committee to take a good look at it.

This is a bill that adds to a subsidy of 53 cents a gallon on ethanol under existing law, it mandates a tripling of the ethanol use in the next 10 years throughout the Nation, this is in addition to protective tariffs of 54 cents a gallon in existing law, so no nation that might be able to produce it more cheaply has no chance of exporting it economically into the United States. It is protect, protect, protect.

It has been said that this is a massive transfer of wealth out of some States into other States. I deeply believe all of that is true.

Only 1.77 billion gallons of ethanol were produced in 2001. The Senate bill requires 5 billion gallons by 2012. Alone, California, the largest State in the Union, is forced to use 2.68 billion gallons of ethanol it does not need. It doesn't need this ethanol to clean the air because California has reformulated fuel and can meet the clean air standards at all times except for winter months in the southern California-Los Angeles market. Then it uses ethanol.

This chart very clearly indicates the situation. I have shown this before. Here, the blue is what my State would use of ethanol to meet clean air standards. This is what this mandate requires that the State either use or pay for. That is not good public policy. It is not good public policy because the State doesn't need it.

Additionally, the California Energy Commission has said this action will create a 5-percent to 10-percent shortfall in California's gasoline—a 5-percent to 10-percent shortfall.

Our refiners are at 98 percent of capacity, so how do we refine enough gasoline to meet the need? We do not. This means a gas tax.

It is estimated by some that it could even lead to gas prices of $4 per gallon. Senator SCHUMER has said it is 10 cents a gallon additional for California, New York and other States. If you put two tankfuls in your car a week, figure out what that costs in terms of an additional tax that every motorist will be paying.

Since 98 percent of the ethanol production is based in the Midwest, States outside the Corn Belt have severe infrastructure and ethanol supply problems. This is the reason we do: You cannot put ethanol in a pipeline. You have to barge it, truck it, or rail it in. We will have to rail in 2.68 billion gallons of ethanol that California does not need. The infrastructure is not presently there for it.

We have talked about the high market concentration, the fact that one company controls 41 percent of the ethanol production and that eight companies together control 71 percent. Some articles have been written said this is what creates a massive transfer of wealth: 70 percent of the dividends in this package go to the ethanol producers; only 30 percent go to the actual corn farmers.

Ethanol also has a mixed environmental impact. Let me tell you why. Ethanol helps retard carbon monoxide, but ethanol also produces more nitrogen oxide emissions. So the NO_X, which produces smog pollution, is actually greater as a product of ethanol.

In a State like California that has been very concerned about pollution, this is only going to do one thing: it is going to increase smog in the State of California.

Additionally, ethanol enables the separation of the components of gasoline; therefore, benzene, for example, which is in gasoline and which is carcinogenic, can separate from gasoline. So if there is a leak, then benzene is one of the additives that leaks. All of the reports say it enables gasoline leaks to travel farther and faster, once it is released.

Important in all of this to those of us who care about transit and highway funding is something that is really interesting. We presently put into the Highway Trust Fund about 18 cents a gallon. Since ethanol is only taxed at 13 cents a gallon the Highway Trust Fund will lose at least $7 billion. So this lessens the highway trust fund for everybody who looks to that fund for dollars for buses, for dollars for highways, for dollars for transportation systems. There will be at least $7 billion less according to CRS.

Let me read what the boilermakers say about that. The International Union of Boilermakers have written:

> Simply put, for each $1 billion the Trust Fund loses, America loses almost 42,000 jobs. . . . And that is a resource we cannot renew. It is our understanding that by mandating the use of ethanol, this legislation is encouraging the market penetration of ethanol, undermining America's infrastructure and America's environment.

The bottom line in this letter is that this ethanol mandate is a dangerous approach and is going to result in dramatic job loss.

Also, ethanol is not necessarily a renewable fuel, despite what everyone says. There are a number of scientific reports that have found it takes more energy to make ethanol than it saves. It actually takes 70 percent more energy to produce ethanol than it saves.

So the bottom line is that this is a bad deal. This deal is even made worse by the fact that despite these environmental considerations, nobody will be able to sue. There is a safe harbor provision, so no one can sue if the environment is damaged or the public health is damaged.

Here we have a bill that on top of the ethanol subsidies, it cuts the highway trust fund, it mandates an increase in the gas tax, and it benefits mainly producers in the Midwest. It is, in my view, a bad addition to this energy bill. Frankly, I think it is so bad that I am very pleased to support Senator SCHUMER's amendment which would remove this renewable fuels requirement from the bill, permit an oxygenate waiver but remove the ethanol from the bill.

I don't quite know how we defeat this. I wish to read from a Wall Street Journal editorial that ran last week:

> If consumers think the federal gas tax is ugly, this new ethanol tax will give them shudders. Moving ethanol to places outside the Midwest involves big shipping fees, or building new capacity. Refiners also face costs in adding ethanol to their products. According to independent consultant Hart Downstream Energy Services, the mandate would cost consumers an extra annual $8.4 billion at the pump the first 5 years. New York and California would see gas prices rise by 7 cents to 10 cents a gallon. . . .
>
> And that doesn't take into account inevitable price spikes. There simply isn't enough corn in all of Iowa to meet new ethanol demands. Last year the ethanol industry produced only 1.7 billion gallons. The Daschle mandate would require it to increase production by more than 35 percent in a mere 3 years.
>
> That is a tall order for any industry, much less one that relies on Mother Nature. Some estimates are that a shortage could double gas prices.

Why are we doing this? Why does this bill have to be so greedy? Why does it need to triple ethanol use? Nobody really knows what it does to the environment. Why triple it? How is a good energy bill going to be viewed, if it triples something about which there is great uncertainty and many States don't need to use it? The west coast and the east coast don't have the infrastructure to absorb it, let alone a $7 billion cut in the highway trust fund.

Cut the highway trust fund and Californians are forced to pay higher gas taxes, and have less money to build the roads, highways, and transportation systems they need, let alone cut 300,000 jobs nationwide.

I will admit that the ethanol lobby is a tough lobby. About a year ago, I was trying to negotiate in my office. I invited most of the California refiners, oil companies, the corn growers, and the renewable fuels associations. I thought we had worked out something. Then, the renewable fuels people backed off the table. Now they come back greedy.

What they have done—and let us call a spade a spade—is essentially quieted the refineries by promising them in this bill protection against liability, so that nobody can sue an oil company if the ethanol causes gasoline to separate, as it does, and benzene leaks, and people are adversely impacted. They cannot sue. The gasoline companies—because they told me this—wanted this protection against liability. If they had the protection against liability, they would reluctantly go along with this package.

That is not good energy policy. How is it good energy policy to triple something that has mixed environmental impact, at best? How is it good energy policy to increase gas prices? How is it good energy policy to take $7 billion out of the highway trust fund, cost 300,000 jobs, and cut funding to the transportation system, the highways, and the roads that this country needs? How is that good energy policy?

To mandate a tripling of the fuel, then saying they are credits, but if you do not use them, you pay for them. This is on top of fundamentally protecting the Midwest corn industry by putting a 54-cent-a-gallon tariff on any imported ethanol to keep it out of the country because it might cost the motorists less, how is that good energy policy?

Somebody come and tell me.

California would top the list in the amount of transit dollars lost because of the ethanol mandate. Maybe nobody cares about California, but Senator BOXER and I do.

I would like to reference an article that mentions the big losers.

California is a big loser. It loses $905 million from the highway trust fund over 9 years.

Texas is a big loser. It loses $750 million from the highway trust fund.

New York is a big loser. It loses $493 million that could be used for subways, for buses, and for transit systems.

Pennsylvania is a big loser. It loses $446 million.

Florida is a big loser. It loses $436 million from the highway trust fund.

Illinois: $337 million from the highway trust fund.

Ohio: $336 million from the highway trust fund.

Georgia: $333 million from the highway trust fund.

Michigan: $312 million from the Highway Trust Fund.

And New Jersey, the last State that is a big loser, loses $262 million from the highway trust fund.

Mr. SCHUMER. Mr. President, if the Senator will yield for a question, the Senator is saying that in those States we are going to charge the motorists more, but at the same time, because all roads lead to ethanol, we are going to give them less money for their highway trust fund. So they pay more for gasoline, but, unlike even the gasoline tax that doesn't go to road building, the effect of this amendment is to take money out of road building.

Mr. FEINSTEIN. That is exactly correct, because of the subsidy on ethanol, usually 18 cents a gallon, which goes into the highway trust fund. With ethanol, it drops to 13 cents a gallon. That is a $7 billion take from the highway trust fund over the years of this bill.

Mr. SCHUMER. I thank the Senator from California.

Mrs. FEINSTEIN. I thank the Senator from New York.

How is this a good provision for the energy bill? How does it even justify the rest of the energy bill? I don't think it does.

How can you cost States this enormous amount? How can you force a tripling of ethanol when you don't know all of the environmental effects? How can you force it when you know the effect is increasing NOx which increases smog? How is that good legislation?

It may well be that some ethanol is good. The problem is tripling it. It is forcing ethanol where it isn't needed. It is forcing ethanol with a potential deterrent to health, to the environment, and to the highway trust fund.

I have a dramatic difference of opinion with respect to this bill. I believe that any shortfall in supply, because of manipulation, which we know is possible because just a small number of producers control the market—this is Enron redux; therefore, they will have unusual market control over price—will be exacerbated because the State will be reliant on ethanol coming from another region.

According to a recent report issued by the GAO, 98 percent of ethanol production is located just in the Midwest. I don't have a problem if the Midwest wants to use it; that is fine with me. The problem is as a matter of public policy pushing it here and pushing it there where States don't need it.

As you can see, if you can't pipe it, you have to truck it or barge it or rail it. Where is the infrastructure? How do you get these billions of additional gallons required to California? What if some of the plants aren't built?

With the electricity crisis in California, it is very interesting; there were a number of new electricity generating facilities that were going to come online. The economy dipped. Some of them aren't built. Companies have financial reverses, and they don't build.

What is to say that is not going to happen with ethanol? Who is to say that all of the facilities the ethanol supporters believe will be there will actually be there?

Who is to say there will not be price spikes? Who is going to say there is not going to be an increase in the gas tax? Who is to say we are not going to lose $7 billion from the highway trust fund and that that is not going to result in 300,000 less jobs in this country? How is that good public policy?

I think it is unconscionable public policy. It is selfish public policy. It is parochial public policy to the nth degree.

I must tell you, to me, this ethanol mandate overcomes everything else in the bill because I do not know any driver—California has some of the longest commutes in the Nation. Drivers sometimes fill their tanks three times a week. Some of our drivers travel 2½ hours in the morning and 2½ hours in the evening from the Central Valley to the coast to work.

What does that do to the price of gas? It is a huge tax increase. It would be hundreds of dollars a year at 10 cents a gallon. So nobody should think that you are not voting for a tax hike when you vote for this bill.

I think that I have covered it except I want, just once again, to repeat these losses for States. We have 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 States that are big losers as to the highway trust fund: California, Texas, New York, Pennsylvania, Florida, Illinois, Ohio, Georgia, Michigan, and New Jersey. As the distinguished Senator from New York has said, they are going to be forced to pay higher gas prices, to lose money for the trust fund, to put something in their gasoline that they do not need that increases pollution and may well have a detrimental environmental effect.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Mr. President, ordinarily I am in agreement with my esteemed colleague from California and certainly with my esteemed friend and colleague from New York, but this is one occasion where I could not be in more opposition to what was said and to the positions which are being held.

Earlier this morning, I vented my frustration over the continuing attacks against ethanol and other biofuels that extend back almost a quarter of a century. In many instances, opponents simply have said that the marketplace will not permit the price to go to the bottom cost. Opponents have said this will actually create a challenge and increase gasoline prices at the pump. But the information being provided just simply isn't accurate.

The RFS and the biorefinery concept will actually lead to the construction of many of the biorefineries now being planned in locations indicated by the red dots on this map I have. It is not simply concentrated within the Midwestern States, as has been suggested. This may be where it began, but, as in so many things, where things end does not always depend on where they began. This is a perfect example. I think Delaware is close to being included in part of that because biomass of all kinds, as well as animal waste, can be utilized in the development of ethanol and other fuels.

I would like to move away from some of the negative things that have been said about ethanol to something which I think is more positive and provides some information. The RFS will not increase the cost of ethanol from 4 to 50 cents more than ethanol-free gasoline. Depending on which statistic is being provided, you simply have to ask this question: Which cost analysis do you believe?

A consulting firm, working for the Oxygenated Fuels Association, whose members produce and market MTBE, 70 percent of which is imported—and the defeat of the RFS will keep MTBE markets alive—says it will increase the cost $4 to $9.75 per gallon. Do you believe those figures or do you believe the Department of Energy's Energy Information Administration material which says the increase, at the most, is between a half a cent and 1 cent per gallon.

If you do not believe our Department of Energy's Energy Information Administration calculation and cost estimate, then let's just go to marketplace reality, because that is where we will end up in any event.

Twenty years' experience in Nebraska, 1 cent less than ethanol-free gasoline at the pump; 10 years' experience in Minnesota, 8 cents less than gasoline at the wholesale level; 1.5 years' experience in California, there is no essential difference to the public; 10 years' experience nationwide, no essential difference to the public.

The question is, which numbers do you believe? It is always about that when you come to projections.

Furthermore, the availability of ethanol blends has been shown to actually drive down the price of all gasoline as a result of market forces. If you take a look at the wholesale price of regular gasoline versus ethanol, as shown on the chart, you can see that ethanol, as indicated by the green line on this chart—and on one or so occasions spiked above regular gasoline, such as back in 1992—continues to trail regular gasoline at the wholesale price, as you see the amount of experience that we have had over this 12- or 10-year period.

If you go to the next chart and take a look at the retail price of motor gasoline versus ethanol, you can see that that is a similar trend factor, so that ethanol has trended a lower cost than ethanol-free gasoline or, if you will, regular gasoline.

So the question is, in many instances, which numbers do you believe? If you do not believe the Department of Energy's Energy Information Administration, and you want to believe another organization, that is fine, but what I think you should do, ultimately, is look at the marketplace reality of what has, in fact, happened to the price of ethanol.

Further, as evidenced by these graphs, the cost of ethanol has been at or below the cost of gasoline. That cost advantage for ethanol has become more pronounced in recent months and is now nearly 30 cents a gallon lower than gasoline at the wholesale level.

This is the principal reason we cannot delay implementation of the RFS. The smaller, newer ethanol producers urgently need fair market prices.

Furthermore, ethanol production capacity by the end of 2002 is expected to be 2.3 billion gallons, the level required by the RFS in 2004. There will not be any shortages.

For those who have suggested that somehow we will not be able to produce enough ethanol to meet the standards and requirements, the facts, once again—the marketplace reality and the production reality—just do not show that.

The bottom line is that history and realistic projections show that ethanol will be the least cost option for refiners to extend supplies and meet octane needs.

Now, it also takes much less fossil-fuel energy to produce ethanol than it contains in a renewable form; and, consequently, there are major energy security benefits from its production and use. Biodiesel and cellulosic ethanol are even much better.

If you take a look at the net energy balance of corn ethanol, it increased from 1.24 percent in 1995 to 1.34 percent in the year 2000. Since then—you can follow the chart—higher corn yields per acre and new technologies used to convert corn to ethanol have further improved the net energy savings or the net energy balance.

So if you really take a look at the production of ethanol, it now consumes much less nonrenewable oil as the ethanol replaces. The latest U.S. Department of Agriculture report demonstrates that ethanol production actually has this positive balance that we have displayed on this chart. The bulk of the energy used in fertilizing the crops and to power ethanol production plants comes from natural gas or coal. Additionally, with farmers using more ethanol and biodiesel in their vehicles, the use of fossil fuels to produce biofuels could actually approach zero. The bottom line: Ethanol and other biofuels are America's best bet in cutting imports and advancing national and energy security. Everybody seems to be in agreement, we need to have less reliance on foreign oil.

Homeland security also benefits because biorefineries will be much smaller than oil refineries and far more distributed, as the first chart demonstrated. We don't have the same concern about concentration when we talk about biorefineries and spreading the biorefinery concept across our Nation, with positive effects for energy security as well as for homeland security.

Additives to gasoline such as aromatics and alkylates to replace MTBE and ethanol are not better and less expensive. Some have suggested that what we ought to do is find another way to go. We ought to find other additives, and they actually are best. When lead was phased out of gasoline in the early 1980s, the ethanol industry was hopeful that refiners would turn to ethanol to gain needed octane. Instead, they turned to aromatics, driving levels up to the point that they threatened engine performance and human health.

The Clean Air Act amendments of 1990 actually put a cap on aromatics and an especially low cap on benzene, a potent carcinogen. A recent sampling in Nebraska revealed that in several instances aromatics in gasoline exceeded the cap and passed well into the danger area, threatening the environment and human health.

What is not commonly known is that the other two aromatics, toluene and xylene, to some extent convert to benzene in the combustion process; therefore, both in the engine and in the catalytic converter. Furthermore, last week's prices demonstrate that on average the three aromatics I am referring to were selling about 52 cents a gallon higher than ethanol and again on average have an octane number about 10 points lower than ethanol.

Bottom line: The aromatics are no match for ethanol in terms of cost, octane, human health, and the environment.

Please recognize that the wholesale prices for aromatics on average last week were twice the cost of ethanol and are 10 points short in providing sought-after octane.

Alkylates are a better bet. They have an octane number ranging from 92 to 95. Ethanol has an octane number of 113. They have a valuable blending pressure while ethanol's blending vapor pressure requires compensatory action. However, alkylates are the most valuable component in finished gasoline, at least the value of premium gasoline. Because they are so valuable and so clean burning, they are husbanded by refiners and are in short supply and not available on the open market.

The other alternative being offered, alkylates—bottom line—they are valuable and clean burning, but their octane number is lower than ethanol, and they are destined to be much more costly than ethanol, as is the case with aromatics.

There is another point. There will be no shortages. There has been the suggestion that somehow we might find ourselves short on the production of ethanol. There won't be any shortages of ethanol and other biofuels in the marketplace over the next 10 years. If you take a look at poster No. 1, you have already seen the map showing ethanol plants, biofuel plants that are, first, those that are under construction or expansion, those that are undergoing planning, and those that are actually operating. By the end of this year, there will be surplus supplies to meet the 2004 target, and the incentives of the RFS will keep supplies well ahead of the requirements in the standards. If that proves to be wrong, there are provisions in the RFS to protect consumers—in other words, a backup plan if all else fails. With the exception of the Strategic Petroleum Reserve, there are no such provisions to protect consumers from rising foreign oil costs.

Bottom line: The provisions of the RFS and biofuels provide the driving public with much greater protection against shortages, higher prices, and negative national security, as well as environmental consequences than MTBE, aromatics, and alkylates.

In yet a better world, biofuels and all three of these gasoline components should work cooperatively to provide an optimum fuel—optimum in considering the full spread of the Nation's needs.

If you review the map and you review historic and current pricing structures, you see they not only provide assurance that there will be no biofuels shortages under the RFS that could drive prices up, but they also give evidence that it will not be the three big ethanol producers benefiting from the new public policies. Rather, the beneficiaries will be smaller producers of feedstocks and owners of biorefineries spread all across the country.

Bottom line: We must in fact build a better and a new and more self-reliant energy policy in America.

Another point: Ethanol biodiesel and other biofuels, their incentives and the RFS will actually save the taxpayer money. Study after study has shown over the years—this is the most recent study—that biofuels policies, programs, and incentives are real bargains to Americans and of great import to the strength of our Nation. Americans are the big winners with ethanol and other biofuels and even bigger winners when these renewable fuels have ready access to the transportation fuels market at fair prices.

Some opponents of ethanol are simply wrong on their opposition. They have pointed out that the Iowa and Nebraska Legislatures were certainly trying to do something different than what we are proposing in this body. These were only exploratory regulatory efforts to increase the market for ethanol in both States and were in fact resolved in a positive manner that increased production and market share in Iowa and Nebraska. There was no effort to create a mandate but, rather, a standard for gasoline that would best serve the overall needs of the States.

The effort, though not embodied in law, was in fact successful. Between our two States of Iowa and Nebraska, we have the capacity to produce 920 million gallons of ethanol annually—more than enough in an emergency to meet 20 percent of our gasoline requirements with enough left over to give New York and California an additional helping hand.

By working together, we can find ways to make almost every State in the Union equally self-reliant when it comes to the additive to motor fuels gasoline. Just as the Senate passed the renewable portfolio standard for electricity that enjoyed the support of California and New York, structured to serve the overall electricity needs of the Nation, this standard is designed to help meet the overall transportation fuel needs of America.

In terms of national energy security, we are not importing electricity from distant nations unfriendly to the United States. Ours is a liquid fuel program. Failure to support the renewable fuel standard in reality will mandate our Nation to continue our dangerous and declining path to foreign oil dependency which everyone opposes.

In conclusion, it is clearly in the best interest of the United States for us to be able to pass this RFS. We in the Senate should band together to try to find ways that will help make the renewable fuel standard available for economic development and for the fuel security of all of our States. We need to advance a Manhattan-type project to ensure that we retake the world leadership in promoting biorefineries in order to increase energy, national and homeland security, create new basic industries and quality new jobs, while enhancing our environment.

The PRESIDING OFFICER (Mr. REED). The majority leader.

Mr. DASCHLE. Mr. President, I compliment the distinguished Senator from Nebraska for an outstanding statement and for the leadership he has shown on this issue for some time. He has been a stalwart advocate and an extraordinarily clear and strong voice on this issue. I congratulate him and thank him for all of his effort.

As the Senator from Nebraska has noted, there have been a number of myths perpetrated about methanol and ethanol that need to be addressed as we consider this RFS.

I want to take a couple of minutes—I know a number of my colleagues are on the floor and I know each one wants to speak—to address briefly these myths because they need to be knocked down.

A myth stated often enough becomes fact in the minds of many. We do not want these myths to become fact in the minds of our Senate colleagues before they have the opportunity to vote on amendments as critical as this one.

One myth is that this requires States to use ethanol. This does not require any State to use ethanol, not one drop, and I hope Senators will be clear about that point. Senators have heard that so frequently I am sure it is soon going to become fact in the minds of some, but because of the credit trading provisions, because of the waiver provisions in this legislation, there is no requirement that States use ethanol. So to begin with let's clarify that myth.

The second myth, and the one I have heard so often expressed on the Senate floor, is that this RFS is going to somehow increase the price of fuel. That assertion is made on the basis of one study done by Hart/IRI Research. That is the one cited by all of the opponents of RFS.

What they do not tell you is that the Hart/IRI Research organization is funded in large measure by the methyl tertiary butyl ether industry, by the MTBE industry. One-half of the revenue that is used to support Hart/IRI comes from Liondel Petrochemical, which is the largest marketer of MTBE, methyl tertiary butyl ether, and the advocate.

This is not, let me emphasize, an independent review. This is a very subjective review funded by the methanol industry to destroy the alternative energy fuels market. Their study, of course, advocates a position that is just not accurate and has no basis in fact. Their study projects that the price would increase 4 to 10 cents a gallon, and it is being used by our distinguished Senators from New York and California. The fact is, it is just wrong.

The Department of Energy said that the RFS requirement would mean less than 1 cent a gallon, nationwide one-half cent per gallon. That is a Department of Energy study.

The API study, the American Petroleum Institute study, said it would be a one-third of a cent increase—not 4 cents, not 10 cents. One would think the oil companies would be opposed to this. They support it. Why do they support it? Because they understand this has very significant opportunities for us to address the oxygenate market, the alternative energy market, the opportunities to deal with the challenges they are facing without MTBE. Their report, their review, their study says it would be a one-third of a cent increase, not 4 cents, not 10 cents, but one-third of a cent.

We have the Department of Energy and the American Petroleum Institute saying this will be less than a 1 cent increase in the overall cost of fuel.

Let us make sure that people understand. It is a myth, I say to my colleagues, it is a myth and do not let anybody tell you differently. There is no increase, no 4-cent, no 5-cent, no 10-cent increase. Who should know better than the Department of Energy and the American Petroleum Institute?

It is clear, Hart/IRI would lose most of its business if they could not sustain the position they have advocated from the very beginning in this very subjected, distorted, and erroneous assertion that we are going to see the kind of increase in cost that they have advocated and that is often repeated in the Senate Chamber.

There is another myth, and the myth is that somehow if we incorporate the renewable fuel standard, it is going to be disruptive to the petroleum market.

I will tell you what is going to be disruptive, Mr. President. What is going to be disruptive is if we phase out MTBE—14 States have already done that—if we phase out MTBE and we do not have anything in its place. You want to see disruption, wait until we phase out MTBE and there is nothing there. We have no alternative.

If you want to talk about the abrupt disruption of supply and the increase in cost, I cannot think of anything that will do that more effectively and in a more pronounced way than to simply do what we are scheduled to do right now: Phase out methyl tertiary butyl ether.

The very best thing we can do for the consumers is to pass this bill, to pass this standard to allow this gradual transition that this bill contemplates in phasing in an alternative to this disruptive approach that will currently be contemplated if we do not have something to substitute in its place.

That is the third myth, that we are subject to disruption if the bill passes. I would argue just the opposite. We are subject to major disruptions in supply and extraordinary increases in cost if this bill is not in place to address those disruptions now.

There are two more myths, and I want to talk about those. One is that it is ethanol that will affect this cost, and to find some alternative to ethanol is one that will provide the panacea. I have heard some of my colleagues come to the Chamber and say: We do not really need ethanol. The oil companies can come up with alternatives to ethanol, and we ought to give them the opportunity to come up with those alternatives without mandating that ethanol be used.

First, a large percentage of what the oil companies are going to have to use is either going to be imported or domestic. We know that. There is no other choice. The two alternatives to ethanol, in large measure, are imported product. We have alkylates and we have iso-octane. Both of those are imported. Both of those are far more expensive than ethanol. Both of those would cause the price hikes that our opponents continue to argue are the reason they oppose ethanol.

The only domestic alternative is ethanol. The only domestic alternative where we can guarantee a supply is ethanol. The only domestic alternative where we know we are going to have some control on price is ethanol, if you look at DOE and API reports. So do not let anybody think that somehow we can import all these products and not be subject to dramatic increases in price. What is it about energy policy that would ever cause somebody to advocate more imported product is the answer? That is what some of our opponents are doing. I do not understand that.

If they are concerned about price, if they are concerned about supply, if they are concerned about disruption, if they are concerned about all the ramifications of making sure their consumers are protected, the last thing they should do is depend more on imported product that we know is going to cost more than ethanol.

The final myth is we do not have consumer protections in the bill. I am amazed some people make that assertion. They could not possibly have read the bill. There are a number of consumer protections beyond those I have already addressed.

The first consumer protection is that DOE is required under this legislation to look at the ethanol market and the supply problems that exist. They have the opportunity written in the legislation—it is in writing; it is guaranteed—that the ethanol mandate will be reduced.

The second guarantee is in subsequent years any State can apply and have the mandate reduced within a 90-day period, which is the day we have agreed to. We had a vote last week, and we acknowledged that the 240 days is long. We are prepared to go to 90 days. DOE and the EPA argue they would like to have more time, but we are going to insist they do it within 90 days so States can see their mandate reduced if they can demonstrate there is going to be some concern for disruption.

Then we have what I said at the beginning, the credit trading provisions. Any refinery that uses more ethanol can trade the credits generated from the use of additional ethanol to those refineries that do not use ethanol or that come in at a lower level than what the mandate requires.

We have credit trading, the waiver, and the overall review that is stipulated in the bill requiring EPA to reduce the mandate if disruptions can be proved.

We offered, I might also say, another year prior to the implementation of the legislation, in exchange for banning MTBE on schedule, and at least to date our opponents have rejected that offer. That would have been a fourth consumer protection I thought would have sufficed in meeting some of their concerns, but they chose not to take that offer. It stands as we proposed it, and clearly Senators would have an opportunity to avail themselves of that offer if they chose to do it.

There have been a number of myths, and I am disappointed the myths continue to be perpetrated without an adequate response. We are going to continue to respond to those myths and try to knock them down and clarify the record so all Senators are very clear about what these alternatives are prior to the time they have a chance to vote.

Mr. SCHUMER. Will the majority leader yield?

Mr. DASCHLE. I am happy to yield to the Senator.

Mr. SCHUMER. I would like to ask my colleague a question.

Mr. REID. Will the Senator yield for a unanimous consent request? Under the rule, I have 1 hour of time postcloture. While the majority leader is in the Chamber, I ask unanimous consent that 55 minutes of my hour be given to the Senator from New York, Mr. SCHUMER.

The PRESIDING OFFICER. The Senator from Nevada may yield that time to the majority leader or the manager but not directly to another Senator, absent unanimous consent.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that 55 minutes from the time of the Senator from Nevada be yielded to the Senator from New York.

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

Mr. SCHUMER. Mr. President, I had asked my colleague from South Dakota to yield for a question. Before I ask him a question, I reiterate what I said at the beginning of my speech, how much I respect him, his leadership, his integrity, and his fighting for all of us. It is such a difficult job to be majority leader, and no one in all the years I have been a legislator has done it better than the Senator from South Dakota. So it pains me to stand up and oppose him and ask him questions.

The only question I have is the following, and that is, let us—I do not know what the truth is. I hear from my refiners that they could do this a lot more cheaply. I hear from my refiners that bringing ethanol over, whether it be from overseas or from the heartland of America, will raise the price dramatically. So I guess the only question I ask my colleague is: If it is going to be cheaper with ethanol than any other method, either the alkylates or the reformulation of gasoline or anything else, why not let the market determine it? Because what if we are wrong in this bill and the price does begin to go through the roof, through a price spike, where my constituents would not be happy to wait 90 days, 3 months, as the price goes up so much, or not through a price spike but just because there is a shortage of ethanol and the market goes up?

I think ethanol is going to do very well once the oxygenate requirement and MTBE is eliminated anyway. The ethanol market is going to get better. It has to. So I guess my question to my friend—and I really mean this, ''my friend,'' not just in the legislative parlance—is, Why can't we let the market determine it? Why mandate it instead? Because the thrust of his argument is that ethanol is better—and maybe it is—and if it is, our argument does not mean much but then the market would have New York, California, and all these other States buy ethanol.

Mr. DASCHLE. Mr. President, the Senator from New York asks a very good question. My answer would be the same as I am sure he responded to Senator LEVIN about CAFE. Senator LEVIN said: Why not let the market work on CAFE? A lot of other Senators said: Why not let the market work on CAFE? I think the Senator disagreed, for good reason, because if we set goals oftentimes, as a country working within government and within the industry, we achieve them. Oftentimes, without the role of some goal-setting, we never achieve anything beyond where we are today. We did with CAFE in the past. I think we can do that with ethanol now. This is a goal, just as the Senator supported CAFE as a goal. We failed on that. I hope in this case we can achieve it.

The Senator understandably is concerned about price hikes. As I said a moment ago, if we are concerned about price hikes, I think we ought to be concerned about what happens when we phase out MTBE in a vacuum, because that is where we are going to get price hikes. We are going to get serious price hikes when we start relying on these imported products for which we are not certain of supply and we are certainly not certain of price.

As we phase in the RFS, we have an opportunity to do three things: First, require that DOE look at the supply and say, OK, if we need more time we are going to give it to you. We look at the States and we say, all right, if you want more time, you get an opportunity to ask us for a waiver and we will give it to you. And over all of that, we say beyond any other waiver or beyond a DOE review, we are going to say you can trade credits right now. You do not have to worry about any other decision. You can trade credits right off the bat.

So we have three protections built into the price hike. With this, we have no protections built in if we do nothing.

Mrs. FEINSTEIN. Will the majority leader yield for a question?

Mr. DASCHLE. I am happy to yield, but I know other Senators are waiting patiently. I came out of turn, but I would be happy to answer one question.

Mrs. FEINSTEIN. Since the majority leader attacked the points I made, I would like to have an opportunity to respond.

Mr. DASCHLE. The Senator will have the opportunity, but I think it would be preferable to do it on her own time, but I will answer one question.

Mrs. FEINSTEIN. My question is, Is the Senator saying, then, that the credits in this bill do not say if you do not use it you have to pay for it?

Mr. DASCHLE. The credits in this bill allow you to get out from under the mandate without any intervention from DOE or EPA or anybody else. You are not required, in this legislation, with the RFS, to use one drop of ethanol.

Mrs. FEINSTEIN. But then do you pay for it if you do not use it under the credit trading provision?

Mr. DASCHLE. Of course you pay for it, but the credits are available.

Mrs. FEINSTEIN. So you pay the amount?

Mr. DASCHLE. Let us put this in the proper context. You pay an amount, but what are you going to pay when there is no alternative to MTBE? How much is that going to cost? If we phase out MTBE in California, and they are then forced to go to alkylates or iso-octane and you do not know what it is going to cost, you do not know whether a supply is going to be available and the people of California are forced to pay 30 or 40 cents more per gallon because that is the only available supply, I say the people of California would rise up in huge opposition. That is, of course, the choice of each of us has to make.

What we are saying is we have a very careful and balanced approach in phasing out MTBE with ethanol in a way that gives every State an opportunity to fashion and to tailor its response to the circumstances they find themselves in, with credit trading, with the waiver opportunity, and with the DOE review, not to mention a delay of 1 year in the implementation should Senators wish to afford themselves of the opportunity we present.

So there are tremendous protections for each one of these States should the Senators or should the States choose to use them.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I appreciate an opportunity to respond. The majority leader might want to listen or he might not want to listen. What he said might be true if one needed to use an oxygenate, but California does not need to use an oxygenate because it has a reformulated gasoline, and it has to use just a limited oxygenate.

This bill forces California to use this much that it does not need, and a careful reading of the credit trading provision in this bill means you either use this ethanol or you have to pay for it.

Let me respond to another point he made on the issue of increased gas prices. He said we use one study. Let me give another study. This is an EPA staff white paper, study of unique gasoline blends, effects on fuel supply and distribution and potential improvements: Replacing the RFG oxygenate mandate with the renewable fuel mandate will result in a shift of ethanol use from RFG to conventional gasoline, while ethanol distribution costs and blending costs should decrease. However, this will be offset to some extent by an increase in ethanol production costs. For the purpose of this study, we have assumed, based on previous analyses, as discussed in the cost memorandum in the docket, that ethanol production costs would be increased by 15 cents per gallon relative to today's ethanol prices. So it shows there that the cost of ethanol is apt to go up.

With respect to the study that he mentioned, the Energy Information Administration report, that report used national averages. It does not adequately predict gas prices in California and other States.

The report he referred to did not model how infrastructure problems and market concentration can drive prices up.

So, what California is saying is we will not have the infrastructure in place, and that alone will create price spikes.

With respect to his comment on the 90-day amendment, the majority leader knows I have been interested in this for a long time. A 90-day waiver has never, ever, by anyone, been offered to me. I will be very happy at the appropriate time to call up my amendment, which is a 90-day waiver. I hope, then, that that 90-day waiver will be agreed to. But at no time was a 90-day waiver ever mentioned to me.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I think we are having a good debate. I think it is informative to my colleagues. I thank and compliment my colleague from New York, Mr. SCHUMER, and my colleague from California, Senator FEINSTEIN, for their leadership in bringing out an amendment and exposing this for what it is. It will greatly increase costs, a couple of costs.

I haven't heard too many people talk about what is very obvious. We have already agreed to an amendment that extends the ethanol subsidy in the Tax Code. That is just a fact. We have extended it, I believe, for 10 years. Ethanol now receives a subsidy of 53 cents per gallon. It doesn't pay an excise tax that goes to the highway trust fund. That is already the case. That is present law. We just extended that for 10 years.

Presently, we are producing a little less than 2 billion gallons of ethanol a year. So that costs the trust fund a little over $1 billion. The trust fund loses that because we give ethanol the advantage over all other fuels. That is about $1 billion. OK, that is present law.

What the bill does if you look on page 189 of the bill, is increase the ethanol mandate. Right now, we are producing about 1.9 billion barrels per year. It says in the year 2004 it goes to 2.3 billion. It doesn't sound like a lot, but that is about a 20-percent increase.

Then, over the period of time to the year 2012 it goes to 5 billion. We go from 1.9 billion to 5 billion. That is a little less than a 200-percent increase in ethanol. So ethanol gets it both ways. They have the subsidy, so much per gallon it doesn't pay in excise taxes that all other motor fuels pay, and now we are going to mandate in addition that subsidy: Oh, yes, now refiners, you have to make 5 billion gallons, which is over two times what we are making right now.

That has a cost to it. Some people say there is a cost of an additional 4 cents or 5 cents a gallon. I think it probably does because it is more expensive to make than gasoline, probably to the tune of about 20 cents a gallon. But it also has a cost to the highway trust fund. I have heard people say when we take up the budget we are going to have to add billions of dollars to the highway trust fund. If we keep the ethanol mandate as it is, in addition to the tax subsidy, but increase the amount that must be produced from current law into a Federal mandate of a figure that I guess came from the sky—all of a sudden we are going to do 5 billion gallons—that means we are going to have to more than double the capacity of the plants we have right now.

The highway trust fund, which is presently losing in excess of $1 billion, is going to be losing in excess of $2.5 billion, if my quick math is right. If you are talking about 53 cents a gallon, and if you are going to make 5 billion gallons, that is over $2.5 billion that the highway trust fund is not going to get every year.

I believe ethanol vehicles—and they may be just great and it may be a fantastic fuel, and I am not arguing that—do damage to the roads. The highway trust fund is to repair the roads. Whether the cars are running on diesel or gasoline or ethanol, those roads have to be maintained and repaired. We are creating a giant gap or loophole for the highway trust fund that is going to be ever expanding by this ever-increasing mandate.

My point is that I think we can have it one way or the other. We can probably afford one, or maybe the other, but I question both. If we have a tax subsidy—and I see my friend and colleague, the former chairman of the Finance Committee, for whom I have the greatest respect—the tax subsidy giving the 53 cents exclusion from the highway gasoline tax is already in the law, and it has been extended. Fine. That is one big one. But to also say we should have a mandate to more than double the production I think is a lot to ask. That is a lot to ask of the highway trust fund, which most of us want to make sure we keep our highways maintained.

We are creating a big void. We are facing a lot of highway work that needs to be done. But where is that money going to be coming from? For awhile some people said maybe we will have general revenues pick it up. I think there is some legitimacy in having a highway user fund, having users pay for highway maintenance. That is the whole purpose of having a gasoline tax or diesel tax; it is for highway maintenance. To take one particular fuel and say we are going to exclude it from a very significant portion of the highway tax is one thing. Now we are going to have a mandate that, oh, yes, you have to increase your production by another 160 percent. I just question whether it is affordable, whether it is affordable for the highway trust fund, and whether it is needed.

I do not mind encouraging alternative sources of fuel. I certainly don't mind helping agriculture. I certainly don't mind doing anything that will reduce our dependency on foreign sources of fuel. But I look at this and I say: Wait a minute, aren't we going to far? Aren't we doing too much? We are doing the tax exemption. Do we really need a mandate that says you have to produce that much? I ask: Can we make this 2.3 billion gallons in the year 2004? Can we really increase production in all these plants in 2 years? At that point, we are at 2.3 billion. Maybe we can. In another 8 years, can we double it? Heaven forbid that we let the marketplace decide which fuel we should be burning.

Mr. SCHUMER. Mr. President, will my colleague from Oklahoma yield for a question?

Mr. NICKLES. I am happy to yield.

Mr. SCHUMER. I have been following his very cogent arguments. I am glad we are on the same side on a few issues. Hopefully, there will be many more.

He made two points. I would like to ask him if I am wrong. There are double contradictions here. One is that we are going to raise the price of gasoline, as we would with the gas tax. But we are actually going to deplete the trust fund at the same time we lose the gas tax, whereas, at least the gas tax has the purpose of the user tax.

As my friend from Oklahoma accurately stated, at least that does improve the fund. We get hit both ways. There is a second sort of the anomaly here. I haven't seen anything like it. We have a large subsidy for a product—I think he mentioned 53 cents a gallon; that is huge already for the motorist—to help the farmers. I don't know anything else that gets up to that extent. At the same time, we are now forcing people to buy it with that subsidy.

Am I correct that those are two separate contradictions within this bill, two separate anomalies?

I ask my colleague from Oklahoma, has he ever seen anything such as this in his years of making sure the free market policies are pursued for our country?

Mr. NICKLES. I appreciate the question. I have seen something like it. I will allude to it. I hope we can fix it at a later date. That deals with the renewable portfolio standards that are also in this bill.

To show you how similar they are, in that particular section of the bill, there is a mandate that 10 percent of the electricity be produced from renewable fuels. Incidentally, if you can't do that, you can buy a credit for 3 cents per kilowatt hour. That is the price of electricity in the wholesale market today. In some cases, it is a lot less than that. You can get out of that mandate by giving the government 3 cents per kilowatt hour. Wow. That is expensive. That is the equivalent of about a 5-percent increase in the electricity bill.

I see this as very similar. This says: OK. Buy a lot more ethanol—up to 5 billion gallons—more than double what we are buying right now. And, oh, yes. We are going to subsidize that, too. We are going to mandate that you buy it and subsidize it. But consumers are going to pay for it. They are going to pay for it by having a shortfall in the highway trust fund to the tune of over $2.5 billion a year.

Obviously, if you are exempting 3 cents a gallon and mandating that you manufacture 5 billion gallons, the trust fund is coming up $2.6 billion short per year. As consumers of fuel, users of the highways are coming up short. That means other fuels or general revenue is going to have to make up the difference. It just doesn't fit.

I happen to think there is a reason why people say, well, we need the 53 cents per gallon to make ethanol competitive with other fuels. In other words, it is more expensive. I think that is obvious.

I understand the proponents, and I respect the proponents, but they are saying we need the tax subsidy to make it competitive. It is more expensive to produce ethanol than it is gasoline. So we give them the tax subsidy so they can afford to do it. We are now going to mandate that they more than double the production. If it is more expensive to make, that means the price of gasohol is going to go up. I think the estimates of 4 or 5 cents a gallon are probably accurate. That may not sound like very much. It is probably about a 6-percent increase in gasoline costs. Consumers are going to pay for that.

I was shocked. I didn't know until I heard Senator FEINSTEIN mention that under current law there is an import fee on ethanol. I asked my staff. I started looking for it. Where is it? It is not in here. It is in current law.

The ethanol industry has already been successful in having protectionism, saying we can't have ethanol imports. There is only domestic product. Guess what. We import a lot of gasoline. We import a lot of oil. We import a lot of fuel. Right now we are saying we are going to mandate this much more production but we are going to keep the protection.

I am troubled by that. Consumers will pay. If ethanol were competitive, it wouldn't need a tax subsidy and it wouldn't need us mandating 5 billion gallons by the year 2012. It costs more to produce. Consumers will pay it. This bill is going to cost consumers.

I know there are charts floating around here on the cost per gallon. I think 5 or 6 cents per gallon is a good estimate.

To answer my friend's question, is there another example of that? Yes. It is in the renewable portfolio standard. It is a 3 cents per kilowatt hour credit which we mandate in this bill. Senator BREAUX and I and others will have amendments to reduce that from 3 cents per kilowatt hour to 1.5 cents per kilowatt hour, which is the same amount the Clinton administration proposed. We will reduce the penalty—the tax—that is in the bill.

This bill we have before us right now increases the price of gasoline because of the ethanol standard, and it increases the price of electricity because of the renewable portfolio standards.

I compliment my colleagues from New York and California for trying to address the gasohol tax increase that will hit all consumers, all gasoline purchasers. Later on we will have an amendment to hopefully reduce the electricity penalty that is in the bill as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. I thank the Chair. I appreciate the desire of the Senators from New York and California to protect their States and their constituents.

I think it is unfortunate that so much misinformation about ethanol exists today. It has been distributed and is being distributed even as we speak. There is so much misunderstanding about what ethanol's role is, and also ethanol's potential in our energy future.

Today, the United States consumes 25 percent of all the oil that is produced in the world. One out of every four barrels of oil produced in the world is consumed in the United States.

Given the significance of the transportation sector in this country, one out of every seven barrels of oil goes into American gasoline. If those who continue to oppose any kind of alternative have their way, the policy of this country is going to be basically hang on and hope—hang on to the status quo, hang on to the present consumption of oil and gasoline, hang on to the present energy consumption patterns of this country and hope nothing changes.

I find it disappointing that we focus on these alternatives as though they are somehow going to impose something more onerous and more expensive on the American people when, in fact, if you look realistically at the future, 10, 20 years from now, the most expensive policy for the American consumer is for us to do nothing.

The notion that we will be able to continue to consume one-fourth or more of the world's oil production, the notion that prices will remain the same as today's prices, that there won't be disruptions, and to put ourselves in a situation where we will be faced with either supply disruption or price increases of major proportions, I think is putting our head in the sand and hoping for something that goes beyond what is realistic.

Despite the efforts of the manager of this bill, basically the position of the Senate on this bill is to do nothing in terms of bringing about any real reduction in the consumption of oil and gasoline or the development of real alternatives. We said no to the CAFE standards. We said no to basically any meaningful change or development of any alternative. Why? Because, as the opponents say, any alternative, any change in our practice, involves some dislocation and some price increase on a temporary basis—not nearly what this proposes. They may involve some need to refigure our supply. Anything that changes the status quo, therefore, changes some aspect of this system that we keep treating as though it is in place and it is secure for years to come.

How long, realistically, do we think we are going to be able to continue to have all the oil that we wish to consume, at the prices we are paying today, with no disruptions, and no price spikes? In fact, if we don't start developing alternatives, such as ethanol and other biofuels, we are going to guarantee that we are in the same predicament 10 years from now or 20 years from now. I guarantee you that those prices will not continue to be stable.

In Minnesota, we have been practicing an alternative for the last 5 years mandated by the Minnesota Legislature, which is a 10-percent blend of ethanol in every gallon of gasoline sold in the State of Minnesota. That ethanol is blended. Ten percent is used by every vehicle that puts gasoline into its tank. It requires no change in engines produced by General Motors, Ford, or any other company, foreign or domestic.

In fact, the engines in vehicles that use 10 percent ethanol requires no modification whatsoever. They have no supply problems.

The cost of a gallon of gasoline in Minnesota today is 20 cents less than a gallon of gasoline in California. It is a penny more than in New York. It is 5 cents a gallon less in Illinois, and it is less in our surrounding States that don't have this mandate. That is just the beginning.

My office leases a vehicle, a Chrysler Suburban, that travels around Minnesota. It consumes 85 percent ethanol—a fuel that is blended 85 percent ethanol and 15 percent gasoline. That is priced 20 cents less than a gallon of unleaded fuel in Minnesota today—meaning 40 cents less than a gallon in California, 10 cents less than a gallon of gasoline in New York, and so on.

Yes, this is a subsidy. Yes, this is an incentive provided to make the conversion to this kind of fuel. Again, if we don't provide some kind of incentive, we will have no alternative form of energy which is going to be competitive with what it is today.

On the other hand, if we don't follow the direction in this legislation that we begin to make this transition to having a supply of ethanol that will actually not just displace MTBE—that is far too limited a view of the future of ethanol. Ethanol could not only supplant MTBE, as this legislation encourages, but also ethanol could supplant gasoline itself.

As I said, right now in Minnesota, 10 percent of the gasoline has been supplanted by ethanol.

That could be 20 percent if we had the supplies available that could be applied across this country. And 85 percent of ethanol can be used in 2 million vehicles across the country. Imagine what it would do 10, 20 years from now to the energy independence of this country if we were using 20 percent, 40 percent, 60 percent ethanol instead of gasoline.

As I say, these changes are not going to happen overnight. We are not going to be able to find ourselves in an energy crisis down the road and be able to make these kinds of changes immediately. If we do not start now, if we do not have a goal of 10 years from now reaching a manageable amount of product that will encourage others to get into the market—for example, I hear criticism that one company now controls 41 percent of the market for ethanol in this country.

Twenty-five years ago that same company controlled 99 percent of the ethanol in this country, and that number has gone down every single year thereafter as more and more producers have gotten into the ethanol market. The production concentration in that industry is diminishing. It will continue to diminish with or without this mandate, but it will certainly accelerate the reduction in concentration as more and more producers get into the market.

We hear about supply difficulties and questions about supply which cannot be answered today for a market that will exist 10 years from now. But to think we are transporting oil and oil products from the Middle East, from South America—thousands of miles to our ports—to States such as California, which is now importing 75 percent of their MTBE by barge from Saudi Arabia, and we are saying that the supplies cannot be transported from the middle section of this country to either coast at a competitive transportation price boggles the mind and defies imagination.

Furthermore, I guarantee you, with this kind of mandate, the agricultural sector in California, which is enormous, and the agricultural sector in New York, which is very substantial, will move to producing the kinds of crops which can then be converted into ethanol. I guarantee producers and refineries will sprout in those States and elsewhere across this country to supply this additional product.

So this is not a static situation. It is a dynamic one, and one which—with this mandate, with this encouragement—has tremendous opportunity over the course of the next decade and thereafter to meet a significant part of our energy needs, our consumption of gasoline.

Finally, in terms of liability protection, I happen to agree with those who are concerned about that. I am willing to have that stripped from the bill. But this amendment, as it is proposed, does not just deal with some of these flaws; it would eliminate the entire ethanol provision entirely. So if there are particular concerns, let's deal with those particular concerns. But I think just to wipe this out entirely is shortsighted and, as I say, will result in American consumers paying higher prices for gasoline or gasoline products.

Finally, I wish to make one last comment on the highway trust fund. Again, I agree with the critics of this measure who say our actions will result in less dollars going into the highway trust fund. That is true. But anything that results in the lessening of the consumption of gasoline in this country results in fewer dollars going into the highway trust fund. If you follow that logic, then, it means, in order to maximize dollars going into the highway trust fund—which is important to Minnesota and every other State—we ought to lower the fuel efficiency of our vehicles, we ought to drive them more miles, and we should do whatever we can to burn more gasoline because that results in more dollars going into the highway trust fund.

I suggest we are better off to reconsider that policy, to reconsider whether we want the highway trust fund to be dependent on the number of gallons of gasoline consumed, when we know what the effects of that are on our economy elsewhere.

So I say it is better to change the policy over time, better to change the supplement, the funding mechanism of the highway trust fund, rather than sacrifice a sound alternative energy policy on that altar.

Again, in conclusion, if we do not start this now, if we do not start encouraging this transition, we are going to be nowhere in 10 years, we are going to be nowhere in 20 years, except where we are today with our energy dependency. And I guarantee we will have no solution to our energy predicament.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I only intend to take 4 or 5 minutes. I ask unanimous consent that the Senator from Iowa be recognized following my remarks.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Mr. President, I certainly will not object. I see colleagues on the floor. I ask unanimous consent that after Senator DORGAN and Senator GRASSLEY—and I gather Senator MURKOWSKI also is going to speak; is that correct—and the Senator from Alaska speaks, that I then be recognized to speak after Senator MURKOWSKI, in that order.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, what is the order?

The PRESIDING OFFICER. The Senator from Minnesota has requested that at the conclusion of Senator DORGAN's comments and Senator GRASSLEY's comments and Senator MURKOWSKI's comments, he would be recognized.

Mr. REID. I have no objection, but I do say that we have, under postcloture, 30 hours. There is going to come a time—certainly we are not approaching it quickly—but somebody will have to move either to table or to set a definite time for voting on this amendment because I do not think it is fair to spend the whole 30 hours on this one issue.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, I will be very brief. I thank my colleagues.

Let me say that some issues are less complicated than they seem, and this, I think, is one of those issues. The ability to take a kernel of corn or barley, for example, take the starch from it, break it down into its simple sugars, ferment it into a drop of alcohol, and use it to extend America's energy supply makes great sense. Being able to take a drop of alcohol from a kernel of corn or barley to extend America's energy supply, and still have the protein feedstock left to feed animals, also makes great sense. We will produce ethanol in substantial quantities. The question is not whether it will be done; the question is when.

We produce a substantial amount of energy right now, but not nearly as much as we could from ethanol. We will, at some point, dramatically increase the ability to produce our own fuel. Producing renewable fuel that we can use for gasoline, the fuel we can use in other ways to extend America's energy supply, just makes sense.

The provision in this legislation makes good sense as well. It will substantially increase the quantity of ethanol that is produced in our country, and do it more quickly than we otherwise could.

One of my colleagues, Senator NICKLES, said: Let the market decide these things. Well, it is interesting that the market apparently has decided that we should import 57 percent of our oil supply, much of it from Saudi Arabia. Is that a market decision that makes a lot of sense? Is that a market decision that puts us in peril of someday waking up in the morning to find out that some heinous act by a terrorist has interrupted the energy supply from the Saudis or the Kuwaitis, and all of a sudden America's economy is flat on its back? Is that a marketplace decision that makes good sense? No, it does not make good sense. So, in a number of ways, we are trying to move in different directions.

This debate is about the replacement of MTBE. All of us understand that in various parts of the country it has been showing up in ground water. We understand that this has to be dealt with. And that gives rise to this provision in the energy bill. But this provision in the energy bill, in my judgment, has much more significance than just that issue.

I think my colleague from Minnesota, Senator DAYTON, just described that. It is not just about a replacement for MTBE; it is about additional production of energy in our country. It is about growing our fuel on a renewable basis year after year. It is about another market for family farmers who produce crops that can be turned into alcohol, and then use the protein feedstock later for animal feed. It just makes good sense for our country to do this.

I know there are some who have some heartburn about this provision, and I certainly respect their views. There are some who object to everything that is done for the first time. I am not suggesting that is the case with the opponents here, but we are going to march, inevitably, in this direction. The question for us is: Do we do it sooner, or do we do it later?

This is the time when we decide that we want additional production from renewable sources.

And yes, that is ethanol. It is good for our country, for the environment, and for our family farmers. Frankly, it is even good for those who are objecting to it today.

I hope we will reject this amendment, as we should, and continue to keep this provision in the bill.

I thank my colleague from Iowa for allowing me to proceed.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, before I speak about the volume of misinformation we have on the renewable fuel standard, there were a couple statements made in the debate by the Senator from Oklahoma that I want to address.

No. 1, don't assume ethanol is going to increase the cost of gasoline. At least in my State, you find in most cases ethanol in gasoline will sell for 2 cents a gallon cheaper than gasoline without ethanol. If that is not the case, it is the same price. Very rarely do you find anytime that ethanol in gasoline causes the price of that gasoline to be higher than gasoline without ethanol.

The other misinformation we ought to clear up is the use of the word ''subsidy.'' Because of the consumer tax on gasoline not being as high if it has ethanol in it as without ethanol, that is a lower rate of taxation. The subsidy, as we use it in this body, refers to money coming from the Federal Treasury to benefit somebody. When a consumer pays less tax on a gallon of gasoline because it has some ethanol in it, that is less tax. Do the proponents of this bill suggest we ought to raise the tax on gasoline because there is ethanol in it? Some of these Members I hear abhor the idea that there ought to be any increase in any tax, let alone an increase in the gasoline tax.

Those are two things I wanted to clear up.

Now, about this misinformation, I know my colleagues who are supporting this amendment are very intelligent people. I don't think they are purposely misleading us. There has been some propaganda spread by some industries in this country, and it has been picked up by some Members of Congress. They have lent their credibility and voice to this antireformulated fuels standard in a way that, quite frankly, does not do anybody any good. This misinformation campaign can help only two interests: It can help producers of MTBE, which production contaminates our drinking water supplies—and it does this in the States of California and New York; that has been very well documented; secondly, Middle East producers of both oil and MTBE that seek to tighten a very dangerous grip they have upon America's energy security.

How does this misinformation campaign help MTBE producers? That is because the reformulated fuel standard includes an MTBE ban. The MTBE producers know that the entire reformulated fuel standard will unravel if they can chip away at it with some amendments.

A broad coalition of interests helped produce this balanced compromise we have before us. This coalition may very well be unprecedented. The coalition consists of farm groups, petroleum and renewable fuel producers, environmental groups, and State environmental agencies. I had an opportunity to address a group where the American Petroleum Institute had one of their employees. I had to tell him, when I heard of their supporting this compromise, it is a good thing I had a good heart. Otherwise, I would have passed out as a result of it because they have never been with this group of people in the past. Here they see the need for renewable fuels as well.

They all agreed to a compromise proposal embodied within the renewable fuel standard that in the past seemed impossible to accomplish.

What do MTBE producers do? They get their consultant, Hart/IRI, to cook numbers to make it look as if requiring ethanol usage will cause motor fuel prices to go up by almost 10 cents a gallon. This is blatantly false. The truth is, according to the Energy Information Administration, requiring ethanol under the renewable fuel standard will increase motor fuel costs, if at all, by one-half a cent to a penny per gallon.

So we have had a couple Senators address this issue in a Dear Colleague letter. I will quote from the letter, ''MTBE Consultant Misleads Members on Ethanol Debate.'' Let me share with you the letter from Senators JOHNSON and HAGEL. I quote:

> Senators from New York and California have distributed charts and spoken on the floor, claiming that the renewable fuels standard will increase consumer costs by 4–9.75 cents per gallon. The source of this data is the MTBE consulting firm, Hart/IRI, which claims it based its cost estimates on data from the Energy Information Administration.

Further quoting:

> [The Energy Information Administration] has completed two analyses. . . . The first, found that the MTBE ban would increase gasoline costs 4–10.5 cents per gallon, while the renewable fuels standard could increase gasoline costs by 1 cent per gallon in reformulated gasoline areas, and .05 per gallon overall.

I want my colleagues to listen very carefully to the next sentence from this letter:

> Hart/IRI lumped these costs together and attributed . . . them to the renewable fuels standard, making that provision appear to be roughly ten times more expensive than it is.

Continuing to quote:

> Since the fuels compromise bans MTBE, Hart/IRI has every incentive to exaggerate and misrepresent the cost impacts on the legislation. It is ironic and unfortunate that some members—whose states have already banned MTBE, because it has poisoned their drinking water—chose to use this MTBE consulting firm's analysis rather than relying upon the objective EIA numbers.

We ought to repeat that sentence:

> It is unfortunate and ironic that some members—whose states have already banned MTBE, because it has poisoned their drinking water—chose to use this MTBE consulting firm's analysis rather than relying upon the objective EIA numbers.

We proponents of this renewable fuels standard are trying to help consumers in California and New York. We are trying to reduce their dependence upon MTBE, because it poisons the groundwater, and oil, and both of those come from the Middle East. In fact, we are trying to do so in a manner directly advocated in 1999 by the two California Senators and the senior Senator from New York when the Senate approved Senator BOXER's resolution calling for the ban of MTBE and replacing the MTBE with renewable ethanol. That is what the resolution said.

Yet today our efforts are opposed because our legislation would increase the use of ethanol made by farmers and ethanol producers in America's Middle West as opposed to getting our energy from the Middle East.

Our opponents claim they are worried about supply shortages and price spikes. Yet how can any Member of this body be more worried about ethanol from the Midwest than they are about MTBE and oil from the Middle East? How can anyone oppose America's farmers and ethanol by using bogus information from an MTBE consultant. It is unbelievable, isn't it?

Mr. President, what the MTBE consultant did was distort an analysis of banning MTBE included in an earlier proposal, not the proposal pending before the Senate. The Energy Information Administration did two analyses. The outdated one concluded that an MTBE ban under the old proposal would increase consumer costs by 4 to 10 cents a gallon. Requiring the use of ethanol under the old analysis would cost at most a penny a gallon.

A second Energy Information Administration analysis was conducted, but this time it focused on the pending legislation. The Energy Information Administration concluded that banning MTBE would increase the cost of motor fuel by about 2 to 4 cents per gallon, and again it found that requiring ethanol would increase consumers' cost by less than one penny a gallon.

Again, who are we to believe, the MTBE industry, which will lose if MTBE is banned, or the Energy Information Administration?

Let me critique this for my colleagues with a closer look. Those who are offering killer amendments to this renewable fuel standard point out in detail, State by State, the price increases consumers will supposedly suffer if the renewable fuel standard is adopted.

The bogus Hart/IRI analysis concluded, for instance, Arizona consumers would pay 7.6 cents more per gallon; Maryland, 9.1 cents; Texas, 5.7 cents; Pennsylvania, 9.1 cents; New York, 7.1 cents; California, 9.6 cents, and I can go through the 50 States.

When one looks slightly below the surface and gives the Hart/IRI study even a moment's attention, one will see but half a cent or a penny of these predicted price hikes are related to the ban of MTBE and not the cost of requiring ethanol.

Our renewable fuel standard opponents want us to fear price hikes, but they do not want us to figure out that the price hikes are driven by banning MTBE. Instead, the aim is to mislead us into thinking ethanol causes the price hikes, but by using this pro-MTBE consulting firm study and by subtracting the half cent or penny-cost increase supposedly relating to ethanol, we find that what our New York and California colleagues are really arguing is that if we ban MTBE, the cost of gasoline will go up by 8.6 cents per gallon in California and by 6.1 cents per gallon in New York.

What is the logical conclusion? Isn't that simple? If we are to believe the studies used by our colleagues from New York and California, the only conclusion we can draw is they do not want to ban MTBE because the price of gas will go up.

The opponents of the renewable fuel standard cannot have it both ways. They have to make up their minds. Either they want to ban MTBE to protect drinking water or they want to keep using MTBE so prices do not spike. The bed was made with Hart/IRI; now lay in it.

Mr. President, surely we can put a little more care into debate so important as our energy security. Some of our colleagues who are opposing the renewable fuel standard mentioned in passing that there is cleaner fuel at less cost and that we do not need to use oxygenates. Really.

In 1991, the California Energy Commission compared the cost of ethanol-blended motor fuel with motor fuel that included no oxygenates, neither ethanol nor MTBE. In short, the California Energy Commission found that nonoxygenated fuels could cost more per gallon than ethanol-blended motor fuels.

I note that the California Energy Commission analysis was done when annual ethanol production capacity stood at less than 1.7 billion gallons, and it was when skeptics said there would not be enough ethanol to replace MTBE. Today ethanol production capacity stands at 2.3 billion gallons per year.

I hope that settles some of the fears the Senator from Oklahoma had about whether we have the capacity to do it. We have unused capacity right now. We also have new plants coming online, and production capacity will increase to 2.7 billion gallons per year by the end of December and climb to between 3.5 billion and 4 billion gallons by the end of 2003.

I suggest that given the large increase in ethanol capacity, ethanol-blended motor fuel would be even cheaper than estimated by the California Energy Commission.

Moreover, even the recent Energy Information Administration study concluding motor fuel could go up a penny if ethanol is required may be too high because it does not take into consideration the efficiencies of the credit trading program.

Our California and New York colleagues argue that nonoxygenated motor fuel is cheaper than ethanol-blended fuel, but that contention is just the opposite of what the California Energy Commission reported. Our colleagues choose not to take their information from the California Energy Commission and they choose not to take their information from the U.S. Energy Information Administration. They would rather take their information from an MTBE consultant. Why would they do this? I wish I knew.

I want to share another independent source of energy analysis produced by the Department of Energy's Office of Transportation Technologies. These two draft studies underscore the extreme importance of expanding renewable fuel use, particularly now that we aim to ban MTBE because it poisons our water.

In short, these analyses conclude that alternative and replacement fuels leverage lower prices for consumers and reduce the impact of OPEC oil-producing nations.

Mr. President, I ask unanimous consent that these two economic analyses of the benefits of replacing gasoline with alternative fuels be printed in the RECORD.

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

OIL PRICE BENEFITS OF INCREASING REPLACEMENT/ALTERNATIVE FUEL MARKET SHARE, DRAFT ANALYSIS, OFFICE OF TRANSPORTATION TECHNOLOGIES, U.S. DEPARTMENT OF ENERGY

Increasing the market share of alternative and replacement transportation fuels would have significant energy security and oil market benefits for the United States. Some of these benefits will occur even if use of the fuels is induced by regulations, subsidies, or demonstration programs. Additional energy security benefits would be generated if the fuels are competitive with petroleum fuels in at least some market segments.

Competitive alternative and replacement fuels produce energy security benefits in two principal ways:

First, by reducing the quantity of petroleum consumed and imported, they reduce the vulnerability of the economy to oil price shocks.

Second, by increasing the price-responsiveness of oil demand, they reduce the market power of the OPEC cartel, making it more difficult for OPEC to raise prices and the sustain those price increases.

Today alternative and replacement fuels account for 3.6 percent of total U.S. gasoline demand. The majority of this is blending stocks used in gasoline. Methyl tertiary butyl ether, MTBE, which is predominately derived from natural gas, comprises 2.6 percent of gasoline demand. Ethanol produced from renewable energy sources, which is primarily blended into gasoline, comprises 0.7 percent of gasoline demand. The use of MTBE is driven by clean air requirements, while ethanol use is subsidized by a partial exemption from motor fuel excise taxes. Alternatives to petroleum-based fuels, such as propane, compressed natural gas, alcohols, electricity and biodiesel comprise only 0.3 percent of total U.S. gasoline use.

Even these modest levels of alternative and replacement fuel uses are providing some energy security benefits. In a very preliminary, draft market simulation of world oil markets, we have estimated the world oil price impacts of U.S. alternative and replacement fuel use. The following results were obtained.

The present 3.6 percent market share of alternative/replacement fuels produces an approximately $1.00/barrel reduction in oil prices from what they would be if alternative/replacement fuels were not used at all. At current U.S. oil consumption levels of 6.8 billion barrels, this level of alternative/replacement fuel use results in a savings of approximately $7 billion on an annual basis.

If the U.S. were to achieve the 10 percent replacement fuel goal of the Energy Policy Act of 1992, oil prices could be reduced by approximately $3.00/barrel. At current U.S. oil consumption levels of 6.8 billion barrels, this level of alternative/replacement fuel use would result in a savings of approximately $20 billion on an annual basis.

THE IMPACTS OF ALTERNATIVE AND REPLACEMENT FUEL USE ON OIL PRICES—DRAFT

(By David L. Greene)

This memorandum presents estimates of the long-run oil market benefits of increased use of alternative and replacement fuels by highway vehicles in the United States. No attempt is made to estimate the costs of increasing use of alternative energy sources. Potential benefits in the event of possible future oil price shocks are not addressed. Nor are likely environmental benefits considered. Current use of alternative and replacement fuels is estimated to reduce total U.S. petroleum costs by about $1.3 billion per year (about $0.29 per barrel). Cumulative savings from 1992 to 2000 are estimated to be $9 billion. Increasing alternative and replacement fuel use to 10% of motor fuel use by 2010 is estimated to increase oil market benefits to $6 billion per year ($0.68/bbl), for a 2000–2010 cumulative savings of $35 billion. These estimates were made using a very simple model of world oil markets and are contingent on the assumption that historical and projected OPEC production levels do not change.

OIL MARKET BENEFITS OF ALTERNATIVE AND REPLACEMENT FUELS

Displacing petroleum with alternative and replacement transportation fuels helps hold down petroleum prices in two ways. First, reducing the demand for petroleum makes it harder for OPEC to raise oil prices. Although the actual impact will depend on precisely how OPEC responds, a reasonable rule of thumb is that a 1% decrease in U.S. petroleum demand will reduce world oil price by about 0.5%, in the long-run. Short-run (1 year or less) impacts would be even greater, due to the short-run inelasticity of oil supply and demand. The Energy Information Administration offers the following as a rule of thumb for short-run supply reductions.

''For every one million barrel per day (1 MMBD) of oil disputed, world oil prices could increase by $3–5 barrel.'' http://www.eia.doe.gov/emeu/security/rule.html

Demand reductions would have the exact opposite effect, assuming OPEC took no action to cut back production in response. One MMBD would be about 5% of U.S. oil consumption, whereas $3–5 per barrel would be a 15–25% price increase, if oil cost $20 per barrel, suggesting a short-run elasticity about ten times as large as the long-run elasticity. This leads us to the second oil price benefit of alternative and replacement fuel use, the potential for increased price elasticity in case of a supply disruption.

The existence of an alternative source of liquid fuels supply can also increase the elasticity of oil demand by providing a potential substitute for oil in the event of a price shock caused by a sudden reduction in supply. It is precisely the inelasticity of oil demand and supply that makes price shocks possible. Increasing the elasticity of demand mitigates the impact of a supply shortage on prices.

ESTIMATING THE LONG-RUN OIL PRICE BENEFITS

The long-run oil market benefit of alternative and replacement fuels can be approximately estimated by a simple simulation model of the world oil market. The model is comprised of two demand equations and two supply equations representing U.S. and Rest-of-World, and a assumed level of OPEC output. All supply and demand equations are linear and depend on current price and lagged quantity. A year-specific constant term is used to calibrate the equations to exactly match the 2000 Annual Energy Outlook Reference Case projections. Since the equations are linear, elasticity increases with increasing oil price and decreases with increasing oil demand. Representative elasticities are shown in table 1 for the U.S. and ROW at various oil prices and 1998 quantities.

TABLE 1.—LONG-RUN PRICE ELASTICITIES OF WORLD OIL MODEL

	U.S. demand	U.S. supply	ROW demand	ROW supply
MMBD	19.41	8.96	58.32	36.00
Price Slopes	−0.329	0.138	−0.966	0.376
ELASTICITY ESTIMATES				
Oil Price:				
$10	−0.17	0.15	−0.17	0.10
$20	−0.34	0.31	−0.33	0.20
$30	−0.51	0.46	−0.50	0.31
$40	−0.68	0.61	−0.66	0.41
$50	−0.85	0.77	−0.83	0.51

The historical data and the 2000 AEO projections reflect the current levels of alternative and replacement fuel use. The impact on oil prices is therefore best answered by answering the question, how much would prices rise if there were no alternative and replacement fuel use? This counterfactual analysis also requires an assumption about OPEC behavior. It is assumed that there is no change in OPEC behavior. In other words, oil supply by OPEC is held constant at historical and AEO 2000 projected levels. Given the relatively small amounts of alternative and replacement fuel use, this assumption seems quite reasonable. Of course, in reality OPEC could increase or decrease output. By increasing output, OPEC would lower prices further, increasing the oil market benefits. If OPEC cut production, say enough to restore oil price to the prior levels, there would still be oil market benefits, though they would be more difficult to quantify. First, at lower production levels OPEC would have a smaller market share and thus less market power than before. This would make it more difficult for OPEC to create a price shock, to raise prices further, and to maintain discipline among its members. Second, the loss of wealth by the U.S. economy due to monopoly pricing would be reduced, because the U.S. would be consuming less imported oil. Thus, if OPEC reacted to increased U.S. alternative and replacement fuel use by further production cutbacks to restore the price level, the nature and magnitude of oil market benefits might change, but there would still be significant benefits.

Two alternative ''what if'' scenarios were analyzed: (1) what if there had been no alternative or replacement fuel use after 1991? 2) what if, starting in 2001, alternative and replacement fuel use increased to 10% of U.S. motor fuel use by 2010? Actual U.S. alternative and replacement fuel use is shown in table 2. Alternative fuel use increased from 230 million gallons of gasoline equivalent in 1992 to 341 million gallons in 1999, with usage of 368 million gallons projected for 2000. Replacement fuel use increased from 2,106 million gallons in 1992 to 4,311 million gallons in 1999 with usage of 4,388 projected for 2000. As a fraction of total motor fuel use, alternative and replacement fuels amounted to 1.57% in 1992 and comprised 2.71% in 1999.

TABLE 2.—ESTIMATED CONSUMPTION OF VEHICLE FUELS IN THE U.S., 1992–2000

[Millions of gasoline-equivalent gallons]

Fuel	1992	1993	1994	1995	1996	1997	1998	1999	2000
Alternative	230	293	281	277	296	313	325	341	368
Oxygenates	2,106	3,123	3,146	3,879	3,706	4,247	4,156	4,311	4,388
Total Motor Fuel	134,231	135,913	140,719	144,775	148,180	151,598	156,839	159,171	163,149

Source: U.S. DOE/EIA, 2000, Alternatives to Traditional Transportation Fuels 1998, table 10, http//www.eia.doe.gov/cneaf/solar.renewables/alt–trans–fuel98/table10.html.

The first scenario assumes that there was no alternative or replacement fuel use by highway vehicles, and that petroleum use (before oil market equilibration) would increase by exactly the amount of actual alternative and replacement fuel use. Assuming OPEC production would not have changed, new world oil prices, supplies and demands were computed for the higher level of oil demand. The resulting price increases are modest, because the 0.14 to 0.29 million barrels per day (mmbd) of U.S. alternative and replacement fuel use is small relative to the 67.5 to 77.9 mmbd of world petroleum consumption over the 1992–2000 period. In 1992, oil prices are estimated to be $0.08/barrel higher, rising to an $0.16/bbl increment by 1999. Implied total oil cost savings from alternative and replacement fuel use rise from $500 million in 1999 to $1.3 billion by 2000, with a cumulative total savings of 9.1 billion by 2000 (undiscounted 1998 dollars).

The impacts of increasing alternative and replacement fuel use to 10% of motor fuel use by 2010 are estimated in a similar way. The AEO 2000 forecast includes increasing levels of alternative and replacement fuel use, but the projected levels are far lower than 10% of total motor fuel use. Rather than create an alternative world and U.S. oil market projection, it is assumed that the AEO 2000 projection contains no alternative or replacement fuel use. U.S. petroleum demand is then lowered by an amounts which increase gradually to 10% of motor fuel demand in 2010. Motor fuel demand is assumed to increase at the rate of 1.5% per year from 163.15 billion gallons in 2000 to 189.34 billion gallons in 2010. Thus, alternative and replacement fuel use is assumed to increase from its estimated 2000 level of 4.39 billion gallons (0.29 mmbd) to 18.93 billion gallons (1.23 mmbd) in 2010. As a result of the consequent reduction in U.S. oil demand, world oil prices drop by approximately $0.68/bbl in 2010. The estimated cumulative savings from 2000 to 2010 is $35 billion.

Neither of these estimates takes into account the potential benefits of increased alternative fuel use in mitigating the impacts of possible future oil price shocks, or even reducing the probability of oil price shocks. The size of the potential benefits would depend not only on the size and frequency of future price shocks, but on how much the substitution of alternatives for petroleum increased the price elasticity of demand for oil. Methods for making such calculations have yet to be developed. As a result, the numbers presented above should be considered lower bounds, in the sense that they estimate only part of the full range of oil market benefits of greater use of alternative and replacement fuels. Likewise, no attempt is made here to estimate the costs of increasing use of substitutes for petroleum.

Mr. GRASSLEY. Mr. President, these draft reports produced by the U.S. Department of Energy's Office of Transportation Technologies will further expose inaccuracies of these contentions that renewable fuel standard will increase the cost of motor fuel.

As these reports conclude, the opposite is the truth. The first draft is entitled ''Oil Price Benefits of Increasing Replacement/Alternative Fuel Market Share.'' The second draft is entitled ''The Impacts of Alternative and Replacement Fuel Use on Oil Prices.'' Allow me to read excerpts for my colleagues.

The very first sentence of the first draft states:

> Increasing the market share of alternative and replacement transportation fuels would have significant energy security and oil market benefits for the United States.

This Department of Energy analysis states further:

> First, by reducing the quantity of petroleum consumed and imported, they reduce the vulnerability of the economy to oil price shocks.

The economic analysis continues with a second point. By increasing the price responsiveness of oil demand, they reduce the market power of the OPEC cartel, making it more difficult for OPEC to raise prices and to sustain these prices.

It is very obvious that should be our goal—that is our goal. Do we not want to reduce the market power of OPEC? Do we not want to make it more difficult for OPEC to raise prices? Is not the object of our energy legislation to reduce the quantity of petroleum consumed and imported and to reduce the vulnerability of the economy to oil price shocks, particularly those caused by OPEC withdrawal of oil from the market?

If the Senate approves these killer amendments that are offered by our New York and California colleagues, OPEC will win; America will lose.

When the Department of Energy did this analysis, the market share for alternative replacement fuels amounted to only 3.6 percent of our motor fuel supply. About 2.6 percent was MTBE, about .7 was ethanol, and the remaining .3 came from propane, compressed natural gas, electricity, and others. That mere 3.6 percent, according to the Department of Energy analysis, leveraged a reduction of the cost of oil by $1 per barrel.

The Department of Energy study concluded that by using a mere 3.6 percent, alternative fuels saved Americans $7 billion a year. The study also pointed out:

> If the United States were to achieve the 10 percent replacement fuel goal of the Energy Policy Act of 1992, oil prices could be reduced by approximately $3 per barrel . . . (with) savings of approximately $20 billion on an annual basis.

The second draft offered more conservative estimates of consumer savings but nevertheless stated that current alternative motor fuel use reduced total U.S. petroleum costs by $1.3 billion per year, and if we increased usage to 10 percent by 2010, we would save $6 billion a year. Whether it is $20 billion a year or $6 billion a year, it is saving an awful lot of money for the consumers of America.

I appreciate the support of President Bush, as well as the Republican and Democrat leaderships in the Senate, in supporting and promoting renewable fuels. In addition to bipartisan unity, however, Congress needs to exhibit leadership that puts regional differences aside, for the sake of all Americans.

I will never understand why some people are more worried about the farmers and ethanol producers of the American Middle West than they are about oil and MTBE produced from the Middle East. I will never understand why people use MTBE-industry-generated misinformation about price spikes that, if taken to its logical conclusion, would argue that MTBE should not be banned, that drinking water contamination is no big deal in California or New York. It is very baffling to me.

I firmly believe the renewable fuel standard benefits all Americans, particularly including consumers in California. But even if California and New York do not get special treatment under this bill, would not my colleagues rather do something to benefit America's Midwest instead of doing things that continue to benefit the world's Middle East?

The opponents of ethanol suggest it costs too much or that it should be taxed at a higher level. That is their complaint. They think a gallon of gasohol should be taxed at around 18 cents a gallon instead of 13 cents a gallon. They want to raise taxes on the consumer who uses ethanol. For some reason, however, they choose to ignore the costs of the status quo: Our ever-increasing vulnerability on imported oil. They choose to ignore the real cost of imported oil.

Ten years ago, during debate on the Energy Policy Act of 1992, then-Energy Committee Chairman Senator Johnston of Louisiana reported that the United States was subsidizing imported oil to the tune of $200 per barrel.

Former Navy Secretary Lehman estimated the defense cost of protecting Middle East supply lines at around $40 billion a year, and we all know what the Persian Gulf war was about. It has been pointed out by numerous energy experts, including the ranking Republican of the Senate Energy Committee, that the Persian Gulf war was about oil.

So I hope my colleagues from California and New York will ponder on this truth: Not one of our sons or daughters who have proudly donned the military uniforms of the United States has ever lost his or her life or limb. None of our children has ever shed their blood to protect ethanol supply lines and the production of ethanol.

What value might my colleagues place on that, that there has been no loss of life in this country and that there has been loss of life elsewhere protecting our oil lines? I will be in shock if we cannot all agree that reducing the risks to our sons and daughters, the risk of them losing life and limb trying to protect Middle East oil supply lines, is worth far more than the few cents a gallon that was mentioned, albeit incorrectly, as the increased cost of using renewable fuels.

My New York and California colleagues used the term ''mandate'' much during the debate. None of us likes mandates. I, for one, did not like mandating sending our sons and daughters to defend Middle East oil supply lines.

I heard one talk about market principles. What market principles are involved when supply must be protected by military escort to the tune of what Secretary Lehman said, $40 billion a year?

We also hear complaints about the highway trust fund, that it does not collect enough revenue because gasohol is not taxed highly enough. One has to wonder why my colleagues are not equally upset by the fact that billions of dollars from the highway trust fund are diverted away from highway construction and instead used for mass transit subsidies of California and New York. Before we increase taxes on motorists, I suggest it makes more sense to first put a stop to this transfer of wealth from highway users to subsidize cities' mass transit users. At the same time, I wonder if our colleagues have ever considered that mass transit subsidies are justified for the same reason as charging lower taxes on gasohol.

Are we not in both cases trying to reduce our dependence upon foreign oil imports? Why are subsidies to encourage mass transit ridership in New York and California OK, but subsidies to encourage all Americans to use gasohol somehow not okay?

Ten years have passed since we took up and enacted the Energy Policy Act of 1992. Given the fact that our dependence upon foreign imports has increased substantially, I think we can agree that the Energy Policy Act was a dismal failure. Part of the reason we failed was that we let regional bickering get in the way of pulling together a comprehensive energy plan that is good for every American.

We do not dare fail again, as we did in 1992, and that is why I urge my colleagues to defeat these anti-renewable-fuel-standard amendments that are before us.

Mr. FEINGOLD. Mr. President, I rise today to oppose the amendment offered by the Senator from New York, Mr. SCHUMER, to strike the ethanol mandate from the fuels title and to address comments that have been made in opposition to the fuels title contained in the Senate energy bill currently before us. I want to share my perspective on the fuels title as a Midwestern Senator who has had a cautious record on extending Federal subsidies for ethanol production. But I also come to the floor as a Senator who represents a State that is part of the only market for reformulated gasoline—or RFG—that sells entirely ethanol blends, the Chicago-Milwaukee market, and as a Senator who supports the Clean Air Act. We need to make certain that there are adequate supplies of ethanol so that when State bans on MTBE go into effect the short supplies of ethanol for Chicago and Milwaukee aren't stretched even further. It is appropriate that we ramp up that production over time, as the fuels title would do.

Despite the speculation by opponents of this title about policy reasons for using ethanol in reformulated gasoline, we use solely ethanol blended RFG in Wisconsin because of consumer preference due to public health concerns. Unlike other jurisdictions that continue today to use reformulated gas containing the additive methyl tertiary butyl ether, or MTBE, the citizens of the six non-attainment counties in Southeastern Wisconsin switched within the first month of the RFG program to ethanol blends.

This consumer demand was overwhelming. The EPA Regional Office in Chicago and my office received thousands of calls from individuals in Southeastern Wisconsin during the first week of February 1995, when the reformulated gasoline program was first implemented nationwide. Phone calls to my offices were coming in at rates of dozens per hour, and several hundred constituents contacted me to share their experiences. Most callers said that reformulated gasoline containing MTBE was making them ill.

The rest of the country now shares Wisconsin's concerns about MTBE's effect on health and the environment, and several States have acted to ban MTBE. These State bans on MTBE are having and will continue to have serious consequences for fuel markets, especially if the oxygenate requirements remain in place which they will unless this title passes. As ethanol is the second most used oxygenate, it is likely that it would be used to replace MTBE. But, quite simply, as even the proponents of this amendment acknowledge, there is not currently enough U.S. ethanol production capacity to meet the potential demand to replace the 3.8 billion gallons of MTBE used annually in reformulated fuel. The mandate in the energy bill seeks to create and guarantee a nationwide supply of ethanol to meet this new demand.

The fuel provisions in the energy bill require a uniform phase-down of the use of MTBE as an additive to produce reformulated gas, remove the oxygen content requirement for reformulated gas, and put in place a nationwide renewable fuels standard—or RFS—that will phase-in gradually over a number of years. These provisions provide for a more orderly and cost-effective solution to the MTBE issue than State-by-State action. Because individual States are banning or are considering banning the use of MTBE, without the action in this title, the existing Federal oxygenate requirement for RFG will increase the cost of complying with these bans and lead to an inefficient pattern of fuel-type by State.

In his floor statements, my colleague from New York, Senator SCHUMER, read at length the cost increases that ethanol RFG use would have on several States. My constituents are well aware of the 5-cent estimate of cost increase due to the use of reformulated fuel containing ethanol cited by the Senator from New York and have already paid for that increase and much more. And what has caused that price increase is, quite simply, limited supply.

Before the start of the second phase of the reformulated gas program in 2000, when the reformulated fuels were required to be cleaner, estimates of the increased cost to produce the blend stock for ethanol-blended RFG ranged from 2 to 4 cents per gallon, to as much as 5 to 8 cents per gallon. In summer 2000, RFG prices in Chicago and Milwaukee were considerably higher than RFG prices in other areas, ranging from 11 to 26 cents higher, in part due to the higher production cost of producing ethanol RFG just for this market. To decrease the potential for price spikes, on March 15, 2001, EPA changed its enforcement guidelines to allow for the blending of cleaner burning reformulated gasoline containing ethanol during the summer months. Nevertheless, we are continuing to see gas prices again increase in Wisconsin as the time for having summer reformulated fuels at the pump grows closer. We in Wisconsin see States that are banning MTBE as reaching for our small and limited supply of ethanol RFG. Congress must act to make certain that our supplies increase.

Despite all indications that the energy bill fuels title will produce sufficient ethanol supplies to meet the needs of a State's banning MTBE and will not increase prices, the bill includes additional safeguards. Prior to 2004, the Department of Energy is to conduct a study to determine whether the bill is likely to significantly harm consumers in 2004. If the Department determines this to be the case, then the Environmental Protection Agency must reduce the volume of the renewable fuels mandate for 2004. Also, upon petition of a State or by EPA's own determination, and in consultation with DOE and USDA, EPA may waive the renewable fuels standard, in whole or in part, if it determines the standard would severely harm the economy or environment of a State, a region, or the United States, or if there is an inadequate domestic supply or distribution capacity to meet the requirement.

In addition to the ethanol mandate, there are other provisions in the fuels title that would improve fungibility of RFG nationwide, by standardizing volatile organic compound—or VOC—reduction requirements. In practice, when combined with the energy bill's renewable fuels mandate, this would enable the part of Wisconsin that uses Federal RFG to draw on supplies of Federal RFG from other areas, such as St. Louis and Detroit, if necessary. The ability to rely on other sources of RFG is especially important when sudden supply shortages arise due to unexpected events, such as refinery fires or pipeline breakdowns, which we in Wisconsin have also experienced. The fuels language in the energy bill would help address this problem by bringing other areas that use Federal RFG in line with Wisconsin's blend by standardizing VOC reduction requirements nationwide.

With State bans on the books and a continuation of the Federal RFG oxygen requirement, we face a serious ethanol shortfall. Consumers want and deserve affordable gasoline and clean air. We cannot let this bill go by and not do everything we can to achieve this goal. I urge my colleagues, even those who have concerns about ethanol, to think seriously about how we meet our obligations under the Clean Air Act without these provisions and to rethink efforts to strip this language from the bill.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from Nevada.

Mr. REID. Madam President, I ask unanimous consent that the time until 6 p.m. today be divided with respect to Schumer amendment No. 3030 and that the time be divided as follows: Ten minutes each under the control of Senators SCHUMER and FEINSTEIN; 20 minutes under the control of Senator WELLSTONE; and 10 minutes under the control of Senator MURKOWSKI; that at 6 p.m. today, without further intervening action or debate, the Senate proceed to vote in relation to the amendment, with no intervening amendment in order prior to the vote.

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

Mr. MURKOWSKI. Madam President, I thank my good friend from Iowa for reminding Members we are talking about considerable expense to the taxpayer, providing a domestic source of energy that would ordinarily come from the technological advancements of looking for oil either offshore or on land. We already had a debate on ANWR; I will not go back into that.

However, I call my colleagues' attention to a couple of realities. I am sympathetic to the concerns raised by the Senators from California and New York. I don't like mandates of any kind. I find it ironic that the same Senators who voted for a renewable portfolio standard argue against a renewable fuel standard. This forces some $88 billion in higher costs to consumers and forces consumers in California and New York to pay 3 cents per kilowatt for electricity they are not going to use.

Again, I ask why they voted for the renewable portfolio standards. No new energy supply was created, no national security benefit. So although we do not like mandates, the renewable portfolio standards have increased our energy supply. As the Senator from Iowa said, it certainly enhances our national security.

If we are not going to have the courage to develop our domestic oil and gas reserves in an environmentally sound manner, the only option we have to extend our supply is to reduce dependence on imported oil in provisions such as ethanol. Again, mandates I find unacceptable, but they are a part of the price. We simply don't have to pay for our failure to develop domestic resources.

Consequently, I remain in opposition to the amendment of the Senators from New York and California. Different regions of the country have different points of view on energy, and alternative fuels are recognized in this body, but most Members thought any deal between the oil industry and the American farmers was doomed at one time. I think this proposal proves them wrong. I am basically opposed to gutting the amendment before the Senate.

One of the things I am particularly opposed to, after a discussion of gasoline prices, was the issue of whose figures are right. The Energy Information Agency supports using those figures, addressing some of the amendments that are before the Senate. The point is, where did the report come from? We asked for it. I asked the Energy Information Agency to study different provisions of the bill because the Senate committees were denied the chance to mark up the bill in committee, as we have discussed previously.

The Senate leadership and I have had strong and opposing words about the energy bill consideration. As for ethanol, on the other hand, I think we have collectively tried to do what is right for the country, as part of a comprehensive bill. What has driven all parties to this agreement is the price of gasoline.

We want fair prices for consumers. If States ban MTBE and don't use ethanol, the price of gasoline is certainly going do go up. That is not what the ethanol part of this bill does.

Senator DASCHLE and I wrote a letter asking the EIA for clarification on what their report said about the impact of ethanol in the MTBE provisions of the bill. I ask unanimous consent the letter dated April 12 from the Department of Energy be printed in the RECORD.

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

DEPARTMENT OF ENERGY,
Washington, DC, April 12, 2002.

Hon. FRANK H. MURKOWSKI,
Ranking Minority Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR MURKOWSKI: Enclosed is an analysis responding to your and Senator Daschle's April 10, 2002, request to analyze the provisions of Senate Bill 517 (The Energy Policy Act of 2002) requiring a four-year phase down of the use of methyl tertiary butyl ether (MTBE) and a ten-year ramp-up in the amount of renewable fuels included in gasoline. Per your request, we have provided results of: 1) a 14-State ban on the use of MTBE based on those States that have already banned the use of MTBE, 2) a Northeast State ban on MTBE in 2004 along with the 14-state ban which is the Reference Case of this study, 3) the provisions of S. 517 requiring an MTBE ban with State waivers including the provisions of the above two cases, and 4) no MTBE ban, but including the renewable fuel requirement. We implemented the State waiver provision in S. 517 according to your instructions of assuming the continual use of MTBE in gasoline at 13 percent for the remaining States. This results in an effective MTBE reduction of 87 percent. We did not implement the banking and trading provisions of the Bill because of the complex modeling required and your need for immediate results. We have found from our other analyses that banking results in meeting the required targets at a later date than without banking, and that trading lowers the cost of the provision because it allows for the least cost entities to meet the requirements first. Thus, the results below should be treated as an upper bound on the price impacts.

The results indicate:

That reformulated gasoline (RFG) prices are projected to increase in 2006 by about 4 cents per gallon because of a 14 State ban on MTBE, by an additional 2 cents per gallon if the remaining Northwest States ban MTBE (for a total of 6 cents per gallon), and by an additional 2 cents per gallon if S. 517 is passed and the assumed States exercise the waiver option (for a total of 8 cents per gallon);

The comparable numbers for average prices of all gasoline in 2006 are an increase of: about 2 cents per gallon for the 14-State Ban, an additional 0.5 cents per gallon when the remaining Northeast States ban MTBE (total of 2.5 to 3 cents per gallon), an additional 0.5 cents per gallon when the State waiver provisions of S. 517 are assumed (3 to 3.5 cents per gallon).

Assuming a Renewable Fuel Standard (FTS) without an MTBE ban has much less impact on prices. An RFS increases RFG prices by less than 1 cent per gallon and increases the average prices for all gasoline by less than 0.5 cent per gallon. This is the same finding that was in our original analysis.

If you have further questions, please contact me.

Sincerely,

MARY J. HUTZLER,
Acting Administrator,
Energy Information Administration.

Mr. MURKOWSKI. I refer to the last paragraph on the first page of that letter.

The results indicate:

That reformulated gasoline (RFG) prices are projected to increase in 2006 by about 4 cents per gallon because of a 14 State ban on MTBE, by an additional 2 cents per gallon if the remaining Northeast States bang MTBE (for a total of 6 cents per gallon), and by an additional 2 cents per gallon if S. 517 is passed and the assumed States exercise a waiver option (for total of 8 cents per gallon);

Assuming a Renewable Fuel Standard (RFS) without an MTBE ban has much less impact on prices.

That is a reasonable explanation relative to the alleged costs associated with ethanol that is really associated with the MTBE provisions.

Further, it is fair to say the farmers previously supported our opening of ANWR as part of the comprehensive bill. I thank them for that support, because the bottom line is reducing our dependence.

I make one point, however, since I have had a long history and some association with charts. As we recall in the ANWR debate, we had quite a discussion about footprints. Let me show one chart, the footprint associated with ethanol. The point is, there is no free ride on footprints. This happens to be a chart which shows the comparison. If you had 2,000 acres of grain corn in an ethanol farm, you would produce the energy equivalent to 25 barrels a day. If you had 2,000 acres of ANWR production, you would be producing a million barrels of oil a day.

As we look at the expansion of ethanol and its contribution to our national security in relieving us of the dependence on imported sources, it would take 80 million acres of farmland, or all of New Mexico and Connecticut, to produce as much energy as 2,000 acres of ANWR.

So, there is a comparison, whether we talk of popcorn or oil. Obviously, there is a footprint.

With that profound observation, I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Senator from Alaska.

Let me start not with a disclaimer but just to be clear. My State of Minnesota is a leader in ethanol production. We have 14 ethanol plants, of which 12 are owned and operated by farmer co-ops. Last year, the total production from Minnesota ethanol was 200 million gallons, which was 95 percent of our State's ethanol needs.

After having said that, because this is so important to Minnesota, so important to farm country, so important to what we call greater Minnesota, I make some other arguments that go beyond Minnesota.

Expanded ethanol production promises to relieve us from some of our dependence on foreign energy supplies. With the current cost of home heating oil and gasoline going up, every American knows the value of achieving more energy independence. Ethanol is important to achieving energy independence.

Some of my colleagues say: Of course you are for ethanol, Paul, given you represent Minnesota. But I can make a lot of good public interest arguments for ethanol.

Second, expanded ethanol production provides a clean fuel which can be relatively pollution-free; that is certainly not the case with oil. As United States negotiators hammer out agreements—I hope—over global climate change, we are being constantly reminded of the long-term environmental costs of fossil fuel use.

We have, A, energy independence; and, B, a compelling environmental case. Also, because ethanol is oxygen-rich when added to gasoline, it burns cleaner, reducing the amount of harmful tailpipe emissions in the air. Fewer toxins, carcinogens enter your lungs. So better health is a third compelling public interest argument for ethanol. Finally, ethanol means rural development, bringing employment to a lot of the parts of our country where people are hurting the most. A recent study by Northwestern University concluded that nationwide, ethanol production boosts employment by 195,000 jobs, it improves America's balance of trade by $2 billion, and it adds $450 million to State tax receipts.

There are a lot of compelling arguments that can be made. In Minnesota, it creates jobs for Minnesotans. In fact, Minnesota has the Nation's most significant cooperative—I am really proud of that—ethanol industry owned by more than 7,000 Minnesota farm families.

I want to go back to the argument about energy independence, and I will make it in a different context. The whole war on terrorism has renewed interest, as it should, in reducing the energy imports and diversifying our energy sector. Oil imports today account for 56 percent of our oil consumption. The EIA estimates that our import dependency could grow to 70 percent by 2020—70 percent of our oil production imports by 2020. We spend more than $300 million a day for imported oil, with an annual cost of more than $100 billion imported oil.

Alarmingly, Iraq represents the fastest growing source of United States oil imports, exporting 700,000 barrels per day to the United States. We send Saddam Hussein more than $12 million per day—$4.3 billion annually—for his oil.

I do not know that I need to make any more of this case. I just don't see the point of subsidizing terrorism through the importation of oil from rogue nations. American agriculture, rural America, has part of the answer for energy independence. As to environmental benefits, I will make the point again. Ethanol continues to be an important tool for improving air quality in our Nation's cities. Ethanol reduces all the criteria of pollutants—carbon monoxide, hydrocarbons, NOx, toxics, and particulates—all of them. The benefits are going to continue. Studies show that ethanol reduces emissions of carbon monoxide and hydrocarbons by 20 percent and particulates in the air by 40 percent.

So there is a compelling case to make for Minnesota, a compelling case to make for our co-ops and family farmers. Value-added agriculture? You had better believe it. But a compelling case to make for the country: More energy independence, less dependence on Middle Eastern oil; in addition, much better for the environment; and some compelling public health reasons.

The final point is that this renewable fuel standard will cause price spikes. I don't get this. The EIA, which is the independent research arm of the Department of Energy, released a report last week on what would be the price impact of this RFS standard which is before us in the Senate. Their analysis says that requiring renewables would add about one-half cent per gallon to the price of gasoline—a half a cent. This is not renewable fuels organizations. I am talking about the EIA, U.S. Energy Information Administration, the independent research arm of the Department of Energy. That is what we get.

Finally, I have heard arguments that farmers do not benefit from this renewable fuel standard. That is simply wrong. If we use corn, soybeans, and other commodities grown on farms as the feedstock for renewable fuels such as ethanol and biodiesel, then farmers benefit, rural America benefits. The farmers who benefit in Minnesota are not monopolies. I am not talking about ADM. I am talking about farmer co-ops.

Companies owned by farmers are creating most of the new production in ethanol. I think Senator DAYTON made this point earlier. Today, 61 ethanol facilities produce more than 2.3 billion gallons of ethanol, and 26 percent of these facilities are farmer owned. Additionally, there are 14 ethanol facilities under construction, of which 11 are farmer owned.

So the only thing I can tell you is that this requirement of 5 billion gallons ethanol biodiesel, as you look to the future—I will say it right now. I do not want to offend anybody. I wish ADM did not have the control. Thank goodness it is actually less and less a percentage of locally owned market control, but they still have way too much. I am not in favor of oligopoly or monopoly. But there are a lot of farmer co-ops that are formed. This is very good for farm country, very good for family farmers, very good for economic development in our rural communities.

Frankly, it is win-win-win. It is a win for energy independence, it is a win for public health, it is a win for the environment, it is a win for family farmers, and it is a win for Minnesota, the last point being the most important.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from California.

Mrs. FEINSTEIN. Madam President, I would like to sum up on behalf of the sponsors of this amendment. The amendment deletes this particular renewable fuel mandate from the bill.

This is a tripling of ethanol. It may be fine in the Midwest where all the facilities that produce ethanol are located, but for those of us on the west coast and those of us on the east coast, it is truly egregious.

One of the reasons it is egregious is that we don't have the infrastructure to really accept it. Another reason is that, for many of us, our gasoline is already reformulated and already meets clean air standards and therefore we are forced to use a specific product, ethanol, way in excess of what is necessary.

Sure, we want to be relieved from the MTBE oxygenate requirement. But to replace it with a renewable fuels requirement that mandates a tripling of this additive on States that do not need it imposes some very substantial detriments.

I would like to read from the letter from the Governor of California. I know there are a lot of people who are experts on California in this body, but I think the Governor's position also bears scrutiny. He points out that:

> While the [California Energy Commission's] Fall 2001 survey indicated that there may be adequate ethanol production capacity in the Midwest to meet California demand, both the [California Energy Commission] and its independent experts concluded that the infrastructure necessary to deliver ethanol and distribute it within California is not in place. Specifically, they pointed out the following problems:
>
> Lack of unit-train off-loading facilities for ethanol in California; lack of storage tanks at distribution terminals; inadequate rail and marine capacity for handling ethanol; inadequate facilities to transport ethanol from marine terminals to inland distribution points.
>
> Furthermore, the two-year delay in the decision by the federal government on California's request for a waiver of the oxygenate requirement has delayed completion of the infrastructure changes necessary to make a successful transition to ethanol within our current timeframe.

It also goes on to point out that:

> California's Air Resources Board reformulated fuel standards—so critical to California's air quality—make it nearly impossible to replace gasoline with supplies from other states. In 2004 and 2005, a more stringent federal reformulated fuel standard begins to phase in, which will make it easier to import cleaner burning gasoline from other states and maintain California's strict air quality standards.

The point is, we can do a lot of this without tripling of ethanol.

The letter goes on to point out California has:

> Limited refining capacity—California refineries have been running at operating rates approaching 95 percent of their nameplate capacity which, in effect, means California's refineries are operating at maximum levels now. Without new capacity, California cannot replace the volume lost by replacing MTBE with ethanol. In 2005, the Longhorn pipeline and other pipeline projects will be completed, freeing up California fuel that is now being shipped to Arizona.

The point of this is that ethanol absorbs more gasoline. It needs more gasoline. MTBE needs less gasoline.

California's refining plants are at capacity. Therefore, it cannot refine enough gasoline to take the amount of ethanol that we are required to take under this bill. That is the rub. It is a kind of strict mandated formula all across the Nation.

I can't believe people think this is good public policy. I can't believe people think the lack of flexibility in this policy is good for all States. Every State is in a different position with respect to ethanol. Some can absorb it. Some can't. Some need it. Some don't.

It seems to me that the key is the clean air standards in the Clean Air Act. If you can meet those clean air standards in other ways, good policy would allow a State to have that capacity.

This, in essence, is a selfish public policy. It is selfish just for a specific area of the United States that produces it, that has the plants there, that has the producers there, and, therefore, has adequate supply and adequate infrastructure. That is why we will move to delete this from the bill. Obviously, we don't expect to win it, but we expect to make the case. And I believe we have.

After this amendment is considered, it will be my intent—if I need to wait, I will wait—to call up the 90-day waiver amendment, which Senator DASCHLE has offered, and also the amendment which would produce a 1-year delay in the mandate which Senator DASCHLE has said he is agreeable to, and see what happens with these two amendments.

By and large, as somebody who has been in public life for 30 years now, as a lifelong Californian, to be part of a body that places my State in this kind of jeopardy in terms of loss of revenues from the highway trust fund, which is probably the most vital Federal appropriations we have, from a State that produces much more in taxes than we get back in services from the Federal Government, and to create a loss in the highway trust fund, and in all probability a gas tax hike—the Senator from Iowa particularly criticized us using a study to show the gas tax.

The reason we don't agree with the Energy Information Office study is because the Energy Information Office study does not account for problems with infrastructure or market concentration as criteria in evaluating any impact that this would have on increased fuel prices.

I see the Senator from New York on the floor. I know he wishes to sum up as well.

Mr. SCHUMER. Madam President, I have 10 minutes. But we will finish ahead of time. Because not everyone used their time, I ask unanimous consent that the order be modified so that in addition to my 10 minutes, the Senator from South Dakota could have 5 minutes to speak.

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

Mr. JOHNSON. Madam President, I thank my colleague from New York for his gracious willingness to allow me to make a few remarks about this pending amendment.

I rise in opposition to the amendment on the renewable fuels standard.

The Senate energy bill contains a landmark renewable fuels standard that is an essential part of a sound national energy policy. The bill provides for an orderly phase-down of MTBE use, removal of the oxygen content requirement for reformulated gasoline—RFG—and the establishment of a nationwide renewable fuels standard—RFS—that will be phased in over the next decade. The standard has strong bipartisan support and is the result of long and comprehensive negotiations between farm groups, the American Petroleum Institute, and coastal and Midwestern States. It is the first time that a substantive agreement has been reached on an issue that will reduce our dependency on foreign oil and greatly improve the Nation's energy security.

I have spoken in the past about the benefits of renewable fuels. These home-grown fuels will improve our energy security and provide a direct benefit for the agricultural economy of South Dakota and other rural States. The new standard is largely based on legislation that I introduced with Senator CHUCK HAGEL. The leadership of Senators DASCHLE and BINGAMAN resulted in the consensus legislation on this issue.

The consensus package would ensure future growth for ethanol and biodiesel through the creation of a new, renewable fuels content standard in all motor fuel produced and used in the United States. Today, ethanol and biodiesel comprise less than 1 percent of all transportation fuel in the United States, 1.8 billion gallons is currently produced in the United States. The consensus package would require that 5 billions gallons of transportation fuel be comprised of renewable fuel by 2012—nearly a tripling of the current ethanol production.

I don't need to convince anyone in South Dakota and other rural States of the benefits of ethanol to the environment and the economies of rural communities. We have many plants in South Dakota and more are being planned. These farmer-owned ethanol plants in South Dakota, and in neighboring States, demonstrate the hard work and commitment being expended to serve a growing market for clean domestic fuels.

The new standard does not require that a single gallon of renewable fuel must be used in any particular State or region. Moreover, the language includes credit trading provisions that give refiners flexibility to meet the standard's requirements. In no way is this intended to penalize California, New York, or any other region in the country.

Much has been made on the Senate floor and in the press recently about the possibility of additional costs that could be incurred when the new standard is enacted into law. I understand the concerns raised by the Senators from California and New York. This is a major change in the makeup of our transportation fuel. However, the goal of the agreement that has been reached on this title is to phase in the renewable fuels standard in a manner that is fair to every region of the country.

The ban on MTBE and the elimination the oxygenate standard are two changes that Californians, New Yorkers, and others have sought for years. The goal of this agreement is not to raise gas prices, but to diversify our energy infrastructure and increase the number of fuel options. This helps to increase our energy security, increase competition and reduce consumer costs of gasoline.

Moreover, little has been made about the source of information that has been cited to alarm Members or about its potential impacts about the consequences of failing to enact these provisions. Senators from New York and California have distributed charts and spoken on the floor, claiming that the renewable fuels standard will increase consumer costs by 4 to 10 cents per gallon. The source of this data is the MTBE consulting firm, Hart/IRI, which claims it based its cost estimates on data from the Energy Information Administration.

EIA has completed two analyses of the fuels provisions of S. 517. The first, completed in February on the original provisions of the bill, found that the MTBE ban could increase gasoline costs by 4 to 10 cents per gallon, while the renewable fuels standard could increase gasoline costs by 1 cent per gallon in reformulated gasoline—RFG—areas and a half cent per gallon overall. Hart/IRI lumped these costs together and attributed them solely to the use of renewable fuels, making that provision appear to be roughly 10 times more expensive than it is.

The second EIA analysis on the new compromise agreement found that, because 14 States already have banned MTBE, the incremental costs of the MTBE ban in S. 517 would be only 2 to 4 cents per gallon, while the cost of the renewable fuels provision would be less than a penny per gallon in RFG areas and less than a half cent per gallon overall. The analysis did not consider the positive economic effects of the banking and trading provisions of the bill, which the American Petroleum Institute has said will reduce the costs to less than one-third of a cent per gallon.

The difference between the Hart/IRI analysis and the EIA analysis is not surprising. Hart/IRI is an MTBE consultant whose business depends on the continued existence of the MTBE industry. Since the fuels compromise bans MTBE, Hart/IRI has every incentive to exaggerate and misrepresent the cost impacts of the legislation. It is unfortunate and ironic that some Members have misinterpreted the data from this analysis.

The renewable fuels standard in S. 517 addresses the difficulties that States have encountered in meeting Federal gasoline requirements, while promoting the use of home-grown fuels that will reduce our Nation's dependency on foreign oil. Any further attempts to reduce or eliminate the standard should be opposed so that we can move forward and improve our Nation's energy security.

The inclusion of the renewable fuels standard will result in cleaner air, more jobs across America, a better trade balance for the United States, less reliance on the politics of very troubled parts of the country, fewer gallons of oil imported from Saddam Hussein, and it will result in better prices for our farmers and overall be a major plus as our Nation moves in the direction of renewable fuels.

The PRESIDING OFFICER. Who yields time?

Mr. SCHUMER. Madam President, I believe I have 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. SCHUMER. Madam President, I will get into the substance of this amendment once again, but before I do, I alert my colleagues to one particular provision that is in the bill that is particularly odious, and that is a pretty strong accomplishment given how many pretty odious provisions there are in this bill. But this is the ethanol gas tax safe harbor provision. The chart I have shows what it says. It is adding insult to injury to make a deal with the petroleum industry, which has always opposed ethanol. They have given them a safe harbor so you cannot sue if an additive causes pollution of the ground water. So here we are.

And I beg to disagree with my colleague from South Dakota, and others. This bill abolishes MTBE. The Schumer amendment does not change that. So anyone who likes MTBE is not going to be for either the bill or my amendment.

The reason so many States have abolished MTBE—and this bill does—is that it pollutes, and all of a sudden we are giving the petroleum industry a total safe harbor exemption from being sued, even if they knowingly pollute. Can you imagine that?

Senator BOXER has an amendment to get rid of that, but we do not even know if she will be able to offer it. Therefore, if you do not like this safe harbor, the one sure way of making sure that this safe harbor is eliminated is to vote for the Schumer amendment, which not only gets rid of the ethanol mandate but also this particularly odious safe harbor.

I am utterly amazed that so many on my side, who believe in the right to sue, are going to vote to keep this particular safe harbor, all to subsidize ethanol.

I guess, in a certain sense, this is a regional fight.

I have looked at who has spoken out for the ethanol mandate and not a single person comes outside of this Middle West region. So if you think the decision is totally on the merits, just look at this chart: 98 percent of the ethanol comes from this particular region. No wonder the people from the Middle West want it. Although, I will tell you this. When Iowa and Nebraska legislators were given a chance to mandate MTBE in their States, they rejected it. They rejected it because they knew their drivers would pay more. Even in States with so many corn farmers, the legislators said no. The editorial opinion throughout the States was against it.

That is another thing that makes me incredulous about this amendment, that it is not done in the Middle West by its own States. Yet they are imposing it on everybody else.

In New York, I think we are the largest producer of cabbage in the country. Maybe we should mandate that the rest of the country buy our cabbage. California is probably the biggest producer of almonds in the country. Maybe we should say that you have to buy almonds in the other 49 States. By the way, if you do not want almonds, you like cashews, you are still going to have to buy an almond credit; so you will have to pay for it. Or maybe you like peaches, where South Carolina and Georgia and Pennsylvania lead. Maybe we should require the whole country to buy peaches.

This is utterly amazing, I say to my colleagues. One region of the country requires everybody else to buy ethanol.

Both my colleagues and friends from South Dakota and Minnesota argue this will not cost that much. If it will not cost that much, how come you have to mandate it? If this is so good, why do you require us to do it? If the market is going to work, and these other additives are more expensive, let it.

Well, we think something is rotten in Denmark.

I do not think the people here who are for this mandate believe it is going to be so inexpensive or they would not have done a mandate. Let me tell you, ethanol is going to be a more valued commodity the minute we ban MTBEs nationwide because it is the only other additive that is produced domestically.

We believe that in New York we can reformulate our gasoline without an oxygenate. We are not given the chance to do that, even though it would be cleaner, it would be environmentally preferred, and it would be cheaper. There would still be plenty of other places that it would be in their market interest to buy ethanol.

Also, my colleague from Oklahoma, Senator NICKLES, talked about the highway trust fund. That is decreased. It is very hard, my colleagues, to think of an amendment that has bad provision after bad provision after bad provision.

I guess another thing I call this amendment is the ''piling on provision.'' Not only do you mandate ethanol, not only do you provide a safe harbor for polluters, not only do you deplete the highway trust fund, but, to boot, you raise our gas prices 4, 5, 6, 7, 8 cents a gallon.

My colleagues say this study is an MTBE-based study. We are abolishing

MTBE. Anybody who wants MTBE is not going to be for this amendment.

My colleagues from Minnesota and South Dakota have brought up a straw horse. Yes, if it were MTBE or ethanol, I would guess ethanol would win. But there are other alternatives, and those other alternatives, in a classic way that a free market economy should not work but a planned, socialistic, fascistic economy would work are being mandated. We do not do that for virtually anything else.

Do we set clean air standards? Yes. My good friend from South Dakota said there is a mandate on CAFE standards. That is correct. But we do not say the only way you can meet the CAFE standards is that you have to use aluminum or you have to use plastic. We set a standard and then let the market meet that standard.

That is all we are asking: Set a clean air standard. Require us all to meet it. Get rid of polluting materials such as MTBE, but do not say the only road to salvation is ethanol, although I know many of my colleagues truly believe that.

We always get on the floor and debate about working families. To me, this amendment, simply put, is: Whose side are you on? Are you on the side of working families who struggle and raise their gas tax 5, 6, 7, 8, 9, 10 cents—that is during good times—and then during spikes raise their gas prices 25, 30, 40 cents? Are you on the side of working families or are you on the side of Archer Daniels Midland? Because this is not going to even help the farmers. It will trickle down a little bit, but first Archer Daniels Midland, and the other companies, take their vig. They decide how much the farmer gets.

I have listened and often supported my colleagues who say the middle man gets all the money out of agriculture. But all of a sudden, the one middle man who has 41 percent of the market, Archer Daniels Midland, is being exalted. I would feel a lot better if every nickel here had to go to the farmer. It still would not be a good bill, but at least it would take away one of the objections.

So this is a ''whose side are you on'' amendment? Are you on the side of working families or are you going to make the guy or the gal who makes $25,000 a year and has to drive their car 25 miles to work subsidize Archer Daniels Midland to a large extent, and farmers who make more money than them, by and large, to the rest of the extent? That is not fair. That is not cricket.

This amendment is really appalling. As I have said before, if any proposal should have a skull and crossbones on it—beware, voter; beware, Senator—it is this one.

I mentioned this before, but I want to mention it again because I have a feeling 2, 3 years from now my colleagues will be coming back to me and saying: You were right; I should have listened.

I have seen every so often terrible amendments pass. They usually pass quietly. This one is passing pretty quietly. The number of us getting up to oppose it is small, and it wouldn't have even been debated had I not offered the amendment. In 1982, I think it was, Garn-St Germain seemed sort of innocuous. There were about 25 Members of the House who said: You had better watch out. This is allowing banks to use free money. It passed. Five years later, everyone was trying to explain why the heck they voted for it.

In the early 1990s, catastrophic illness: There was a mandate to help the few who needed help, but it was imposed on everybody else—not too dissimilar to this, except the people who were helped with catastrophic illness were a lot more worthy than the people being helped here—mainly agribusiness. It passed. It seemed all right. It was not debated. Then we all rued the day.

Madam President, I ask unanimous consent, since I don't think there is anyone else who wishes to speak, for 2 additional minutes to conclude.

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

Mrs. FEINSTEIN. Will the Senator yield?

The PRESIDING OFFICER. Will the Senator from New York yield?

Mr. SCHUMER. I ask unanimous consent that I be given 5 additional minutes and then I will yield.

The PRESIDING OFFICER. Is there objection?

Mr. SCHUMER. If the Senator from New Mexico wishes to speak, I won't ask for that.

Mr. BINGAMAN. Reserving the right to object, as I understand it, the Senator from California continues to retain 2 minutes of her own time and, in addition, the Senator from New York has asked for an additional 2 minutes of time. I ask my colleagues if that will be sufficient for them to conclude their remarks.

Mr. SCHUMER. That would be great. That is fine with the Senator from New York.

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

Mr. SCHUMER. Would the Senator from California like me to use my 2 minutes first?

Mrs. FEINSTEIN. I would like to put some documents in the RECORD that just came over from the House.

Mr. SCHUMER. Please.

Mrs. FEINSTEIN. These documents were just disclosed in a House hearing this afternoon. They were disclosed to the FTC. What they show are competitors in the ethanol industry sharing bidding information to rig bids. One memo describes bringing European ethanol and laundering it through the Caribbean to avoid the tariff. These are hearings that are now going on in the House. I cannot, in the 5 minutes I have had these documents, have an opportunity to really confirm to anybody what they do or what they don't do. There are a number of suggestive comments in them, such as one company saying to the other: We are prepared to stop bidding should the price drop below $1.38 a gallon.

Interestingly enough, this all concerns ethanol going into your State, Washington, Madam President, a few years ago.

Whether this shows price manipulation or not, I don't know. But because these documents have just been made public this afternoon in the House, I ask unanimous consent to print them in the RECORD.

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

WESTERN ETHANOL COMPANY LLC,
September 29, 2000.

To: HERBERT WOLF
From: DOUG VIND
Re: Sales Opportunity—Requires Immediate Attention/Response

Further to our telephone conversation of today, I am writing to inform you of the details of a sales opportunity for LAICA's anhydrous alcohol. In order to participate in this opportunity, I must hear back from you by no later than close of business on Tuesday October 2.

British Petroleum (''BP'') has scheduled an on-line reverse auction to be conducted via the internet next week. They are requesting pre-qualified ethanol suppliers to bid on supplying product into the Ohio and Washington State markets beginning November 2000 and running through January 2001. We are interested in bidding to supply a portion of the volume requested into Washington State. This Lot is broken into partial supply percentages of 10,25,50 and 100%. The total volume requested for Washington State is 9,600,000 gallons over the 3 month period.

I am specifically recommending that LAICA consider committing to this reverse auction the 38,000 HL it has scheduled to receive from Europe. I believe this feedstock will arrive Costa Rica sometime during the month of November and be available for delivery into the US in December.

The delivery of denatured ethanol of BP into Washington State can only be made by either Railcar or Barge. Direct deliveries of undenatured ethanol cannot be accepted. For this reason, WEC is prepared to source railcars of domestic ethanol in order to supplement the volume coming from LAICA. This would allow us to bid on up to 25% of the requested volume, for a total of 2,400,000 gallons. We are also in discussion with Man with regard to their participation for a small piece of this business.

I expect that the winning bid for the 25% volume will be somewhere in the upper $1.30's to low $1.40's. We are prepared to stop bidding should the price drop below $1.38 per gallon. As I mentioned above, the delivery mode into Washington State allows for only barge or railcar. In view of this, it will be necessary to first discharge and denature the imported ethanol. We then will schedule a barge to transport the denatured ethanol to BP's terminal in Seattle. I am in the process of verifying the barging, terminaling and denaturing costs but I have been given a range of $.03—$0.4 per gallon. I should have this information on Monday.

I believe that the BP ''Request for Quotation'' presents a very good sales opportunity for LAICA's anhydrous alcohol. However, in order to participate in the on-line auction, WEC needs to receive LAICA's commitment to supply the 38,000 HL. We must obtain LAICA's commitment to this program by no later than close of business next Tuesday.

For your guidance, I have enclosed a listing of the Lots to be included in the Reverse Auction. As you will notice, we will be required to participate in a ''Qualifying Round'' of bidding on Wednesday September 3. This will enable us to move on to the competitive bidding event scheduled for Friday September 5.

I greatly appreciate your presenting this proposal to your Board of Directors on Monday. I will be in my office and be prepared to answer any further questions regarding this matter.

Best regards,

DOUGLAS VIND.

REGENT INTERNATIONAL,
Brea, CA, November 20, 1995.

To: Dick Bok, ADM Ingredients
From: Dick Vind

Finally received a phone call from Tuite at 3:30 PM PDT USA. Jeff stated he had at last been successful in talking to the Kriete's and they have agreed to split the tender with us.

Jeff's only reservation was that Kriete insisted that Man be the purchaser of the tender. In order to avoid a ''show down'' or bidding contest, I agreed to this request.

Therefore, Man will be bidding on the 75,000 hl out of France at a price of 5.02. I would suggest that ADM underbid at a price of 4.85. This will serve as a safety net in the event Man's bid is rejected for any reason. As a reminder, bids are due in this Thursday, November 23.

With regards to the sharing, I made it explicitly clear to Jeff that we (ADM & Western) would be purchasing the product FOB Port-la-Nouvelle from Man on a totally transparent basis. We would then assume responsibility for our own shipping which presumably we would be able to coordinate jointly in the future.

I would suggest you contact Tuite tomorrow at your convenience to confirm and request a signed agreement between both parties in order to assure compliance with this accord.

Best regards,

DICK.

June 17, 1996.

To: Dick Bok
From: Dick Vind
Subject: EU Wine Alcohol Tender—Due date: June 24

This will confirm that Archer Daniels Midland will be bidding 5.9 ecu on Spanish tender (194–96) and somewhat less, (say 5.75) on Italian tender (195–96).

I assume you have discussed with Man, and that all is OK. Please call if this is not the case.

Hope all is well.

Best regards,

DICK.

REGENT INTERNATIONAL,
March 18, 1992.

To: Ed Harjehausen, Archer Daniels Midland Co.
From: Doug Vind

Per our previous discussion, I have prepared a price and cost comparison demonstrating the sensitivity of the proposed bid price options and the resulting ''out turned'' finished ethanol costs FOB Acajulta, El Salvador.

FOB COST CALCULATION

Bid Price (ECUs) Per Hectoliter	4.2	4.3	4.4
Bid Price ($ per gallon)	.2336	.2392	.2448
Fobbing	.1700	.1700	.1700
Ocean Freight (in)	.1350	.1350	.1350
Inland Truck Freight (in)	.0147	.0147	.0147
Raw Material Cost	.5533	.5589	.5645
Processing Costs	.3800	.3825	.3850
FOB Value Plant	.9333	.9414	.9495
Inland Truck Freight (out)	.0147	.0147	.0147
FOB Cost Port (Acajulta)	.9480	.9561	.9642

VALUE ADDED CALCULATION

Direct Costs	.3450	.3475	.3500
Divided by FOB Val. Plant	.9333	.9414	.9495
Value Added (percent)	36.9	36.9	36.9

Ed, as the previous example illustrates, a .1 ECU per hectoliter change in our bid price results in approximately a $.008 per gallon change in total FOB out turned value. For purposes of this analysis, I have targeted a value added percentage of 36.9%. This percentage should be adjusted to reflect our mutual comfort level in order not to jeopardize duty free qualifications. As one further observation, please note the difference between ''processing costs'' and ''direct costs''. This difference results from customs guidelines limiting only certain types of costs as ''direct'' and applicable to the Value Added calculation.

Recommendation: In reviewing the three lots being offered by the EC for this tender, I suggest we bid ''competitively'' on lot number 77 and submit lower priced bids on lots 75 and 76 as ''back up'' bids in the event other potential purchasers fail in their attempt to secure these two lots.

I recommend our bid price on lot number 77 should be 4.15 ECUs per hectoliter. I recommend our bid price on lots number 75 and 76 should be 4.10 ECUs per hectoliter each.

As you are aware, our bids must be formally submitted by Friday, March 20, 1992. It will, therefore, be necessary to communicate this pricing information to your office in London by our close of business on Thursday.

Please give me a call with your recommendation after you have reviewed this memo.

Regards.

ED & F MAN ALCOHOLS
London, England, May 13, 1993.

To: Dick Vind,
From: Jeffrey Tuite
Regent International, Brea
El Salvador

On Tuesday evening I talked to the Kriets and here is what was said.

They were still keen to make a bid on these tenders. I cautioned once more against this. I said that Man would be able to offer a compromise wherein Man offered 1 million gallons when their plant was up and running. This would come from these tenders and they would buy from Man and the alcohol would be supplied equally by Vind and Hogan. Ideally it would be swap deal with them returning the ethanol next time around. In return it was expected that they did not interfere with these tenders.

The Kriete response was that they were still very nervous about being outmaneuvered and that we would block any alcohol for them from the next round of June/July tenders. I said that this was not the case and that if they could persuade the Commission to call five lots next time we would support them.

In summary Kriete is prepared to stay away from these tenders if Man can guarantee that they will get 1.4 million gallons from these tenders on a straight sale basis. I said that 1 million gallons was more realistic. Tony Hogan is prepared to make a straight sale and feels that this commits him less to Krite and there is the point that Kriet may not get any alcohol to return for one reason or another. My recommendation to you is to make available a straight 500,000 gallons sale (preferrably 750,000!) without strings and I feel this will mend things.

Can I please have your agreement to do this. I already have Tony's agreement. Naturally Man will secure ADMs P Bond risk for this sale.

I talked to George Fitch in Brussels today who is suffering the usual frustration one gets in Brussels. He had little to add to your fax of yesterday.

I will call you latter when I get home.

Best Regards.

REGENT INTERNATIONAL,
Brea, CA, April 6, 1994.

To: Dick Bok
From: Richard Vind
Subject: CBI Tenders

MEMORANDUM

I appreciate your quick response. Given the politics in the EU, I agree we should prepare ''bids as usual''.

As mentioned in our conversation this AM, I will have price information for you on or before April 14.

My travel plans now are to go to Europe the week of April 18. Meetings in Brussels, probably 19/20.

I will not know my exact travel plans until probably April 12 so I will communicate my itinerary along with pricing information prior to April 14 to your office.

Best regards,

DICK.

WESTERN PETROLEUM IMPORTERS INC.,
July 13, 1998.

To: Jeff Tuite
From: Doug Vind

I had hoped to hear from you today regarding the situation that has developed in the Northwest. You can imagine my surprise and disappointment today to learn that the ''deal'' I have been discussing with you for the past several weeks involving the shipment out of Costa Rica and El Salvador had already been concluded last week. You can also imagine my embarrassment with my customer when I called them today to firm up the transaction only to learn that they had been offered product which I had been previously told was not available.

My current frustration with the recent sequence of events is matched only by the humiliation of relying on what was indicated as timely and accurate information, representing that information as fact, and having my credibility at risk when the ''facts'' changed.

As you are aware, I have been actively working with your office in seeking a vessel to accommodate the delivery of both parcels. Because the sale was to involve a direct contract between Man and the customer, I revealed the targeted value for the product to you for your concurrence, which you provided. Late last week I attempted to reach you several times to discuss this matter but did not receive the benefit of a return call. As it turns out, you had already concluded this transaction but elected not to inform me. A simple call would have saved me from looking foolish today.

At this point I need to reconfirm your commitment to providing the 900,000 gallons out of El Salvador in a joint shipment sometime on or after mid August. As I have already actively represented this volume as available for delivery, I would prefer to avoid a repeat of today's confusion in the event you have made other unilateral arrangements.

Additionally, I wish to discuss this entire situation with you in greater detail in order to try and understand exactly how things got off track. Please call me at your soonest opportunity.

NOVEMBER 13, 1995.

To: George Fitch
From: Dick Vind
Subject: DGVI ''Doublespeak''

Please review the enclosed articles from a recent [October 20, 1995] issue of Agra Europe Magazine.

This article seems to completely refute Alex's comments made to us at our meeting of last week. Although the lead paragraph is not easily readable because the fax machine ''ate'' it, what it says is that The Commission is increasing the amount of compulsory distillation for this coming year [1995–96] versus last year [1994–95] by 137,000 HL. Although small, it nonetheless is a definite increase, and shows that the total amount of alcohol to be distilled via compulsory distillation for the three primary countries of Italy, Spain and France for this coming year will be a total of 5,400,000 HL.

It must further noted that this year's total wine production for these three countries is estimated to be 131,900,000 HL versus last year's 130,927,000 HL. With compulsory distillation being 4% of the total, if you take the total EU wine production of 155,400,000, this means that a total of 6,216,000 HL will be available for EUstocks this coming year.

It is apparent that there will continue to be significant overproduction in the EU for years to come, in that the Commission's efforts to reduce production have failed.

On a related matter, I have reviewed your memo to the CBI group. Your suggestion on opening up future tenders to avoid the GATT limits are troubling unless we couple it with some type of end-use restriction. This is because, as you can also see from the second article, notwithstanding what Tuite said at the meeting, it appears that the Brazilians will be back into the market in a big way next year. Unless we place some type of restriction on end-use, they'll easily outbid us for the entire EU output.

What happened to our end-use language we discussed with Olsen last year?

I would appreciate your investigating these matters as soon as possible and giving me the benefit of your thoughts. Also, I want to report the results of my meeting with the SENPA folks.

DICK.

REGENT INTERNATIONAL,
Brea, CA, November 20, 1995.

To: Dick Bok, ADM Ingredients
From: Dick Vind

Finally received a phone call from Tuite at 3:30 PM PDT USA. Jeff stated he had at least been successful in talking to the Kriete's and they have agreed to split the tender with us.

Jeff's only reservation was that Kriete insisted that Man be the purchaser of the tender. In order to avoid; ''show down'' or bidding contest, I agreed to this request.

Therefore, Man will be bidding on the 75,000 hl out of France at a price of 5.02. I would suggest that ADM underbid at a price of 4.85. This will serve as a safety net in the event Man's bid is rejected for any reason. As a reminder, bids are due in this Thursday, November 23.

With regards to the sharing, I made it explicitly clear to Jeff that we (ADM & Western) would be purchasing the product FOB Port-la-Nouvelle from Man on a totally transparent basis. We would then assume responsibility for our own shipping which presumably we would be able to coordinate jointly in the future.

I would suggest you contact Tuite tomorrow at your convenience to confirm and request a signed agreement between both parties in order to assure compliance with this accord.

Best regards,

DICK.

Mrs. FEINSTEIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I thank the Senator from California for that useful addition and also for her great work on this issue.

I was concluding by saying: There will be a stampede to deny knowledge of this amendment, to deny knowledge of the consequences of this amendment, in a few short years. I wish we wouldn't have to do that. I urge my colleagues, if you want to subsidize ethanol—it is now subsidized already 53 cents a gallon; there is a tariff barrier so it can't be imported; no good in our society has gotten as much—do that. If you want to raise the subsidy a little more, do that, because then it is the General Treasury that is paying. But for God's sake, don't make the drivers of Massachusetts pay 9 cents more a gallon and the drivers of Rhode Island and Delaware pay 9 cents more a gallon and the drivers of Pennsylvania pay 6 cents more a gallon.

That is the most regressive tax we are going to pass this year. Somehow, because it is coated in ethanol, that tax seems to be OK. The very same people who would get up on the floor and oppose taxes on any basis or on a regressive basis are allowing this one to go through.

We will rue the day we support an ethanol mandate. I urge my colleagues to think twice before they vote and support our amendment which still allows the banning of MTBE, still keeps the clean air standard, gets rid of oxygenate, but lets each State decide the best route to clean the air and clean the water.

Mandates are no good for American families. Mandates are no good for our economy. This is an ethanol gas tax. I urge it to be defeated.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, how much time do I have?

The PRESIDING OFFICER. Three and a half minutes.

Mr. BINGAMAN. Whose time is that?

The PRESIDING OFFICER. The time is not allocated.

Mr. BINGAMAN. That is not time either for or in opposition?

The PRESIDING OFFICER. That is correct.

The Senator from Nevada.

Mr. REID. Madam President, that time was allocated to Senator WELLSTONE. He didn't use all that time. Senator WELLSTONE is not here. Unless the Senators from New York and California want to use the time, I will yield back his time and we will start the vote now.

I yield back the time of the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Madam President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion to table amendment No. 3030. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

The PRESIDING OFFICER (Mr. DAYTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 30, as follows:

[Rollcall Vote No. 78 Leg.]

YEAS—69

Baucus	DeWine	Lieberman
Bayh	Dodd	Lincoln
Bennett	Domenici	Lott
Biden	Dorgan	Lugar
Bingaman	Durbin	McConnell
Bond	Edwards	Mikulski
Breaux	Feingold	Miller
Brownback	Fitzgerald	Murkowski
Bunning	Frist	Murray
Burns	Graham	Nelson (FL)
Byrd	Grassley	Nelson (NE)
Campbell	Gregg	Reid
Cantwell	Hagel	Roberts
Carnahan	Harkin	Rockefeller
Carper	Hatch	Sarbanes
Chafee	Hutchinson	Smith (NH)
Cochran	Inhofe	Snowe
Collins	Jeffords	Stabenow
Conrad	Johnson	Stevens
Craig	Kerry	Thurmond
Crapo	Kohl	Torricelli
Daschle	Landrieu	Voinovich
Dayton	Levin	Wellstone

NAYS—30

Akaka	Gramm	Santorum
Allard	Hollings	Schumer
Allen	Hutchison	Sessions
Boxer	Inouye	Shelby
Cleland	Kennedy	Smith (OR)
Clinton	Kyl	Specter
Corzine	Leahy	Thomas
Ensign	McCain	Thompson
Enzi	Nickles	Warner
Feinstein	Reed	Wyden

NOT VOTING—1

Helms

The motion was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. CHAFEE. Mr. President, on rollcall vote No. 78 I voted ''nay.'' It was my intention to vote ''yea.'' I ask unanimous consent to change my vote. This will not affect the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

EXECUTIVE SESSION

NOMINATION OF JEFFREY R. HOWARD OF NEW HAMPSHIRE, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIRST CIRCUIT

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to executive session to consider the following nomination: Calendar No. 773; that the Senate vote immediately on confirmation of the nomination; that upon the disposition of the nomination, the motion to reconsider be laid upon