

the time, with this reservation: Before the vote on this cloture motion, is there time equally divided for further debate?

The PRESIDING OFFICER. Under a previous order, there are 10 minutes, equally divided, prior to the cloture vote.

Mrs. HUTCHISON. Thank you, Mr. President.

I yield the floor.

#### RECESS

The PRESIDING OFFICER. All time having been yielded back, under the previous order, the Senate is in recess until the hour of 2:15 p.m.

Thereupon, at 12:41 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. INHOFE).

#### INSTITUTING A FEDERAL FUELS TAX HOLIDAY—Resumed

The PRESIDING OFFICER. There will now be 10 minutes equally divided. Who yields time?

The Senator from Arkansas.

Mrs. LINCOLN. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. WARNER. Do I understand, the Senator yields herself 5 minutes? Is there not 10 minutes under joint control on the subject of gas taxes?

The PRESIDING OFFICER. Yes. There are 10 minutes equally divided. She has yielded herself 5 minutes.

Mr. WARNER. Off the control of which Senator's time? My understanding is Senator BYRD controls the time for Senators in opposition, of which I am aligned. Senator MURKOWSKI controls the proponents' time.

Am I not correct on that, Mr. President?

Mrs. LINCOLN. As an opponent on the Democratic side.

The PRESIDING OFFICER. The Senator from Arkansas is taking her 5 minutes in opposition.

Mr. WARNER. That would then remove all opposition time; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. I ask the Senator, could I have the benefit of a minute of that time?

Mrs. LINCOLN. Certainly.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 4 minutes.

Mrs. LINCOLN. I thank the Chair.

Mr. President, I spoke briefly last week about this proposal to reduce the gas tax. I spoke on the need for reforms in our Nation's energy policy.

However, because this bill did not go through committee, and because it has had little technical scrutiny, there are just two points that I believe should be considered before we move ahead with this idea.

First, I appreciate the concern that has recently been shown for the highway trust fund. There is a nice clause in this bill that would take money out of general revenues to pay for the reduction into the highway trust fund.

Last week I called this hocus pocus. It is creative, to say the least. But let's get honest here. This tax cut has to come from somewhere, and this method of accounting is not without consequence.

Regardless of the good intentions being professed by my colleagues, the transfer of this burden to general revenues would result in a tax increase to the people of my State and perhaps other States.

In Arkansas, any reduction, either whole or in part, of the existing excise tax on motor fuels will result in a penny-for-penny increase in tax at the State level. This is the law in my State, and I know that there are similar provisions in Tennessee, Oklahoma, Nevada, and California.

Mr. President, I ask unanimous consent that a copy of section 27-70-104 of the Arkansas Code be printed in the RECORD.

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

#### §27-70-104. Federal excise tax on motor fuels

(a) Should the Congress of the United States extend an option to the State of Arkansas to collect all or part of the existing tax on motor fuels imposed by the Internal Revenue Code, Chapter 31, Retailers Excise Tax, §§4041 and 4081, it is declared that the option is executed.

(b) Further, if the federal excise tax is reduced in any amount, the amount of the reduction will continue to be collected as state highway user revenues.

(c) Any increase in the federal excise tax, accompanied by state option, shall be disbursed as set forth in subsection (d) of this section.

(d) Any revenues derived under subsection (a) of this section will be classified as special revenues and shall be deposited in the State Treasury to the credit of the State Apportionment Fund for distribution under the Arkansas Highway Revenue Distribution Law, there to be used for the construction of state highways, county roads, and municipal streets.

History: Acts 1975, No. 610, §§1, 2; 1981, No. 719, §1; A.S.A. 1947, §§76-337, 76-338.

Mrs. LINCOLN. I agree that this bill might give a minor tax reduction for the oil producers of 45 States, but the tax burden would remain level in as many as five States. Without a reduction in spending, this amounts to a tax increase in my home State and two of my neighboring States, Oklahoma, and Tennessee. In short, if this bill were to pass, taxes, in effect, would go up in Arkansas.

My second point is that this bill would not get relief to the people who need it. I said last week that this tax is collected on the wholesale level and all that this bill offers is a suggestion that the wholesalers pass this on to the consumers. I am not sure that this point is getting out to my colleagues, so I have a quote here from the Supreme Court

of the United States concerning this tax.

According to the U.S. Supreme Court in *Gurley vs. Rhoden*:

the Federal excise tax on gasoline is imposed solely upon statutory producers, and not on consuming buyers.

Let me repeat that:

the Federal excise tax on gasoline is imposed solely upon statutory producers, and not on consuming buyers.

Therefore, I assert that even the Supreme Court agrees that this tax reduction will not go to consumers. This tax cut will go exclusively to oil producers who will have no legal requirement to pass the cut on. That won't help truckers in my State. It won't help farmers in my State. It won't help small business people in my State. It won't help average consumers.

We cannot forget that despite the fact that the administration has successfully compelled OPEC to pump more oil, and that oil prices are coming down, the high cost of the oil price spike will still be on the bottom line at the end of the year.

We have to do something real and substantial for our truckers, our farmers, and our fuel dependent small businessmen and women.

A 4.3-cent gas tax cut will do essentially nothing for anyone.

I again suggest that a suspension of the heavy vehicle use tax would be a way to get real relief to real truck drivers. This would not drain the highway trust fund to the degree that this gas tax cut would and it would directly help the people who have been hurt the most by the spike in fuel prices.

I have also advocated a short-term no-interest loan program for diesel dependent small business, and lastly I have called for a formalized end-of-the-year tax credit, that would take into account the totality of this oil spike in an environment of dropping prices.

We all want to help those in need and we should consider giving tax credits, but we should also protect the Treasury from windfalls that could arise in this economic environment.

This bill is a bad idea, it would in effect raise the tax burden on my constituents, and it would not help the people who are really hurting from the high prices at the gas pump.

I urge my colleagues, especially those from Oklahoma and Nevada, California and Tennessee, to look at how this bill will affect the tax burden in your States. Ask how this bill will affect the bonds that your State has issued. And most importantly, consider how little this bill will do to help the consumers of our Nation. We can do better, and I hope we can continue the debate on this bill so we will have that opportunity.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. MURKOWSKI. Mr. President, I yield myself 3½ minutes.

In this legislation, there is full recovery to the highway trust fund, if indeed