

energy independence throughout our Nation with a renewable fuels standard. Thanks to the establishment of six new farmer-owned co-ops in South Dakota since 1999, ethanol has enjoyed significant growth in our State. We are currently ranked fifth in U.S. production.

Remarkably, one out of every three rows of corn in South Dakota is market bound for ethanol production already. More than 1 million bushels of corn are sold annually to produce nearly 400 million gallons of ethanol in my home State of South Dakota.

Around 8,000 farm families are involved in value-added ethanol production at one of the eight facilities currently in operation, and two more facilities are under construction. Ethanol helps these South Dakota families increase their income in three ways.

First, ethanol plants help spur competition for corn and boost corn prices locally. Corn prices include between 8 and 15 cents per bushel when an ethanol plant is based in a local market. Second, membership in a value-added ethanol co-op yields profits, or dividends, from ethanol production which supplements farm income. And third, it creates farm jobs in rural communities throughout our State.

However, most farmers involved with ethanol indicate to me that a significant share of their investment thus far in ethanol facilities has been, for all practical matters, a faith-based investment. They simply have faith that ethanol is right for their investment and right for America, but there has been no adoption of ethanol or biodiesel as a part of a national energy strategy.

Adoption of our bipartisan RFS amendment today will give them and other producers more than just faith when considering whether to invest in an ethanol plant. Our amendment will give producers a rock solid commitment that the United States will, in fact, increase the demand and the market for ethanol and biodiesel.

The U.S. energy situation, as we all know, is uncertain, considering how volatility in gas and diesel prices, the growing tension in the world from terrorist attacks, and how the war in Iraq affected us. The more we depend on oil from the Middle East, the more our stability is inevitably tied to governments and factions in that region. The use of domestic clean renewable energy sources can increase our energy security and increase our Nation's security. It must be a critical part of our Nation's energy strategy.

Simply put, adoption of the RFS amendment will help lower our dependence on foreign oil, strengthen energy security, increase farm income, provide for clean air, and create jobs throughout the United States, particularly in the rural communities.

An important, but underemphasized fuel is biodiesel, which is chiefly produced from excess soybean oil. In South Dakota, soybean production has increased by a dramatic 200 percent in

the last 10 years. Recently, biodiesel has emerged as a promising new energy source. RFS would greatly increase the prospects for biodiesel production benefiting soybean farmers from South Dakota and throughout the Nation.

I want to ensure the RECORD reflects the influence and the extraordinary leadership that my colleague, Senator DASCHLE, has lent to the support of ethanol and a renewable fuels standard.

For over 20 years, Senator DASCHLE has been fighting for ethanol. When we began this debate, there were times in South Dakota that the discussion was about gasohol. There are times when Senator DASCHLE has been jokingly referred to in our State as "Senator Gasohol." His leadership was instrumental in creating incentives which led to a surge in the demand for ethanol in the early to mid-1990s.

In the year 2000, it was Senator DASCHLE again who first introduced the concept of a RFS as the next building block for expansion of the renewable fuel industry. Today, I am pleased and I am proud to join Senator DASCHLE and many other Senators on a bipartisan basis to demonstrate strong support for an RFS.

In the 20 years or more Congress and States have provided incentives to produce ethanol, we have learned a lot of lessons. Tax incentives at the State and Federal level provided lifeblood for the ethanol industry and helped make the production of ethanol a competitive alternative to other fuels. The most aggressive growth spurt for ethanol occurred as a result of the Clean Air Act.

Ethanol production doubled in the 1990s, with 10-percent annual growth. In 1990, the year we passed the Clean Air Act, the United States produced about 800 million gallons of ethanol. By 2000, we produced 1.6 billion gallons of ethanol. Coincidentally, the most recent explosion in ethanol development took place as a result of the anticipation that Congress would establish an RFS. The renewable fuels standard was first introduced in 2000 and production since that time has dramatically expanded from 1.6 billion gallons to approximately 3 billion gallons this year. Once again, ethanol production has doubled. At this stage, enactment of an RFS is the single most important market driver for ethanol that we can contemplate.

What lessons have we learned? If 8,000 farm families in South Dakota invested their hard-earned money in the development of eight ethanol plants without an RFS, we could just imagine how many more producers South Dakota and across the entire Nation will be willing to invest in renewable ethanol or biodiesel production if we adopt an RFS.

Ethanol plants are being constructed in record time with larger capacity and more farmer investor financing than ever before. The most impressive expansion in capacity has been right in my home State of South Dakota. Pas-

sage of an RFS will ensure greater capacity expansion, a dramatic stimulus to the economic growth of rural America. It will create jobs and it will increase our energy security.

I strongly encourage my colleagues to adopt the bipartisan RFS amendment being offered by Senator DASCHLE and Senator FRIST today. I urge support for this amendment.

I yield the floor.

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

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

JUDICIAL NOMINATIONS

Mr. DASCHLE. Mr. President, I came to the floor earlier today to respond to the distinguished majority leader. I just had the opportunity to hear the President's remarks with regard to judicial nominations. I felt it was important to come back to the floor for just a couple of minutes to respond and to make sure the American people are clear and the record is clear with regard to judicial nominations and what I would view to be the rest of the story.

The rest of the story can be found on three charts. We have heard a lot this morning about the intransigence of the Senate, about how much the Senate is in crisis because we haven't confirmed nominations; about how the system is broken. In South Dakota, we like to say, if it ain't broke, don't fix it.

I have three charts to prove that it "ain't broke." One-hundred and twenty-four is the first chart. One-hundred and twenty-four judicial nominees have been confirmed in this administration. That is a record. There is no administration we can find that has had a better record than this. One-hundred and twenty-four circuit and district court nominees have been confirmed since this President has taken office. Here is the number that have not: That is right—2; 124 to 2.

We have done a little math. Here is the third chart. That is a 98.4-percent approval rate. I don't know of a business, or a sports figure, or a politician who gets 98.4 percent of what they ask. But that is the record. That is exactly the success level of this administration when it comes to judicial nominees—98.4 percent.

"If it ain't broke, don't fix it."

I find it particularly interesting that over the course of the 8 years of the Clinton administration, we had 50 judicial nominations that didn't get a hearing.

You talk about a filibuster. What about the fact that a person can't even get a hearing in the committee? Ten judicial nominees got a hearing but no vote. Sixty-five nominees never got to

the Senate floor over the course of 8 years during the 1990s. I will tell you that there was no 98.4-percent approval rate then. But that is the record.

To reiterate—just to be sure everybody understands, I will do this one more time—one-hundred and twenty-four nominees were confirmed in 2½ years, circuit and district court nominees approved in the Senate—a record. Two nominees have not: Mr. Estrada because he has refused to fill out his job application, and Ms. Owen in large measure because she puts her own views ahead of the law. Those are the two.

One-hundred and twenty-four to two, that comes out to 98.4 percent of all Bush nominees confirmed to date.

I will end where I began. "If it ain't broke, don't fix it".

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, we are dealing with the energy bill on the floor of the Senate, and specifically we are considering an amendment that has been offered dealing with renewable fuels, or ethanol. I want to talk a bit about that subject, but I think it is important that perhaps I first comment on the discussion just preceding when Senator DASCHLE came to the floor to talk about judgeships.

Let me reiterate for a moment something that I think is very important for people to understand. I know the majority leader and the President today have talked about some collapse in the system and some great concern about the fact that judges aren't getting confirmed.

Let's understand something. We have the lowest number of vacancies on the Federal bench we have in a decade and a half. Why is that the case? It is because we have been approving nominations sent to this Senate by the President day after day—124 of them. I voted for all but 3 of them—124.

The reason the majority leader and others say the system has collapsed is that there are two nominees who haven't gotten through the Senate. They are upset about that. Well, there is nothing in the U.S. Constitution that says there is a requirement for the Senate to be a rubberstamp for any President, Republican or Democrat. The fact is that most of President Bush's nominees are going to be approved by the Senate—and have been, 98.4 percent. If the President sends us a nominee who aspires to be put on the Federal circuit court for an entire lifetime and that nominee says, You have no right to the information you requested from me, then I say you have no right to expect that the Senate will

approve you for a lifetime appointment on the Federal bench.

Mr. Estrada has been told that he is to provide information to the Senate in order that we may evaluate it.

He has been unwilling to do that. So has the Bush administration. In fact, until Mr. Estrada provides that information to the Senate, he is not going to get a final vote on his nomination. If he decides never to provide that information to the Senate, in my judgment, he is not going to be a circuit court judge; the Senate is not going to approve his nomination.

Let's understand the facts. There is a lot of hyperbole used here in politics. The facts are these: This Senate has done a masterful job, in my judgment, of moving through the nominations sent to us by President Bush. Day after day and time after time, we have done that. In my State, we had two judgeships open. Both Federal judgeships were filled by Republicans nominated by President Bush—one in Fargo and one in Bismarck. I am a Democrat, but I was proud to support both of the nominees. I came to the floor and spoke in support of both Republican nominees, who I think will make outstanding Federal judges. They are now both on the bench.

That is the way the system should work, and it is the way it has worked in almost every circumstance—except for two. Because of those two, we have the majority leader and the President of the United States say the sky is falling. Nonsense, what sheer, utter nonsense. The sky is not falling.

What has happened is, we have a couple of nominees with whom this Senate has decided it does not want to proceed—until we get certain information from Mr. Estrada; and the other nomination, Judge Owen, was turned down last year by the Senate Judiciary Committee.

I wish to make this point: I know these days, with the 24/7 news cycle, there are some who believe if you say something and it gets repeated often enough—over and over and over again—that it will become fact. Well, it is not a fact for the President, and it is not a fact for the majority leader, to be able to say to the American people that we are somehow obstructing the nominations of Federal judges. That is simply not the case. It is demonstrably not the case, and there isn't any way they can make that case because the record is clear and the facts are in: 124 Federal judges have been confirmed, 125 if you consider the other judge which is a special judgeship for a 15-year appointment, but out of those 124, 125, all but 2 have moved here in the Senate.

I do not know of another time when the minority has been as cooperative and done as much to make sure we have filled these judgeships. In fact, when President Bush took office, and going back a year and a half ago, when my colleague, Senator LEAHY, inherited the chairmanship of the Judiciary

Committee, we had a substantial number of openings on the Federal bench that had not been resolved and that had not been filled, and we have now moved very quickly, with the President, to resolve that, and we have the lowest number of vacancies on the Federal bench for the past decade and a half.

Let me be clear that there is not a circumstance here where there has been obstruction in the Senate. We have approved most of this President's nominees, and likely will continue to do so; and I will likely continue to vote for nearly all of them. But there will be circumstances in which a specific nominee will not get through this Senate for a number of reasons, and when that is the case, it is not appropriate and not factual for someone to get on a microphone and tell us: The sky is falling. That is total, sheer nonsense.

THE ENERGY POLICY ACT OF 2003—Continued

Mr. DORGAN. Well, Mr. President, now that I have that off my chest, let me go on to talk about energy.

I am proud to be on the floor of the Senate in support of the ethanol amendment, which is bipartisan. It is interesting to me that this legislation dealing with ethanol is an amendment that comes to the floor by virtue of Senator FRIST, Senator DASCHLE, myself, Senator TALENT, Senator JOHNSON, and so many others, with strong bipartisan support. It is saying: At least one part of this country's energy strategy that makes sense is to take the starch and sugars from a kernel of corn, ferment that, and get a drop of alcohol and extend America's energy supply. You do a couple things with that: You expand the opportunity for markets for agricultural products and help family farmers, and you actually grow your energy supply in America's farm fields by producing corn that can be then used to produce ethanol. What a remarkable thing to do. It makes good sense to extend our energy supply by producing ethanol.

Now, let me talk a bit about what sets us up to do this. First, we have to have a serious discussion about America's energy future. I have spoken of this before, but I wish to do it very briefly again.

We need to use fossil fuels in this country's future. There is no question about that: coal, oil, natural gas. We use them, and we will use them. But if our energy strategy is only that—if America's future energy strategy is only a dig and drill strategy—then it is a "yesterday forever" strategy. Every 25 years we can come to the floor of the Senate, we can have another debate about how much we are going to dig, how much we are going to drill, and probably satisfy our urge to speak. But we will not have satisfied this country's need for a different kind of energy strategy.

So an energy bill that makes sense for this country's future is one that