

stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:29 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Chair, in my capacity as a Senator from the State of Ohio, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ENERGY POLICY ACT OF 2003—
Continued

Mr. TALENT. Mr. President, I want to speak briefly on the renewable fuels standard that is the subject of the Frist-Daschle amendment, and specifically with regard to a report released today by the National Corn Growers which contains yet another round of good news regarding ethanol.

For decades, those of us who care about energy in the United States and care about energy independence, who care about jobs and the creation of jobs, who care about the future and how we are going to have enough energy for this economy to expand throughout the 21st century have looked for alternative sources of energy. The Energy bill we are debating is a great progrowth, projobs Energy bill across the board. It encourages the production of traditional forms of energy, and it should. It encourages the production of oil and natural gas and nuclear energy. I support all of that. I think most of us in this Senate do. But all of us are concerned about the fact that the traditional forms of energy tend to be nonrenewable. There is a point at which we are in danger of running out. We import a lot of oil from foreign countries. About 59 percent of what we use in the United States we import.

We have all wanted and have talked about for decades the possibility of renewable sources of energy, particularly that we can make here. I go around Missouri and I talk with our corn growers and other agricultural producers about what a great day it will be when we can grow our own fuel effectively and when we don't have to worry about running out and being dependent on other countries.

As the Frist-Daschle amendment indicates, that day, if it is not here, is fast approaching. We are close to being able to grow our own fuel. That fuel is ethanol. It is a great day when that means more jobs for America. It will mean a greater measure of energy independence for our country and a greater measure of energy security for our country. It will mean support for and new markets for our family farmers and our agricultural producers. It is a good thing.

I am glad Senator FRIST and Senator DASCHLE have offered this amendment. I am a strong supporter of it. In fact, I am a cosponsor of it. I am proud of the fact that ethanol will be the subject of one of the first genuine bipartisan efforts in this country, and I hope that amendment passes.

The Corn Growers issued a report today designed to rebut some of the concerns that people have expressed. It is kind of ironic that we are now approaching this day when we actually have access to renewable sources of energy and alternative fuels. And some are getting nervous about it. Their report issued today indicates what common sense already tells us.

First of all, blending ethanol with gasoline at a 10-percent level, which is what the renewable fuels standard calls for, will reduce the retail price of conventional gas by 5 percent or 6.6 cents per gallon based on national average 2002 prices. This translates into an annual savings to consumers of \$3.3 billion. The report says that. They have studied it for a long time. It really is a matter of common sense because when you increase the supply, the price goes down. The more ethanol we produce, the more we can rely on renewable sources we can grow and the greater the supply of energy.

The report also indicated that using corn and other grains to produce the 5 billion gallons of ethanol required by the renewable fuels standard will have an insignificant impact on consumer food prices.

In other words, the price of corn and other items is not going to go up because we have tremendous productive capacity in this country. As a matter of fact, we are not using the capacity we have. As a matter of fact, the price to consumers is going to go down because as our producers are able to grow corn and turn it into a value-added commodity, a valuable commodity, ethanol, the price of future farm bills is going to go down.

I was impressed very much when I was in Macon, MO, visiting our ethanol plant there. One of the producers who owns that plant pulled me aside and said: Senator TALENT, the real good thing about this is when the price of corn goes down, I make more money on the ethanol.

I thought to myself: Yes, that is one of the keys to ethanol. It will help smooth out some of the cycles of commodity prices, the ups and downs of commodity prices worldwide, which will mean that farm bills will become less challenging every 5 years. It will also mean more money for the transportation trust fund once we have adopted the tax changes that the Finance Committee has worked out and which will accompany or follow shortly after this Energy bill.

It is a good thing for America. It is a good thing for our producers. It is a good thing for the creation of jobs.

I am glad this amendment is being offered. I want to address briefly the

amendment of the Senator from California. I know it is an amendment offered in good faith. It is an amendment to exempt California from the renewable fuels standard. It is a little hard for me to understand because the standard is not a mandate for the States. It is a mandate for the refineries. They have to have 5 billion gallons of ethanol refined and into circulation by the year 2012. That should not be difficult.

The use of ethanol is growing all over the country, precisely because of the advantages it offers, which I have outlined. Exempting States doesn't make any sense. California is already using ethanol. By this summer, 60 to 70 percent of the gasoline sold in California will be an ethanol blend.

I suspect that maybe States such as California think: we don't produce ethanol here; we don't want to have to import energy from other States. If you do not import energy from other States, and if you do not import ethanol from other States, you are going to have to import something from someplace in order to run the automobiles. I would a whole heck of a lot rather have States in this country importing ethanol, which is good for the environment and jobs in the United States, from other States in the U.S. than the alternative, which is to import gasoline, which is not as good for the environment and which does not mean jobs for our country, from Venezuela or from the Arab States or from some other place in the world. They are taking one of the tremendous virtues of the renewable fuels standard and trying to turn it into a vice.

It will reduce our dependence on foreign countries.

There is really no danger to the United States being dependent on fuel that we produce in the United States. It is a good thing to be dependent on fuel we produce in Missouri or Minnesota or North Dakota or South Dakota or Illinois or any of the number of States that produce ethanol.

I understand the uneasiness. The use of ethanol is growing very fast. Its future is coming on us very fast. Sometimes change is difficult to deal with. I was in a Breaktime convenience store in Columbia, MO, where they are selling ethanol at the pump for the same price they have traditionally sold gasoline. I went to this place, stood out next to the pump, talked to the proprietors, and said: This is the future. It is a good future. It is a national future for the United States. This is a national energy policy. We have one Union, not just 50 different States. We have one national economy, and we ought to have one renewable fuels standard for everybody, and we ought to have confidence in it.

I think this 5-billion-gallon standard will be very easily attained. I think we will be above that. States all over the country and consumers all over the country are using ethanol to their benefit and to the benefit of the Nation as

a whole. This is a pro-jobs, pro-growth Energy bill, and the Frist-Daschle amendment is a very important pro-jobs, pro-growth, pro-energy security and independence part of it.

Let's adopt that amendment. We do not need these weakening amendments. Let's face the future with confidence. One of the reasons we can do that is because the Nation will increasingly rely on fuel that we produce in this country in the 50 States.

I thank the Senate for its attention, Mr. President, and I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. KYL. Mr. President, at this point I want to talk to the general subject of the two second-degree amendments offered by the Senator from California which will be pending for us to vote on later this afternoon. They both have to do with the requirement under the underlying amendment to impose an ethanol requirement for gasoline throughout the country and to not allow States to opt in or opt out of that mandated ethanol requirement.

One of the amendments by the Senator from California is to allow an opt-in, so that States that believe this will help them deal with their problems of ozone and the environment or other environmental pollution can opt into this program and take advantage of it; but for those States that believe it would be harmful to their environment, they would not have to opt in. The other amendment would require findings with respect to whether or not it would help the environment.

I want to comment about that because the State of Arizona is one of the States that would be adversely affected by a requirement to use ethanol. Partly, this is as a result of the fact that the climate in Arizona is very warm, shall we say, particularly in the summertime. Our summer runs essentially from April through October. During that period of time, ethanol does not work well in communities such as Yuma, AZ, and Tucson, AZ, because of the way it interacts with the surrounding hot air, and the product that is produced, the moisture from the tailpipe of the automobile, interacts with the air to in fact produce ozone, which is the very thing we are trying to prevent by the use of oxygenated fuel. As a result, Arizona has used an MTBE substitute oxygenate that doesn't create the same problem ethanol creates in the hot environs of the climates in Yuma or Tucson, AZ.

As you know, MTBE is associated with some environmental damage to aquifers, where MTBE has spilled into

them inadvertently and, as a result, MTBE is being phased out.

Arizona receives all of its gasoline from refineries in California. Therefore, decisions California makes pretty well impact on what Arizona has available to it for its vehicle use. This is why, naturally, the points of the Senator from California are exactly the points I make, because they apply to the refineries in her State and the same kinds of climatological requirement that my State of Arizona has with respect to environmental protection.

So let me refer to several points with respect to the ethanol mandate and begin with that point of environmental impact. Ethanol is an extremely volatile fuel. It breaks down very quickly. In fact, it is virtually impossible to transport by pipeline because of this. It has to be transported by truck. Obviously, it is not produced in the West, in States like Arizona. It would have to be trucked in from other places such as the Midwest. This adds to the cost of the fuel, but that is another matter. Ethanol has been used as an additive in gasoline sold in the Phoenix and Tucson areas. But according to the Arizona Department of Environmental Quality, the State agency of the State of Arizona that is responsible for environmental protection in the State of Arizona, this mandate would be very bad for communities, as I said, like Yuma and Tucson, probably causing those areas to violate the 8-hour ozone standard under the Clean Air Act. This would have dramatic effects in Arizona. Those communities would be out of compliance.

There are a whole host of economic negative effects from finding a violation of the ozone standard. How can it be that the use of an oxygenate such as this would create more ozone? Because of the unique climate in Arizona in the summertime where, instead of reducing the amount of ozone particulate, it increases it.

Given the fact that there is no evidence that the use of oxygenates like ethanol would help improve the quality of air in Arizona, it seems to me a finding from the Arizona Department of Environmental Quality that says Arizona communities would likely violate the 8-hour ozone standard by being forced to use ethanol is a very powerful argument for the Governor of the State of Arizona having the option of opting into this program.

Why would the other States force on Arizona a program which our own Department of Environmental Quality says is going to make the air worse, not better—in fact, so much worse it will be in violation of the Clean Air Act? It is not as if the committee and the proponents of the underlying amendment have not understood that the mandate should not apply to all States. In fact, two States are specifically exempted—Hawaii and Alaska—from this mandate.

Why, if it is appropriate to exempt two States, is it not appropriate to at

least afford other States the option of submitting themselves to this mandate or not, depending upon whether this mandate would make their air quality worse or better? It seems to me if we are really talking about environmental quality here, rather than a subsidy for the corn industry in the Midwest, then we would be looking at the environmental impact of a mandate of this sort. Since we have already decided that two States should not be required to comply with this mandate, we have already crossed the bridge of saying it is appropriate to exempt some States. Why not allow those States, with their departments of environmental quality having said they would be harmed, the ability to opt out, or the requirement that they opt in, in order for the program to be effective in the State? Why not allow that option for those States? What is so important about this mandate that every single State, except two—and I don't know why these two were exempted—is not at least given the opportunity to exempt itself from the provision?

It seems to me there has to be something else involved here. I suspect it has to do with the desire of the corn producers and the people who transform the corn into an ethanol kind of product to make a buck. But we already provide them a lot of bucks through the subsidy for ethanol that has already been voted on by the Congress, has already been in existence for many years, and which will increase in this bill. I could understand—I would not agree with it—a subsidy to try to produce more of something we think we want to produce. Even though I don't think that is a good idea, I could at least understand the theory that if we want more of something, we are going to have the Government provide a subsidy to produce more of it. I could also understand the alternative, which would be that this is such a good idea that we are going to force people to do it; we are going to mandate it because we in Washington know best, of course, and therefore irrespective of what the environmental quality people in your own State believe, by golly, we know better, so we are going to make them do it.

What is a little hard for me to understand is why we still need the subsidies if we are going to have this mandate. The purpose of the subsidies was to try to encourage this production, but we do not need the subsidies if people are going to be required to use ethanol. It is a mandate. We do not need the incentive or the encouragement anymore.

Clearly, this is about special interest money influence, and I will be that specific because the environmental benefits, especially to an area such as mine, have not been demonstrated. At least the point is made by an agency of my State that it would actually degrade the air quality of some parts of the State—in fact, pull them out of compliance with the Clean Air Act, and yet

the mandate would be imposed at the same time we continue to provide this subsidy. Something is drastically amiss here.

There is an old phrase, "Follow the money," so maybe that is what we should do here. Let's take a look at the money part of this issue.

Currently, refiners use approximately 1.7 billion gallons of ethanol annually, and the underlying provision would increase that to 5 billion gallons annually by the year 2012.

There is no question that gasoline prices would increase, based on data from the Energy Information Administration. It has been estimated that the increase in gas prices caused by this mandate could be between \$6.7 billion and \$8 billion a year. So that is the price we as a country, as consumers of this product, will be paying simply to enrich the people who produce the product.

Arizonans will, according to this estimate, be paying on average 7.6 cents more per gallon of gas. Is that fair, Mr. President?

I speak very plainly about the subsidies to the ethanol industry. According to the Congressional Research Service—this is an unbiased source—the ethanol and corn industries have received more than \$29 billion in subsidies since 1996 and could receive another \$26 billion more over the next 5 years.

CBO, another unbiased source, has a different estimate for a different time period. They have estimated, based on a review of S. 791, the basis of the underlying amendment we are debating, \$2.3 billion just between the years 2004 and 2008.

We also know there is an impact on the highway trust fund because every gallon of gas containing ethanol—10-percent blend—gets a 5.3-cent subsidy in the form of reduced gas taxes. This amounts to a 53-cent-per-gallon ethanol subsidy to the industry at the expense of the highway trust fund, and the Energy Information Administration has estimated that this will reduce the annual gasoline excise tax collections by an average of \$892 million between the years 2006 and 2020.

Again, my State is a donor State already. Arizonans send \$1 in taxes to the Federal Government and for highway transportation-related needs receives in return only 90.5 cents. So to the extent total revenues to the fund are reduced, the Arizona highway program will obviously be significantly impacted.

There are a lot of general points that I could discuss. There are disputes between authorities on the subject of whether or not it takes more to produce a gallon of ethanol than the gallon actually contains in terms of Btu content; in other words, do you actually have a net loss in net energy value. There are disputes about that. Some experts say about 29 percent more energy is used to produce a gallon of ethanol than the energy in a gallon

of ethanol. The National Corn Growers Association, not exactly an unbiased source, disagrees with that. I do not know where the truth lies. Clearly, it seems to me the science is at best in dispute.

In any event, we would all have to agree that taking into account all costs, not just the energy cost, that clearly it costs a great deal to produce a gallon of ethanol or they would not need the subsidy which Congress has generously provided for its production.

I have already talked about the environmental benefits being questionable. It is not just my own State environmental agency but also a National Research Council report found that oxygenates have little or no impact on ozone formation, and there are a lot of refineries that claim they can actually produce similar environmental gains without the use of oxygenates. In fact, that is what we are going to have to do in Arizona because we cannot use MTBE, and we would hope not to have to use the ethanol, as a result of which we would have to find a different blend and would be committed to doing that.

It seems to me the ethanol industry, which enjoys this 5.2-cent-per-gallon exemption on the ethanol blend, or gasohol, from the 18.4-cents-per-gallon Federal excise tax on motor fuels, with the resulting mandate that the Congress is going to impose for the increase in the number of gallons used, would no longer need to be supported by this subsidy, which, as I said, works out to be 52 to 53 cents per gallon for pure ethanol.

The General Accounting Office estimates the tax exemption has deprived the highway trust fund—a slightly different number than I gave before—of between \$7.5 billion and \$11 billion over the 22 years it has been in place. This is a very costly subsidy and would be a very costly mandate.

Because the underlying amendment is costly, is not necessary, is contradictory with the subsidies that are already provided, and because the amendment of the Senator from California would simply provide the opportunity for States that would be adversely affected by this mandate to deal with their pollution problems in some other way—remember, they still have to comply with the Clean Air Act; nobody is exempting anybody from the Clean Air Act; they simply have to find a different way to comply—it seems to me it would be appropriate for us to support the amendment of the Senator from California and allow States to tailor their blends to the unique situation in their particular States.

Everybody would still have to meet the Clean Air Act but we could each do so in a way that best suits our individual purposes. For that reason, I hope my colleagues will support the amendment of the Senator from California.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

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

(The remarks of Mr. McCAIN are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to speak on behalf of the ethanol amendment and to comment upon several of the remarks that were made by my colleagues.

One of the items that was mentioned by the junior Senator from Arizona was the issue of subsidy. I think it is important we clarify the fact that, yes, ethanol has been subsidized over the years, but the Federal ethanol program was established following the OPEC oil embargoes of the 1970s.

I am old enough to remember the long lines in 1973. At that stage of the game, we were only about 34 percent reliant on foreign oil. Of course, we all know today we are 58 percent reliant on foreign oil.

So when the ethanol subsidy came in place and the program was established, we had a dangerous dependence on imported oil. That was one of the reasons they did it. As an alternative to petroleum, ethanol directly displaces imported oil and reduces tailpipe emissions while helping to bolster the domestic economy. Yet today, as I just said, we import more petroleum than ever before with rising crude oil prices and increasing international instability.

Incentives for production and use of domestic ethanol are critical; that is, we can rely upon ethanol. We cannot rely upon imported oil.

I think it is really important for all of us to recognize the fact that we have subsidized the oil industry substantially since the early 1900s. Some may not believe this, but the oil industry started out in the State of Ohio. It was called Standard Oil. Today we continue to subsidize the oil industry. In fact, according to the General Accounting Office, in an October 2000 report, the oil industry has received over \$130 billion in tax incentives just in the past 30 years, dwarfing the roughly \$11 billion provided for renewable fuels.

Here is an interesting fact: During this time, the U.S. oil production has plummeted while annual U.S. ethanol production has grown by over 2 billion gallons. The point is, when we got into the issue of subsidizing ethanol, we were in very bad shape in terms of our reliance on foreign oil. Since that time, we have made substantial progress.

During the same period of time, if you want to pit one industry over the other, we have seen our dependence on foreign oil grow despite the subsidy we have provided to the oil industry.

There is also the suggestion that the ethanol mandate will largely benefit producers, not farmers. According to

the U.S. Department of Agriculture, ethanol production raises the price of corn by 30 to 50 percent nationwide. This is an average of 5 to 10 cents additional premium in the areas that supply ethanol plants. Both of these numbers apply to all corn, not just corn sold to ethanol plants. Given a billion bushel corn crop, it adds between \$3 and \$5 billion to farm income every year. There is no question, ethanol is good for our farmers. Additionally, farmers own nearly 40 percent of the ethanol industry, and that is growing. These farmer owners realize value-added benefits from their investments.

A chart was referenced by the Senator from California about the fact we are relying on Archer Daniels Midland for 46 percent of our ethanol. The fact is it is now down to 32 percent. The real growth in producing ethanol is from ethanol plants financed by the agricultural community in the United States.

Finally, every major farm organization supports the fuels agreement, including, but not limited to, the following: American Farm Bureau Federation, the National Farmers Union, National Corn Growers Association, American Corn Growers, National Grain Sorghum Producers and American Soybean Association.

Now, we have some concern about what impact does this industry have on the National Treasury, our general fund. Both the U.S. Department of Agriculture and the Congressional Budget Office have recognized the benefit of the investment in the ethanol program on the overall health of the Nation's economy. Recently, the USDA stated the ethanol program would decrease farm program payments by \$3 billion per year. In its analysis of this amendment, CBO stated the provision would reduce direct spending by \$2 billion during 2005 to 2013, certainly a partial offset to any subsidy given to the ethanol industry.

Tripling the use of renewable fuels over the next decade will reduce our national trade deficit by \$34 billion. Our trade deficit is at an all-time high. A lot of that trade deficit has to do with importing oil. It will increase the U.S. gross domestic product by \$156 billion by 2012 and create more than 214,000 new jobs. It will expand household income by an additional \$51.7 billion, and it will save taxpayers \$2 billion annually in reduced government subsidies due to the creation of new markets for corn.

We see a tremendous economic benefit to this ethanol industry in our country. That is why we are working so hard to have this amendment included in the Energy bill.

In addition to its importance in becoming more self-reliant in terms of imported oil, also in terms of our economy, ethanol helps our environment. This bill provides strong antibacksliding provisions that prohibit refiners from producing gasoline that increases emissions. Once the oxygenate requirements are removed, a

Governor can also petition EPA for a waiver of the ethanol requirement based on supporting documentation that the ethanol waiver will increase emissions that contribute to air pollution in an area of the State. This is something that was not mentioned by the junior Senator from Arizona in his presentation. The fact is, if ethanol is such a big environmental problem in the State of Arizona, the Governor of Arizona can petition that they be exempt from the mandate provision. That is included in our amendment.

Last year, the ethanol industry also worked with EPA on the discovery and containment of the emissions from ethanol facilities. Consent decrees have been filed by the Justice Department in record time, and compliance by the ethanol industry has been cited as a model.

The fuels agreement we are asking Members to support will benefit the environment in a number of ways. It reduces tailpipe emission of carbon monoxide, VOCs, and fine particulates, and phases down MTBE over 4 years to address our ground water contamination problem. It provides for one grade of summertime Federal RFG, which is more stringent. It increases the benefits from the Federal RFG program on air toxin reduction. It provides States in the ozone transport region enhanced opportunity to participate in the RFG program. And it includes provisions that require EPA to conduct a study of the effects on public health, air quality, and water resources of increased use of MTBEs. We have tried to cover everything in this amendment.

The amendments to opt out of this program are unnecessary and unwarranted.

The fuels agreement contained in this amendment that passed the Senate last year includes the establishment of a renewable fuel standard and will provide for greater refinery flexibility in the fuels marketplace than the existing Clean Air Act oxygenate requirement. It does not require that a single gallon of renewable fuels be used in any particular State or region; rather, the requirement is on the refiners. The RFS will allow much greater flexibility in the work of oxygenates, which should reduce the chances that localized supply disruption of gasoline or oxygenates will result in retail supply shortages.

The additional flexibility provided by the RFS credit trading provisions will be a lower cost to refiners and, thus, consumers. The credit trading system will ensure that renewable fuels are used when and where most cost effective, which is why we have the credit and trading provisions. In California, we need to emphasize this.

By the way, California is the area where the junior Senator from Arizona says they are going to have to rely upon getting their ethanol blend gasoline. Nearly all the refiners, the people who provide the gasoline to the State of Arizona, have switched from MTBE

to ethanol in advance of the State's MTBE phaseout deadline of January 1. The results can only be described as seamless. There have been no ethanol shortages, transportation delays, or logistical problems associated with the increased use of ethanol in the State of California. In fact, according to an April 2003 California Energy Commission report, the transition to ethanol which began in January 2003 "is progressing without any major problems."

We need to emphasize that. This is not going to discombobulate delivery of the gasoline in California or New York or other places that people say it will cause a problem. The Energy Commission of California says it is progressing without any major problems. Today, approximately 65 percent of all California gasoline is blended with ethanol. It is estimated that 80 percent of the fuel will contain ethanol by this summer. They are moving ahead. Only 100 million gallons of ethanol were used in the State last year. California refiners will use between 600 and 700 million gallons of ethanol in 2003. There is not any reason to opt out because of the fact that blended gasoline will not be available to these States.

This legislation is the result of a great deal of work and compromise on the part of many Members of the Senate working with a variety of organizations.

I would like to remind my colleagues of the organizations that support this. It is unusual, in terms of the diverse groups represented. It is supported by the American Petroleum Institute. There has been some talk that the oil industry does not support it. The fact is, the American Petroleum Institute is supportive; of course, the Renewable Fuels Association; the Northeast States for Coordinated Air Use Management. Again, there is an area of the country that could be affected by it, and they like the compromise that has been put together.

We are talking about environmental concerns. The American Lung Association is supportive of this ethanol amendment. The U.S. Chamber of Commerce is certainly concerned about the impact this would have on the economy of the United States. The Union of Concerned Scientists, again, a very forthright, outspoken environmental organization that, on many occasions, is very critical of legislation being promoted in the Senate, says: We like this agreement that has been entered into.

The Environmental and Energy Studies Institute; the Governors' Ethanol Coalition; General Motors. Here is one that I think is really important for some of my colleagues who cannot make up their mind with regard to some of the amendments we are going to get to this ethanol amendment, and that is that the Governors of both California and New York support this compromise, and, of course, all the major agricultural organizations in the United States.

I urge my colleagues to support this ethanol amendment and defeat some of

the amendments that they are going to have an opportunity to vote on later on this afternoon.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, first, I compliment my colleagues, the chairman and ranking member of the Energy Committee, for doing such an incredible job on an Energy bill that is so needed in this great country. For the last 25 years, I think we have really begun to see the growth in our Nation and recognized the need for a modernization of our energy policy in this country. I think these Senators have done an excellent job in bringing together a diversity of issues, certainly in recognizing the need for renewable fuels, in looking at how we can work with cleaner burning fuels, the diversity of energy sources and resources that we can use in this great Nation. I applaud them for their hard work and diligence in that.

It is so important in our State. In Arkansas, both as a consumer as well as producer of energy, and certainly in terms of the rural nature of our State, so much of what is in this bill is going to be very productive for what we want to see happening, not only in the State of Arkansas but across this great Nation in new and innovative energy policy.

UNANIMOUS CONSENT REQUEST—H.R. 1308

Mrs. LINCOLN. Mr. President, I also would like to talk about something that has been on the minds of many of my colleagues as well as others across this great land. After we finished the growth package the week before we took our break, I had many concerns about what we were doing in that growth package and what we were trying to do, what supposedly was our objective in terms of stimulating the economy. I think it is so important to recognize the reasons why we wanted to stimulate our economy in this country. I think that really is to move forward the growth of this great Nation.

I think we need look no further than the American family if we want to understand why we want to stimulate growth in this great Nation to stimulate the economy. That is why I introduced the Working Taxpayer Fairness Restoration Act. I offered this bill on behalf of nearly 12 million children who were left behind when President Bush signed the 2003 tax bill. There were many of us who were very anxious to make sure we had a fairness in that stimulus package and in that tax bill; that there was a balance between fiscal responsibility and tax relief that would be available to all families.

I have introduced the bill with many of my good friends, including Senators SNOWE, WARNER, JEFFORDS, ROCKEFELLER, COLLINS, REED, BINGAMAN, LANDRIEU, JOHNSON, HARKIN, KENNEDY, PRYOR, BREAUX, EDWARDS, CLINTON, CORZINE, DURBIN, SARBANES, KERRY, LIEBERMAN, SCHUMER, LAUTENBERG, MIKULSKI, REID, GRAHAM of Florida, BAUCUS, LEAHY, NELSON of Florida, NELSON

of Nebraska, LEVIN, CARPER, HOLLINGS, BIDEN, SPECTER, CANTWELL, DASCHLE, STABENOW, DODD, CONRAD, VOINOVICH, AKAKA, DORGAN, KOHL, CHAFEE, FEINSTEIN, and BOXER.

This bill would restore a provision left on the cutting room floor when the House and Senate leaders finalized the conference report on the tax cut.

Our bill will restore the advanced refundability of the child tax credit. My friend from Maine, Senator OLYMPIA SNOWE, and I have worked since 2001 to ensure all working families benefit from the child tax credit. We worked very hard to ensure in the 2001 tax cut that the child tax credit was refundable.

During the Finance Committee deliberations on this year's tax bill, I successfully offered an amendment that would have advanced the refundability of the child tax credit. Regrettably, that provision was dropped in conference.

Really, unless we pass this bill we have introduced soon, families with incomes between \$10,500 and \$26,625 will not get that \$400 check that will be mailed in July as part of the 2003 tax bill. Since nearly half of the taxpayers in Arkansas have an adjusted gross income of less than \$20,000, Arkansas families are among the hardest hit by this omission in the new tax law.

Consider this: The base pay for a private in the military, serving in Iraq, is just under \$16,000 per year. The average Arkansas firefighter makes between \$22,000 and \$25,000 a year. Many of those enlisted men and women, who could be given a few days' notice before being shipped off to war, and those firefighters who could get no more than just a few minutes' notice before rushing into a terrorist attack—they all have families, or many of them do. They work hard to support their families and to protect us. Yet they got left out when negotiators shook hands over that final tax bill.

I was not in the room during those negotiations in the dark of night, and I understand very few of my colleagues were. But we are here today. We are all here in the Senate, working today, united, hopefully, in our effort to fight for these working families.

Advancing the refundable portion of the child credit to cover these families will cost only \$3.5 billion—just 1 percent of the entire cost of that tax bill. This measure had strong bipartisan support in the Senate, I am proud to say. I was proud to play a leading role to expand the child tax credit in the Senate bill. I am glad to have bipartisan support in my efforts on the bill that we have introduced to restore this provision.

We will pay for this tax relief for working families by shutting down some of the Enron-related tax shelters. This pay-for was included in the Senate version of the 2003 tax bill that has already received the blessing of the majority of the Senate Members. Especially as our Nation contends with a

sluggish economy, we should ensure that everyone benefits from the tax cut. After all, buying blue jeans for schoolchildren, washing powder for the laundry, or tires for the car costs just as much for a family making \$20,000 a year as it does for a family making \$100,000 a year. If we want to get our economy back on track, we need to make sure we are putting money into the pockets of consumers who will spend it.

This is not about partisanship. It is not about who is going to win here or lose here today or in the next coming days. That is certainly evidenced by the cosponsorship of this bill. What this is about is doing what is right for the families who may need a little extra help, families who are working hard, day in and day out, playing by the rules, bringing home a paycheck and trying to raise their children the best way they know how: with good values and good examples.

We should fix this problem—not in the future, not next year, not sometime down the road. We need to fix this and correct this inconsistency immediately. We have an opportunity to do what is right on behalf of the working men and women in this country who are working hard, creating a face for this Nation in the next 20 years.

What is our Nation going to look like in the next 20 years? What are the values of the leaders of tomorrow? These faces and these values are in the children we are raising today. It is not too much for this body, or the coequal body of the House, to say the time is right, to put our money where our mouth is, to give these hard-working families the opportunity to get a little extra—a little extra of the incredible amount they pay into the system, a little bit extra to raise those children the best way they know how.

I started by saying the initiative to stimulate the economy in this country was an initiative, I think, based on what we all wanted to achieve: Not just to stimulate the economy but to strengthen our Nation. And, once again, we have the opportunity, and we need to look no further than the faces of our children and the workers of the American family in order to be able to do that.

Let us make these American families our priority today.

I ask unanimous consent that the Senate proceed to calendar No. 52, H.R. 1308, a bill to amend the Internal Revenue Code of 1986 to end certain abusive tax practices; that the Lincoln substitute amendment, which is at the desk and is a modified version of S. 1162, a bill to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, be considered and agreed to; that the bill H.R. 1308, as amended, be read three times, passed, and the motion to reconsider be laid upon the table, without intervening action or debate, on behalf of working American families.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, reserving the right to object, I ask unanimous consent that the request be modified so that all after the enacting clause of H.R. 1308 be stricken, and the text of the Grassley amendment regarding the child tax credit be inserted in lieu thereof; provided further that the bill then be read a third time and passed and the motion to reconsider laid upon the table.

Mrs. LINCOLN. Mr. President, with all due respect to my colleague, I reserve the right to object.

The PRESIDING OFFICER. Is there objection?

Mrs. LINCOLN. Yes. I object.

I would like to comment. I think I know what the chairman is doing. I would like to comment that we did provide pay-for in our bill. My concern for what he has offered is that it is going to add another \$90 billion or \$80 billion to unpaid debt in this country, for which I don't believe there is a pay-for.

I respectfully object.

The PRESIDING OFFICER. Objection is heard to the modification.

Is there objection to the request?

Mr. DOMENICI. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. Mr. President, I would like to state what the Grassley proposal is.

It would make permanent the increase in the child tax credit. The bill signed by the President last week increases the credit from \$600 to \$1,000 for the next 2 years. The Grassley amendment would make the increase permanent.

Second, it would eliminate the marriage penalty built into the current child tax credit. The Grassley amendment increases the income phaseout for married couples filing jointly to twist the limit for single individuals filing alone. The Lincoln amendment fails to address this inequity in the current formulation of the child tax credit.

Third, the amendment would create a uniform definition of a "child." This language is identical to the legislation introduced by Senators GRASSLEY and BAUCUS. This change reduces from five to one the number of definitions of a "child" in the Tax Code, which will simplify part of the code that will directly affect working families.

I might say to my good friend that I think she understands. I have the greatest respect for her. And, obviously, she makes a case today not only for herself but for many Senators and for many who voted with her in the days preceding as this legislation worked its way through here and through the conference in the House.

It is the responsibility of the Senator from New Mexico to respond in behalf of the majority, and I have done so. In doing so, I have offered a counterproposal. Obviously, it is significantly different than the one the distin-

guished Senator from Arkansas offered; nonetheless, a very significant proposal. I thank her for her generosity.

I yield the floor.

Mrs. LINCOLN. Mr. President, I thank the chairman and my good friend, who is a diligent worker on behalf of children. I know his concern for the children of this country. I would like to express to him that in the counterproposal that has been offered, it was not my intent to look for an attempt or an excuse to reopen the tax package or to spend an additional hundred billion dollars. I simply felt very compelled—that with a small portion of this bill that could be rectified to make sure these working families in America could get the same benefit from this tax bill that everybody else will on July 1—to think this was an easy opportunity for us to do that. We had a pay-for that was reasonable and something that the rest of the Senate had already agreed to and that Senators probably felt very comfortable with. It was simply an opportunity to express to those families that we certainly believed they were a priority and that we could support them in this effort.

I appreciate the remarks of the Senator very much. I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me speak very briefly and indicate my strong support for the Senator from Arkansas and her effort.

I think clearly we need to address this major failing of the previously passed tax bill, and we need to do so in a way that is fiscally responsible. That is exactly what the Senator from Arkansas has proposed—to find a way to pay for the refundability of the child tax credit. That is what she proposed earlier in the bill. That is what the Senate agreed to earlier in the bill. That is clearly what we ought to do at this point. I regret that we were not able to do that this afternoon. But I hope the opportunity to do so will recur at some point in the near future and we can, once again, do what we believe should be done to try to bring more equity to that tax package which was passed and signed by the President.

Mr. DOMENICI. Mr. President, it is my understanding that a vote will occur at 4:30; that there are 10 minutes prior thereto for debate on the first amendment equally divided into 5 minutes each for those proponents and opponents of that amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Parliamentary inquiry: What is the title of the first amendment?

The PRESIDING OFFICER. The first amendment is amendment No. 843 offered by the Senator from California, the purpose of which is to offer an ethanol mandate renewable fuel program

to be suspended temporarily if the mandate is harmful to the environment.

Mr. DOMENICI. Mr. President, I trust the Senator from California will be here if she desires to debate it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

AMENDMENTS NOS. 843 AND 844

Mr. DASCHLE. Mr. President, I know we will be voting at 4:30 on the Feinstein amendments. Both amendments attempt to provide waivers to the States from the renewable fuels standard. There are several points to be made. I made some of them this morning. But in case my colleagues have not had the opportunity to evaluate the amendments or consider the concerns raised by many of us with regard to the amendments, I thought it would be appropriate for me to say a couple of words again now.

First of all, with regard to ethanol utilization, the State of California is currently using ethanol in 65 percent of all the fuel it is marketing within the State. That is expected to go up to 80 percent this summer. The Department of Energy in California has said there has been absolutely no difficulty in the integration of ethanol from a transportation point of view, a storage point of view, an environmental point of view, or a cost point of view.

So that would be first. Why have a waiver when there is no problem? The problem does not exist. In fact, studies have shown—that I pointed out this morning, one by the Department of Energy Information, one by the Department of Energy in California—that have said there is absolutely no connection between increases in the price paid for gasoline and the use of ethanol. So from a cost point of view in particular, there certainly isn't any need for a waiver.

Secondly, and perhaps far more importantly, this legislation provides that there is no mandate on the States. There isn't one requirement within the bill that says a State must use ethanol as part of its requirement under the law. That does not exist. The requirement is on refiners, not on the States. And the refiners are given wide latitude to make their decisions based on where it is appropriately marketable and not on any redesign with regard to the market itself.

We are not dictating to any oil company that that 65 percent now being used in California be used as a result of a legal requirement. That does not exist. We are simply saying: Look, we will let the oil companies and the refiners make up their own minds. And

with the credit trading system, the job is made all the easier.

I would also say that if worse comes to worst, we have said: Look, if all else fails, there is absolutely no reason why a State cannot apply for a waiver under the new law. Senator FEINSTEIN and others have suggested, well, they have applied for waivers in the past and have been turned down. I hasten again to add for those who may be confused by this, she is talking about the current law. In part, what we are doing now is amending the law, removing the oxygenate requirement, phasing out methyl tertiary butyl ether, MTBE, and providing an opportunity for States to get out from under requirements of the old law while at the same time coming up with a way with which our country can reduce its dependence on foreign sources, can find ways with which to clean up the air, and can do as much as possible to find markets for agricultural products within our own States and country. That is, in essence, what this bill provides.

So I simply say, Mr. President, as well intended as the Senator from California is, there is absolutely no reason why this waiver is necessary. They have one in the bill. They have the credit trading system in the bill. There isn't any requirement for a State to mandate the use of ethanol in this bill.

And, finally, it is working as we have predicted it would, certainly in those States where the markets have been allowed to work. California, as I said, now expects 80 percent of their fuel to incorporate ethanol through the summer. So it is yet another one of these constant myths that has to be destroyed and dealt with as we consider the many allegations about what it is we are trying to do.

Very simply, we are saying to the country, to the refiners, to petroleum marketers in particular: We are going to give you as much flexibility as you could possibly hope to have. And that is exactly what this legislation does.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Mr. President, I ask my colleagues to support the second-degree amendment I offered this morning to the pending first-degree ethanol mandate that would provide authority to the Administrator of the EPA to waive the ethanol mandate if a State or a region does not need it to meet the requirements of the Clean Air Act.

In the pending first-degree ethanol mandate, there is waiver language, and that waiver language allows the Administrator of the EPA to waive the ethanol mandate if it would severely

harm the economy or environment of a State, a region, or the United States.

I believe the EPA Administrator should also have the ability to waive the mandate if a State can show that it can meet the Clean Air Act standards without having to use ethanol. I think that is very important because all the refiners in my State tell me that if we allow them flexibility, they can, through the reformulated model of our gasoline, for the most part, meet Clean Air Act standards without this mandate. They may have to use some ethanol—and they are using ethanol now because there is a 2-percent oxygenate requirement—they may have to use some ethanol at certain times of the year in certain areas of the State, but they do not need to use the amount of ethanol that this legislation forces them—forces them, Mr. President—to use to meet the Clean Air Act standards.

This mandate forces California to use over 2.5 billion gallons of ethanol over 8 years that the State does not need.

On this chart, the red shows the forced use of ethanol. The blue shows the ethanol we would use in certain markets during certain seasons to meet Clean Air Act standards. As one can see, there is a huge differential between the red and the blue areas.

We use this amount shown in blue and do not use the rest of the ethanol which is shown in red which we have to pay for anyway. That is a wealth transfer, if you will. In the outer years, it most certainly is going to mean an increased price of gasoline at the pump for consumers.

All this amendment does is add to the waiver provision one other possibility for waiver, and that is, if a State can show that it does not need to use all of this extra ethanol to the EPA, the EPA can then waive the mandate. What could make better sense? Why would anyone oppose this as a matter of public policy? Why would any public policy force use and force costs on a consumer and transfer wealth to another area of the country when it is not necessary to do so? That is the crux of my argument. We do not need to use it. This chart clearly shows it.

If we look at another chart, we will see that we are forced to transport a lot of ethanol to get it out to California; that the big production of ethanol is in the Midwest in what is called PADD II. Mr. President, 2.27 billion gallons of ethanol are made in this area. The entire West makes maybe 10 million gallons of ethanol. Therefore, all of this has to be moved not by fuel line but by barge, by truck, by boat, by some other way, and increases costs. That is the reason for the waiver. If we can show that we can meet Clean Air Act standards, EPA can give those States a waiver.

I thank the Chair. I gather my time is up. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am prepared to vote. Do I have to yield back time?

Mrs. FEINSTEIN. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Time is yielded back.

Mr. DOMENICI. I yield back any time I have in opposition.

The PRESIDING OFFICER. Without objection, the vote may occur at this time. The question is on agreeing to amendment No. 843. The clerk will call the roll.

The bill clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Missouri (Mr. BOND) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that if present and voting, the Senator from Florida (Mr. GRAHAM) and the Senator from Massachusetts (Mr. KERRY) would each vote "nay".

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

The result was announced—yeas 35, nays 60, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—35

Akaka	Feinstein	Nickles
Allard	Gregg	Reed
Allen	Hatch	Santorum
Bennett	Hollings	Schumer
Bingaman	Hutchison	Sessions
Boxer	Inouye	Shelby
Cantwell	Kennedy	Specter
Clinton	Kyl	Sununu
Collins	Lautenberg	Thomas
Corzine	Leahy	Warner
Ensign	McCain	Wyden
Enzi	Murray	

NAYS—60

Alexander	Dayton	Lincoln
Baucus	DeWine	Lott
Bayh	Dodd	Lugar
Biden	Dole	McConnell
Breaux	Domenici	Mikulski
Brownback	Dorgan	Miller
Bunning	Durbin	Murkowski
Burns	Feingold	Nelson (FL)
Byrd	Fitzgerald	Nelson (NE)
Campbell	Frist	Pryor
Carper	Graham (SC)	Reid
Chafee	Grassley	Roberts
Chambliss	Hagel	Rockefeller
Cochran	Harkin	Sarbanes
Coleman	Inhofe	Smith
Conrad	Jeffords	Snowe
Cornyn	Johnson	Stabenow
Craig	Kohl	Stevens
Crapo	Landrieu	Talent
Daschle	Levin	Voinovich

NOT VOTING—5

Bond	Graham (FL)	Lieberman
Edwards	Kerry	

The amendment (No. 843) was rejected.

The PRESIDING OFFICER. The Senator from Virginia.

CHANGE OF VOTE

Mr. WARNER. I ask unanimous consent that on vote No. 203 my vote be changed from nay to aye. There is no consequence.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

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

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 844

The PRESIDING OFFICER. There are now 4 minutes evenly divided. Who yields time?

Mr. DOMENICI. Can we have order, Mr. President? I understand the Senator from California has 2 minutes. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mrs. FEINSTEIN. Mr. President, I will just use a minute and then cede some of the remaining minute to the Senator from Arizona, if I might.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, this amendment would allow a Governor of a State to opt into the ethanol program. Both Alaska and Hawaii have been able to become exempted from the ethanol mandate. The question this presents for many of us is this: If a Governor of a State believes the program is cost effective, believes it is going to clean up their environment, believes it is all of the things the ethanol proponents say it is, then surely that Governor will opt in.

But if a Governor of a State, depending upon geographical location, infrastructure for delivery, or science about the product, might decide not to opt into the program, that Governor would have that opportunity. This amendment is cosponsored by Senators NICKLES, MCCAIN, KYL, GREGG, WYDEN, LEAHY, SCHUMER, REED, SUNUNU, KENNEDY, and CLINTON.

I thank them for their support and yield the remainder of my time to the Senator from Arizona.

Mr. KYL. Mr. President, can we have order?

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, let's make it clear that every State still has to comply with the Clean Air Act. The question is how they each choose to do so. In Arizona, the Department of Environmental Quality, the department of the State that is required to cause the State to be in compliance, says this mandate will actually cause two of our larger communities, Yuma and Tucson, to be in noncompliance with the ozone standard during the summer months. Each State can meet the requirements in the ways they deem best under the amendment of the Senator from California. Let's not mandate a one-size-fits-all—oh, excuse me, except for Alaska and Hawaii—for every State. Give the Governors who are responsible people the ability to decide whether this is the best way for their State to meet the Clean Air Act standards.

The PRESIDING OFFICER. Who yields time? The Democratic leader.

Mr. DOMENICI. Mr. President, can we have order?

The PRESIDING OFFICER. The Senator will be in order.

Mr. DASCHLE. Mr. President, this amendment is based on a misconception. The misconception is that somehow there is a mandate to begin with. There is no mandate for the States under this bill.

There is a requirement that refiners find a way to reach the goals that we set out in the legislation overall, both in energy as well as the ethanol itself, but there is no requirement that States meet some standard with regard to utilization of ethanol. And there is also an option for the States to opt out if they find the circumstances described by the distinguished Senator from Arizona would ever come about. States have the right to opt out, even though there is no particular mandate to opt into the program to begin with. This is a refiners obligation, not a State obligation.

Mr. DOMENICI. Mr. President, might I say, if you are for an ethanol program for the Nation, then you can't vote for this amendment.

If this amendment passes, there is no American ethanol program as we have been speaking of it in terms of reducing the American dependence on foreign oil. It becomes something different and not an American program to accomplish that purpose.

I yield the remainder of my time.

Mrs. FEINSTEIN. Mr. President, I 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 amendment, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. GRAHAM) and the Senator from Massachusetts (Mr. KERRY) would each vote "nay."

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

The result was announced—yeas 34, nays 62, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—34

Akaka	Enzi	Leahy
Allard	Feinstein	Lott
Allen	Graham (SC)	McCain
Boxer	Gregg	Nickles
Campbell	Hollings	Reed
Chambliss	Hutchison	Santorum
Clinton	Inouye	Schumer
Collins	Kennedy	Sessions
Corzine	Kyl	
Ensign	Lautenberg	

Shelby Specter	Sununu Thomas	Warner Wyden
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NAYS—62

Alexander	Daschle	Lincoln
Baucus	Dayton	Lugar
Bayh	DeWine	McConnell
Bennett	Dodd	Mikulski
Biden	Dole	Miller
Bingaman	Domenici	Murkowski
Bond	Dorgan	Murray
Breaux	Durbin	Nelson (FL)
Brownback	Feingold	Nelson (NE)
Bunning	Fitzgerald	Pryor
Burns	Frist	Reid
Byrd	Grassley	Roberts
Cantwell	Hagel	Rockefeller
Carper	Harkin	Sarbanes
Chafee	Hatch	Smith
Cochran	Inhofe	Snowe
Coleman	Jeffords	Stabenow
Conrad	Johnson	Stevens
Cornyn	Kohl	Talent
Craig	Landrieu	Voinovich
Crapo	Levin	

NOT VOTING—4

Edwards	Kerry
Graham (FL)	Lieberman

The amendment (No. 844) was rejected.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

NEXT GENERATION LIGHTING INITIATIVE

Mr. BINGAMAN. Mr. President, will the manager of the legislation yield for a question?

Mr. DOMENICI. I am happy to yield.

Mr. BINGAMAN. Section 914 of this legislation directs the Secretary of Energy to establish a research and development program on solid-state lighting. I worked on this provision with the Senator from New Mexico, the chairman of the Energy and Natural Resources Committee, and I thought it would be useful to have his agreement that this program should not be a traditional grant, contract or cooperative agreement effort. The Department of Energy, DOE, should administer this program in partnership with an alliance of solid-state lighting industry partners who will act to guide and evaluate the research.

Mr. DOMENICI. I certainly concur. The alliance should be an inclusive but well-defined group of companies active in the research, development and implementation of solid-state lighting technologies in the United States. The DOE should select the alliance as quickly as possible, so as not to delay the program's implementation.

Mr. BINGAMAN. If the Senator would yield for a further question, I would like to know whether he also agrees that our intention is that academia, national laboratories and other research organizations should perform most of the fundamental research, while commercial entities, especially alliance companies, should perform most of the development and demonstration work. The selection of DOE laboratories should be based on demonstrated technical accomplishments

in the field of solid-state lighting, particularly inorganic and organic light-emitting diodes.

Mr. DOMENICI. Mr. President, again I completely agree with the Senator. I would also add that the intellectual property in section 914 is patterned after the Department of Energy's Solid State Energy Conversion Alliance, or SECA. Under the SECA model, research and development qualifies for the "exceptional circumstances" provision of the Bayh-Dole Act. Inventors still retain rights to their intellectual property. Those alliance participants who are active in solid-state lighting research and development will receive the first option to negotiate non-exclusive licenses and royalty payments to use the invention.

Mr. BINGAMAN. I thank the Senator and would ask one final question. I think he would agree that solid-state lighting is in its research infancy. While it holds a promise to make white light illumination 10 times more efficient than today's light bulb, it is imperative that the DOE implement this program quickly, and transfer the pre-competitive research to industry, so that our country can retain its leadership position in lighting—a field that Thomas Edison started.

Mr. DOMENICI. I fully agree. The Senator serves as our ranking member and was instrumental in the adoption of this provision by our committee. I think we both expect that quick action by the Department of Energy will stimulate the private sector.

Mr. BINGAMAN. I thank the Senator for yielding.

AMENDMENT NO. 845 TO AMENDMENT NO. 539

(Purpose: To amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes)

Mr. BINGAMAN. Madam President, on behalf of Senator SCHUMER and Senator LINCOLN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for Mrs. LINCOLN, proposes an amendment numbered 845 to amendment No. 539.

Mr. BINGAMAN. Madam 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 printed in today's RECORD under "Text of Amendments.")

Mr. REID. I ask unanimous consent that the majority whip be recognized to speak for up to 5 minutes.

Mr. MCCONNELL. As in morning business.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Virginia? Without objection, it is so ordered.

Mr. MCCONNELL. I thank the distinguished assistant Democratic leader.

(The remarks of Mr. MCCONNELL are printed in today's RECORD under "Morning Business.")

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

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

AMENDMENT NO. 539 WITHDRAWN

Mr. FRIST. I now withdraw amendment No. 539.

MORNING BUSINESS

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

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, it is probably confusing to people who are watching this debate and discussion. I have just withdrawn the ethanol amendment. As the minority leader suggested, my plans are to reintroduce that amendment at the earliest time feasible, likely first thing tomorrow morning.

What has just happened is that while we were talking about ethanol and energy, we were moved to the consideration of something which, yes, could be related but it is on child tax credits, another issue that is important to the American people. What we have agreed to do is to address that issue sometime in the very near future in a way that we can consider alternatives to addressing the issues surrounding child tax credits.

The Senator from South Dakota.

Mr. DASCHLE. Madam President, I am disappointed that the underlying amendment was withdrawn. That was an amendment offered by the distinguished majority leader and myself. We are certainly going to be coming back at the earliest possible time to continue the debate.

We have had a good debate today. A couple of amendments were offered to the amendment. This is a revenue bill, and certainly it is within the right of the Senator from Arkansas to offer this amendment. This is a key amendment that I hope we can address. We have begun discussions about how we might address it over the course of the next couple of days. It would be my hope that we could get a vote on this amendment, whether it is freestanding or it is a part of the bill, and whatever our Republican colleagues may wish to offer as well, but we have to keep moving along. The sooner we can dispose of this amendment, the sooner we can get to some of these other issues.

I hope we can reintroduce the ethanol amendment at the earliest possible date, continue the debate on that,

finish it, and then move to the other issues as we debate this bill.

So it is disappointing, but I hope we can regroup and begin again tomorrow.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I know the distinguished minority leader is disappointed, but not as much as the Senator from New Mexico. Obviously, we have worked very hard on what we think is a very good Energy bill. I think the United States deserves an Energy bill. I know there are other issues. I have no quibble with other Senators who have issues that they think are of great importance, including tax issues, but it is quite a surprise to see an issue of tax significance being applied to an Energy bill for the United States, although technically one might call it a tax bill.

Nonetheless, where there is a will there is a way. If I understand it, there seems to be a will tonight that we will proceed to try to iron out the difficulties between the parties as to the tax matters and then tomorrow proceed with dispatch to get the ethanol amendment back on board, and hopefully not have to go through the same amendments on ethanol that we have already had, and proceed with the lining up of some amendments on the Energy bill with which I understand the minority has indicated a willingness to help. We will work on our side to do the same.

Whatever time I had remaining under my 10 minutes, I yield back.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, it is probably confusing to people who are watching this debate and discussion. I have just withdrawn the ethanol amendment. As the minority leader suggested, my plans are to reintroduce that amendment at the earliest time feasible, likely first thing tomorrow morning.

What has just happened is that while we were talking about ethanol and energy, we were moved to the consideration of something which, yes, could be related but it is on child tax credits, another issue that is important to the American people. What we have agreed to do is to address that issue sometime in the very near future in a way that we can consider alternatives to addressing the issues surrounding child tax credits.

Child tax credits are a separate issue from ethanol and energy, a very important issue, one we have been made aware of over the last several days that must be addressed. We will, of course, tonight, figure out the best way to address that, and it will be done in the very near future.

We will in all likelihood reintroduce the ethanol amendment, my amendment, with the Democratic leader, early in the morning, and over the course of tonight and this evening and early in the morning we will, hopefully, have a series of amendments