

the Senate receives a message with respect to any of these bills from the House of Representatives, the Senate disagree with the House on its amendment or amendments to the Senate-passed bill and agree to or request a conference, as appropriate, with the House on the disagreeing votes of the two Houses; that the Chair be authorized to appoint conferees, and that the foregoing occur without any intervening action or debate.

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

Mr. WARNER. I thank the Chair. Further, I ask unanimous consent that S. 1050, as previously passed by the Senate, be returned to the calendar.

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

Mr. WARNER. I thank the Chair.

ENERGY POLICY ACT OF 2003— Resumed

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Domenici/Bingaman Amendment No. 840, to reauthorize Low-Income Home Energy Assistance Program (LIHEAP), weatherization assistance, and State energy programs.

Domenici (for Gregg) Amendment No. 841 (to Amendment No. 840), to express the sense of the Senate regarding the reauthorization of the Low-Income Home Energy Assistance Act of 1981.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent amendment No. 840 be temporarily set aside.

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

AMENDMENT NO. 850

Mr. DOMENICI. On behalf of the majority leader and minority leader and other Senators listed, I send to the desk the ethanol amendment 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. DOMENICI] for Mr. FRIST, for himself, Mr. DASCHLE, Mr. INHOFE, Mr. DORGAN, Mr. LUGAR, Mr. JOHNSON, Mr. GRASSLEY, Mr. HARKIN, Mr. HAGEL, Mr. DURBIN, Mr. VOINOVICH, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DAYTON, Mr. COLEMAN, Mr. EDWARDS, Mr. CRAPO, Mr. CONRAD, Mr. DEWINE, Mr. BAUCUS, Mr. BUNNING, and Mr. BOND, proposes an amendment numbered 850.

Mr. DOMENICI. I ask unanimous consent the reading of the amendment be dispensed with.

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

The text of the amendment is printed in today's RECORD under "Text of Amendments."

Mr. DOMENICI. Mr. President, for the benefit of the Senate, we are now back on the Energy bill. The pending

business is the ethanol amendment. We did dispose of two amendments yesterday. I am hopeful we will not have to redo them, however there is going to be another amendment, at least one, perhaps two, on the ethanol amendment. But in the meantime, the distinguished Republican whip has requested that he be permitted to speak for 5 minutes as in morning business.

I make that request in his behalf.

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

Mr. DOMENICI. I ask the Chair get order in the Senate so he can be heard.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Kentucky.

(The remarks of Mr. MCCONNELL, Mr. MCCAIN, and Mrs. FEINSTEIN, pertaining to the introduction of S. 1182 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BROWBACK. Mr. President, I rise today in support of the ethanol amendment No. 850 that has been offered by our distinguished majority leader, Senator FRIST. This is a bipartisan amendment which has been crafted thoughtfully by leadership on both sides of the aisle and proves to be a compromise bill that will triple the amount of domestically produced ethanol used in America. President Bush was right when he said 2 years ago that we are long overdue in implementing a comprehensive energy policy for our Nation. If he were to say the same thing today, he would still be right. We need a policy that broadens our base of energy resources to create stability, guarantee reasonable prices, and protect America's security.

I believe that increasing our use of alternative and renewable fuels such as ethanol and biodiesel is a key element in our effort to constructing that much needed stability. It is a clean burning, homegrown renewable fuel that we can rely on for generations to come. Ethanol is a step towards good stewardship of our environment. Expanding the use of ethanol will also protect our environment by reducing auto emissions, which will mean cleaner air and improved public health. It just so happens that as we are looking out for our environment we are not only going to benefit in the arena of environmental friendliness but as the same time boost our economy.

Consumers will benefit from more efficient use of their vehicles at a lower cost. Adding 10 percent ethanol to a gallon of regular gas would reduce the retail price to consumers by almost seven cents per gallon according to the Energy Information Administration.

By continuing each year to increase the volume of ethanol in a gallon of gasoline, we can concurrently decrease the volume of crude oil needed for it. Crude oil prices have risen in 2003 as a result of the war with Iraq and international tensions. We must protect ourselves and be secure with our independence during these trying times and

possible terrorism. It is no secret that we currently import over 58 percent of the oil we use. This dependence is not getting better. The Energy Information Administration estimates that our dependency on imported oil could grow to nearly 70 percent by 2020. We are so dependent on foreign oil, that the demand for renewable fuels such as ethanol and biodiesel is on the rise. Although our troops were successful in the liberation of Iraq, our greatest energy challenge remains the need to reduce our reliance on foreign sources to meet our energy needs.

The production and marketing of ethanol is very important to the economy of my state and the nation. The Energy Information Administration has proven that tripling the use nationally of renewable fuels over the next decade will increase U.S. GDP by \$156 billion by 2012, reduce our National Trade Deficit by more than \$34 billion, save taxpayers \$2 billion annually in reduced government subsidies due to the creation of new markets for corn, and create more than 214,000 new jobs.

The benefits for the farm economy are even more pronounced. An increase in the use of ethanol across the Nation means an economic boost to thousands of farm families across my State. Currently, ethanol production provides 192,000 jobs and \$4.5 billion to net farm income nationwide. Passage of this amendment will increase net farm income by nearly \$6 billion annually. Passage of this amendment will create \$5.3 billion of new investment in renewable fuel production capacity. Kansas are loudly voicing their support of this legislation. Phasing out MTBE on a National basis will be good for our fuel suppliers. Refiners are under tremendous strain from having to make several different gasoline blends to meet various state clean air requirements. The MTBE phaseout provisions in this package will ensure that refiners will have less stress on their system.

This entire Nation's is in need of this environmentally friendly, sustainable fuel as we carry on in our efforts to be good stewards of our environment. Ethanol will boost our energy independence and become an aid to national security while we as a country find ourselves continuing the battle against terrorism. I cannot proclaim enough, the greatness of the positive impacts this fuel contains. Leaders here in our body have discovered it. The language in this bill has strong bipartisan support and is the result of long negotiations between the Renewable Fuels Association, National Corn Growers Association, Farm Bureau Federation, American Petroleum Institute, Northeast States for Coordinated Air Use Management, NESCAUM, and the American Lung Association.

Americans can rest more sound and secure as we further develop the use of our homegrown fuel, ethanol.

Mr. DOMENICI. Mr. President, I know there are many Senators who have plenty to do besides being concerned about this Energy bill on the

floor of the Senate. But I want to say for some of us that the Energy Policy Act is a very important subject. The committee has worked very hard. We don't claim to have a perfect bill, but we claim to have a bill that deserves the consideration of the Senate.

For all those Senators who want to review the bill and haven't, I hope they will start. For those who have amendments and haven't reduced them to writing, I hope they get going. For those who have questions about the bill, we are going to be here working on it—both the minority whip and Senator BINGAMAN. His staff is adequate in numbers and capacity and will be available, as will mine.

With that in mind, we are back to the point where we have set aside the LIHEAP issue that came about yesterday—the issue with reference to the jurisdiction of the different LIHEAP provisions that we wanted to have in this bill where the chairman of the Committee on Health and Human Resources desires that it not be on the bill but rather be returned to his committee for jurisdictional consideration. That will be taken up later.

We are now back to ethanol. Yesterday we had two votes. They were very heavily debated for a long period of time. In each instance both failed. In each instance 60 votes or more were obtained on the side of supporting the bill, which is not just a Republican or Democrat bill. It is a bill put together by Democrats and Republicans, and all kinds of different leadership groups in this country that are concerned about our future in terms of dependence upon oil and its derivatives; those who are concerned about agricultural products and the fact that we produce so much more than we need and that the price is constantly a problem both to the Government because of its support programs and to the farmer because it is difficult to make a living.

Those who are concerned about rural America see this bill as a potential for the injection of tremendous amounts of real investments and real jobs and capital into all parts of rural America because facilities will have to be built that will cost billions of dollars in order to comply with the requirements of this national mandate for ethanol use.

The mandate is a good mandate. It is a national mandate. It is a mandate that says by a year certain we will be using certain quantities of ethanol in our petroleum products that feed the gasoline tanks, and thus the automobiles and trucks of America that use gasoline and diesel fuel.

I am sure there are additional amendments on this issue. I merely wanted to recap for the Senate where we are.

I also wish to say that while we have been on this bill for a number of days, it appears that the only amendments are those that pertain to ethanol. I know there are more. I implore Senators, I beg them, if they have amend-

ments, let us get them ready and bring them down here. Who knows, they may have winners. They may have a much better approach to energy independence in this bill. We stand ready to accommodate and get them before the Senate and get the votes on them as soon as possible.

What I understand the situation to be now, so the Senators will understand, is that the distinguished minority manager, the junior Senator from New Mexico, has an amendment on ethanol. I understand that when he is finished, the distinguished Senator from New York has an amendment. He told the Senator from New Mexico that he would follow the amendment of the Senator from New Mexico. I hope that will be the case. If he comes forth, we will not have one vote at a time but rather back-to-back votes. There appears to be a couple of other amendments that may be offered before the day is out.

Then I suggest that as many Senators as possible begin to try to figure out what they want to do with this bill. I know there are Senators who have not had a chance to make up their mind about amendments but I ask that they do that. Actually, there are many of us who want to get an Energy bill. We think the remainder of this week, clear through Friday, and all of next week ought to be sufficient time to get this done. Some do not think so but I surmise that if we tried, and we had amendments going most of the day, with votes taking place each day, we would be surprised how soon we would get this bill completed.

Having said that, I yield the floor to my distinguished fellow Senator from New Mexico, Mr. BINGAMAN.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, first, I thank the chairman of the committee, Senator DOMENICI, for his comments. I agree with his request that we move ahead with amendments. I know there are many Senators with amendments they want to offer. I think the logical thing to do is to try to deal with all of the ethanol-related amendments at this stage in the consideration of the bill. I hope that by offering an ethanol-related amendment now, on behalf of myself and Senator SUNUNU, we can begin the process of considering these amendments in a thoughtful way and, hopefully, work through them over the next day or two.

AMENDMENT NO. 851 TO AMENDMENT NO. 850

Mr. President, with that, I send an amendment to the desk and ask for its immediate consideration. It is an amendment to amendment No. 850 that Senator DOMENICI offered on behalf of Senator FRIST and others.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows: The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. SUNUNU, proposes an amendment numbered 851 to amendment No. 850.

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

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

The amendment is as follows:

(Purpose: To authorize the Secretary of Energy to waive the ethanol mandate on the East and West Coast in the event of a significant price increase or supply interruption)

On page 18, after line 15, insert the following:

“(11) SIGNIFICANT PRICE INCREASE OR SUPPLY INTERRUPTION.—

“(A) SUSPENSION OF REQUIREMENTS.—In addition to the authority of the Administrator to waive the requirements of paragraph (2) under paragraphs (7) and (8), and to extend the exemption from paragraph (2) under paragraph (9), the President, acting through the Secretary of Energy, may suspend the requirements of paragraph (2) in any Petroleum Administration for Defense District, in whole or in part, in the event the Secretary of Energy determines that—

“(i) application of the requirements of paragraph (2) in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more; or

“(ii) a significant interruption in the supply of renewable fuel in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more.

“(B) DURATION OF SUSPENSION.—A suspension granted under subparagraph (A) shall terminate after 30 days, but may be renewed by the Secretary of Energy for additional 30-day periods if he determines that the significant price increase or significant supply interruption persists.”.

Mr. BINGAMAN. Mr. President, as I indicated, this is an amendment I am offering on behalf of Senator SUNUNU and myself. It is to improve the waiver provisions in the renewable fuels standard in the Daschle-Frist amendment.

The amendment we are offering seeks to give the President the authority to suspend the ethanol mandate—he could suspend it with regard to a particular geographic area in the country—in the event there is a severe supply or price disruption to U.S. gasoline markets. We have a way of determining when that threshold is reached. It provides a path for immediate action to be taken to deal with that price circumstance.

This is not a requirement that the President act. This is merely authority for him to act if he chooses to do so. I think we need to make that point so all Members understand we are not requiring any action by this amendment; we are expanding the waiver authority so that additional authority exists if the President chooses to use it. Ultimately, someone needs to have the authority to take immediate action if there happens to be a crisis, if a crisis comes upon us.

The Daschle-Frist amendment waiver provisions—and this is on page 12 of the underlying Daschle-Frist amendment—those waiver provisions give each State the right to petition the Administrator for a waiver in the event of severe harm to the economy or the environment. The process that is outlined can take up to 90 days. It is not necessarily going to take 90 days. It could

take longer, as there is no enforcement really built in, but it is supposed to take no more than 90 days.

The State files the petition. The Administrator has the 90 days, maximum, to make a determination of whether the petition should be granted. In making that determination, the Secretary is required to give public notice and an opportunity for comment. That is a 3-month period—or up to a 3-month period—for a determination to be made and for the mandate to be suspended.

In a crisis situation, a significant amount of economic or environmental damage could be done during that period while all of this notice and opportunity for comment is occurring. In my view, we cannot afford that. Ninety days is too long a period.

The amendment we are offering does not seek to disturb or to weaken the underlying Daschle-Frist amendment. It simply gives the President the authority to take immediate action to deal with urgent issues that may arise in particular regions. If a State or region experiences a supply disruption which they might experience with regard to ethanol or a price spike resulting from the mandate, and a suspension of the mandate is necessary, then we are giving the President authority to suspend the mandate for a 30-day period. He could renew that for an additional 30 days if he chose to. But that is the essence of our amendment. If the gasoline prices rise more than 10 cents as a result of the mandate, that is when this authority would come into place.

Now, this is not the price of ethanol rising 10 cents; this is the price of gasoline at the pump rising 10 cents because of the mandate to use ethanol as required in the Daschle-Frist amendment. If the price of gas at the pump rises over 10 cents, and the Secretary makes the determination that immediate action is necessary, then the mandate could be suspended for the 30 days in this affected PADD, this Petroleum Administration for Defense District, or in the effected State or region.

What does that 10-cent rise in the price of gasoline per gallon mean? Let me refer to this chart I have in the Chamber.

You can see that ethanol is going to be blended with other petroleum fuel in gasoline, and 10 percent of it is going to be ethanol. So, in fact, if you saw a 50-cent increase in the price of ethanol per gallon, that would mean a 5-cent-per-gallon rise in the price of gasoline. If you saw a \$1 increase in the price of ethanol per gallon, that would mean a 10-cent-per-gallon increase in the price of gasoline.

I think this chart makes clear that what we are proposing gives the President the ability to act expeditiously. If there is this kind of \$1 increase in the price of ethanol itself, that could translate approximately to a 10-cent increase in gasoline. This is a high threshold. Frankly, I know there are Members of this Senate who would say

that should not be 10 cents; we ought to have the President have the authority to act if you have a 3-cent increase or a 2-cent increase or a 5-cent increase, and I might agree with some of that logic.

But the truth is, we have tried to write this in a way that makes it clear that this is not authority we would expect to be invoked or to be available to the President under most circumstances. This is authority which would only be available under extraordinary circumstances.

Today prices are at about \$1.15 per gallon. Adjusted for inflation, this is roughly where they were back in 1998. There has been some fluctuation.

This second chart that I have in the Chamber shows what has happened to the price of gasoline from 1998 through the current period. You can see that there has been fluctuation in the price of ethanol, but we have not seen enough fluctuation in the price of ethanol from the average price to trigger this authority to ever take place, so that during this entire period this authority would not have come into place. It is clear we are not setting up some kind of a hair-trigger procedure here which will give the President or the Secretary of Energy the ability to step in at will and act.

The amendment we are proposing is simply a safety valve. As I have said several times, it is not automatic. If there is no disruption in supply, if prices do not spike substantially outside the range shown on this chart, then nothing would happen. However, in the event we do have a problem, we would have in place, with this amendment, a procedure for dealing with it.

The reason I think this amendment is important is because fuel transitions are inherently problematic.

We have a lot of history on which to base that judgment. All previous changes to the reformulated gasoline formula have resulted in severe price volatility in gasoline markets. We don't have to go back very far to see that this is the case. In 1996 and in the year 2000, we saw gasoline prices rise substantially, and both times this resulted in gasoline price spikes of more than 30 cents a gallon in California.

There are previous EIA studies that have been done, but they have not addressed short-term issues. That is what we are talking about, short-term supply disruptions. They either look at the long-term outcomes or act to analyze supply disruptions only after they have occurred.

The mandate we are proposing to put into law with the Frist-Daschle amendment does create substantial uncertainty. That has been discussed in some of the debate that has already occurred. The mandate says we will use 5 billion gallons of ethanol in the Nation's fuel supply by 2012. It bans the use of MTBE beginning in the year 2007. While some would prefer to call it a renewable fuels standard, it is in fact a mandate. All of us understand that.

By the nature of a mandate, it creates a substantial amount of uncertainty.

While my colleagues may argue that they have crafted a plan that allows plenty of time for the transition from MTBE to ethanol, I have doubts about whether that is the case. Under the mandate in the Frist-Daschle amendment, it is possible that our motor fuels market will see disruptions in supply and price spikes that, if left unattended, could harm consumers and the economy. Our amendment tries to deal directly with that.

We have to keep in mind the MTBE ban affects supply immediately. Once the bill passes, MTBE will be quickly phased out and banned in 16 States; most importantly, in California and Washington and Arizona on the West Coast and in New York and Connecticut on the East Coast. These States in the Northeast in particular are heavily dependent on gasoline product imports from Europe and South America. Venezuela supplies 8 percent of the gasoline volume on the East Coast. The Venezuelan National Oil Company says a renewable fuels mandate could make it difficult if not impossible to import finished gasoline into the United States as they have been doing.

Most of the East Coast imports come into the New York area and need to be suitable for the reformulated gas markets.

As I have said in several ways, there is a lot of uncertainty that we just do not know the answers to. Let me list some of that again. Then I will defer to my colleague from New Hampshire who is here and wishes to speak on behalf of the amendment as well.

Some of the questions that still exist in my mind as regards this mandate are, No. 1, what if we have a supply shortage when refineries are already producing at capacity? What does that do to the price to the consumer? Second, what if our import capacity declines and prices spike even further? Third, what if there is a drought in the Midwest that affects corn production and therefore affects ethanol production? That could significantly affect the price. And it could get the price outside of this area that is reflected on the chart behind me.

Perhaps we could experience problems in transporting the ethanol or an important element in the refinery infrastructure could be damaged at a key hub. There is any number of scenarios that could lead us to supply disruptions, to price spikes. Under those circumstances, we need to have authority vested with the President to take action. We should not be requiring that he take that action, but we should be giving him the authority. We need to be proactive. We need to look forward and analyze potential problems the U.S. motor fuels market could face in the short term, and we need to do this before the disruption occurs.

I urge our colleagues to carefully consider the amendment. It is good policy to build in such a provision to protect consumers in the event of a crisis. It is a good safety valve to add to the bill. It substantially strengthens the bill. I hope my colleagues will agree and that we can add this as an amendment.

I yield the floor. I see my colleague, my cosponsor from New Hampshire, is in the Chamber waiting to speak.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise in support of the Bingaman amendment and I thank my colleague for allowing me to work with him on this initiative. I have expressed concerns about the ethanol mandate in this energy bill before, and the concerns this amendment tries to address are obviously an extension of those concerns.

As we have debated this Energy Bill prior to today, in the work I have done in the House, and the visits I've had back home with the people of New Hampshire, I have always emphasized that to the extent we are debating an energy bill, it ought to be about price and access. It should be about making sure we have available, stable, reliable sources of energy and a diversified supply for consumers, because those stable, reliable sources of energy are so central to economic growth.

At the end of the day, this debate ought to be about access and price. What this amendment attempts to do is to ensure that where the gasoline markets are concerned, consumers are protected on access and on price. We need to make sure that we have, as the Senator from New Mexico described, a safety valve—a way to ensure that if and when the very significant fuels mandate proposed for this bill is imposed on cities, towns, and States across America, there will not be major disruptions in supply that would lead to price spikes, and that consumers not be subjected to higher fuel costs unnecessarily.

There is a waiver provision in the underlying amendment. But we ought to be concerned about that waiver provision because of the 90-day window described by the Senator from New Mexico. This would allow the President and Secretary to act if there is economic harm, but it would allow up to 90 days to do so. Ninety days can be a very long time, as anyone who sat through the price spikes two summers ago will tell you. Gasoline prices spiked up, 25, 50 cents, spiking well over \$2 in some places. To the extent that those price spikes could have been avoided, many people would argue the President or the Secretary of Energy should have taken steps to avoid them. That is exactly what this kind of an amendment will allow.

If the cost of ethanol drives those prices up more than 10 cents a gallon, then the President can act with the Secretary and suspend the mandate for

30 days. It is a safety valve. It doesn't take away from the mandate, although I am one who would like to see more done in terms of eliminating the mandate. But, our amendment is a safety valve that allows the President to act. It does not force the President to act, and it does not require him to act. Instead, it gives the President and the Secretary the opportunity to take steps to protect consumers from unreasonable price spikes.

Supporters of the ethanol program, those who would like to see the mandate imposed no matter what the constraints, might say: Well, it is highly unlikely such spikes will occur. We can look at the graph presented by the Senator from New Mexico. It is highly unlikely we would see significant price spikes. Maybe this amendment is unnecessary.

But, Mr. President, we can't predict the future. We don't know with certainty what will or will not happen to the cost of fuel with the 5-billion-gallon mandate on ethanol that has been proposed, but we should be prepared.

That is what we are trying to accomplish with this amendment. We could certainly see problems with ethanol production. We don't have the capacity to produce 5 billion gallons today. If the mandate were imposed, we would like to believe we could double the production capacity in a brief amount of time, but we don't know that for sure. We could have problems with ethanol production. Frankly, we are likely to have problems with ethanol distribution. They may not be huge problems, but ethanol has to be trucked or shipped around the country. It cannot be distributed through the existing pipeline system we use for gasoline in parts of the country.

So there are going to be new demands on the logistics governing our distribution system for gasoline. That could certainly have a big impact on prices. The Senator from New Mexico talked about the issue of importing gasoline from places such as Venezuela—there is no certainty that we would be able to continue to import finished gasoline; we might have to import the raw blend stock to be mixed with ethanol in the United States.

There is no guarantee of the reliability of those imports. And, of course, we may have unusual spikes in demand because of the MTBE bans that are likely to go into effect if and when this legislation becomes law. I come from a State where there has been strong support for banning the use of MTBE. Even more important, I would certainly like to see a provision in the bill—one that was proposed the other day by the Senator from California, Mrs. FEINSTEIN—to allow States to waive the requirement for this mandate, so that States could be free to meet the Clean Air Act without having to use MTBE or without having to use ethanol.

But the point is, there are uncertainties about the future price of gasoline.

Those uncertainties are made greater by the potential 5-billion-gallon ethanol mandate in the bill. Our amendment would provide a safety valve so that if there were price spikes, the President and the Secretary could act in consumers' interests.

Despite my concerns about the mandate and all the other concerns I might have about this Energy bill, I think at the end of the day we should be looking to ensure that the bill protects consumers. This amendment does that. I think it is common sense.

I say to my colleagues, you can support the ethanol program and still support this amendment that protects consumers. Also, you can certainly oppose the ethanol program and support this amendment that protects consumers.

I hope my colleagues will join Senator BINGAMAN and me in doing the right thing for taxpayers and for consumers by supporting this amendment.

I yield the floor.

Mr. BINGAMAN. Mr. 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. DASCHLE. 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. DASCHLE. Mr. President, I come to the floor to speak in opposition to the Bingaman amendment. I must say as I begin, however, that there is no one in the caucus—and, I argue, in the Senate today—who knows more about the issues relating to energy than does my colleague from New Mexico, Senator BINGAMAN. He has been an outstanding leader, and I have enjoyed working with him on these issues now for many years. I recall so vividly his masterful work in getting us a bill that generated some 88 votes, if I recall, last year. That was after about 8 weeks of work. So it is not easy to take these issues or to move this legislation. He deserves great credit for the work he has done.

I take issue with this amendment for several reasons. I have had a chance to look at the amendment itself. There are phrases on line 9 and on line 2 of page 2 that are of particular concern to me. I will read the pertinent passages of the amendment, and I will explain my concern.

First, I have a little explanatory comment. Obviously, the distinguished Senator from New Mexico is interested in providing greater authority to the Secretary to suspend the requirements of the bill. Then he lists those instances in his amendment where the requirements of the bill would be lifted. It is in these areas that I find my initial concern, and then I will address some other concerns I have.

On line 9, page 1, it says:

Application of the requirements of paragraph (2) in the District will result, or has

resulted, in an increase in the average cost of gasoline to the end users in the District of ten cents per gallon or more.

Line 2, page 2, that he can suspend the requirements of the bill if, in the estimation of the Secretary of Energy:

a significant interruption in the supply of renewable fuel in the District will result, or has resulted, in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more.

The phrase that troubles me is "will result." We all would like to be able to anticipate the future. But I could easily see a Secretary who has opposition to renewable fuels, opposition to any real requirement that we move to find replacements for gasoline; or, for that matter, you could put this in a larger context, if we were talking about the renewable portfolio standard, to wind, solar, biomass, or any other renewable fuel, where you could see a Secretary announce: You know what. I have made a decision. I have made a decision that this will result at some point in the future in a cost increase, and the Senator here would set as the threshold 10 cents a gallon. But it will happen, and on that basis I am going to suspend the law.

First, the declarative authority on the part of the Secretary as a result of his ability to predict—weather men are wrong, politicians are wrong, and Secretaries could be wrong. Yet we would give him the authority, based on his judgment and his prediction that somehow he will know we are going to exceed 10 cents a gallon and, on that basis, suspend the law, take an action to suspend the law.

The second concern I have is the good government concern. If we are going to suspend the law, it seems to me we ought to have an opportunity to have comment, to have others express themselves on whether this will result in a price increase. As an advocate of good government, generally when we pass legislation, anytime we designate authority to somebody else, we say, look, you cannot do this without some ability to be heard. You have to be heard. There has to be a process before we give dictatorial powers to somebody to change the law.

That is exactly what our bill does. Our bill says that in those instances when some economic disruption might occur, No. 1, there has to be a demonstration that it has occurred. No prediction that it might happen. It has to happen so we know with what we are dealing.

Secondly we say: If we are going to suspend a law passed by the U.S. Congress and signed into law by the President of the United States, there has to be a good government procedure, and that procedure simply says there has to be notice, there has to be an opportunity to be heard, and then a decision has to be made.

Then we even go beyond that. We say a decision has to be made within 90 days. At one point, in a previous version of this bill, we said it had to be

done in 180 days. Some said that was too long a period. So we have already cut that in half. Then it said no later than 90 days. That is not the threshold to start the decisionmaking process. That is the threshold to end it.

Advocates of good government, I would think, would say that is a pretty good way to do it. If we are going to have price spikes—and I will get to that in just a minute—then it seems to us you ought to give somebody an opportunity to waive the requirements of law. That is understandable. We can do that. But to say, first, we are going to allow that person to make this decision based on what he thinks is going to happen, and then, secondly, allow him to make a decision based on what he thinks is going to happen without any good government application of the law, an opportunity to be heard, an opportunity to make some judgment based on facts, is an awfully troubling assertion or proposition to me.

Having said that, the Department of Energy, in January of last year, just a little over a year ago, completed a report on this very issue. I have not known the Department of Energy necessarily to be a cheerleader for ethanol. They have not been out there leading the pack. But they were asked: What analysis can you provide us with regard to this very concern? Here is their conclusion:

No major infrastructure barriers exist to expand ethanol to 5 billion gallons per year comparable to the legislation before us today.

The Energy Information Agency said after their careful analysis in concert with this report:

The cost of establishing a renewable fuels standard is less than half a penny per gallon for all gasoline.

That is not an assertion by the Senator from South Dakota. That is not the ethanol industry. That is the Federal Government in its analysis of the implications of what it is we are doing with this legislation—a half a penny per gallon for all gasoline.

In March of this year, the California Energy Commission analysis said it cannot establish any attributable increase in the price of gasoline based on the cost or availability of ethanol and the requirements under which they currently are living.

Mr. President, first, if you listen to our own analysis, the Government agencies that have provided their most objective review of the circumstances, we are talking about half a penny per gallon for all gasoline. We are talking about the California Energy Commission—and I might note, as I said yesterday, 65 percent of all the gasoline sold in California today has ethanol. It is going to go to 80 percent by summer. And we have the California Energy Commission saying they cannot find any tangible connection between the price of ethanol and the price of gasoline. But if, for whatever reason, it might happen, we say: Let's give the Secretary the authority. Let's make

sure we are not going to hold consumers hostage to some sort of unexpected price hike, but let's, No. 1, make sure it happens, rather than give the Secretary this ability to predict and make some assertion it might happen. And, secondly, let's use the good government practices we have always used to ensure if we are going to change the law for whatever period of time, that we do so with the opportunity for Americans to be heard. So I hope we oppose this amendment.

I end where I started. The Senator from New Mexico deserves great credit for all he has done to bring us to this point. I respect him immensely and differ with him on this amendment. We could not be in better hands. I appreciate his cooperation on so many of these issues as we move forward. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 851, AS MODIFIED

Mr. BINGAMAN. Mr. President, I very much appreciate the comments of the leader. I know of his strong commitment to this underlying amendment. I will say what everyone in the Senate knows, which is his reputation, a well-earned reputation, for straight dealing. He indicated to me before I offered the amendment that he would be compelled to oppose it, and I certainly understand. I am anxious to accommodate some of the concerns he has raised.

With that in mind, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment, as modified, is as follows:

On page 18, after line 15, insert the following:

“(1) SIGNIFICANT PRICE INCREASE OR SUPPLY INTERRUPTION.—

“(A) SUSPENSION OF REQUIREMENTS.—In addition to the authority of the Administrator to waive the requirements of paragraph (2) under paragraphs (7) and (8), and to extend the exemption from paragraph (2) under paragraph (9), the President, acting through the Secretary of Energy, may suspend the requirements of paragraph (2) in any Petroleum Administration for Defense District, in whole or in part, in the event the Secretary of Energy determines that—

“(i) application of the requirements of paragraph (2) in the District has resulted in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more; or

“(ii) a significant interruption in the supply of renewable fuel in the District has resulted in an increase in the average cost of gasoline to end users in the District of ten cents per gallon or more.

“(B) DURATION OF SUSPENSION.—A suspension granted under subparagraph (A) shall terminate after 30 days, but may be renewed by the Secretary of Energy for additional 30-day periods if he determines that the significant price increase or significant supply interruption persists.”.

Mr. BINGAMAN. Mr. President, let me explain what I did with the modification. I dealt with the issue Senator DASCHLE raised about his concern that

the language in the previous amendment, as I offered it with Senator SUNUNU, allowed the Secretary to act on the basis of a prediction about what was going to happen. That language was in the bill, and I just modified the bill to provide that the President—let me clarify that nothing in this amendment gives the Secretary authority to act. This amendment only gives the President authority to act. The President can only act on the basis of a determination made by his or her Secretary of Energy.

Now, with the modification, it would be a determination made by his or her Secretary of Energy that this ethanol mandate, in fact, has resulted in an increase in the average cost of gasoline to end users or it has resulted in a significant interruption or has resulted in an increase in the average cost by at least 10 cents per gallon as a result of the mandate.

In response to that concern Senator DASCHLE raised, I want to be clear that we have dealt with that in the modification I have just sent to the desk.

Let me also address briefly the other issues Senator DASCHLE raised.

He indicated the need for this is not there because, in fact, the Energy Information Agency in the Department of Energy has said this mandate will result in an increase in the price of gas per gallon of less than one-half of 1 cent per gallon, and the California Energy Commission has also concluded that there is no appreciable increase that will result from this mandate.

First of all, if you look into the analyses that were done both by the Department of Energy and the California Energy Commission, they were looking over the long term and saying over the long term there will not be, in their view, a substantial increase in the price of gasoline as a result of this mandate. That may well be true. Our amendment does not deal with the long term. Our amendment tries to deal with the short term, and that is where there is a price spike, where there is a supply disruption that causes the price to go up an additional 10 cents per gallon because of the ethanol mandate, if that occurs, and it may well not occur. So there is a difference between the studies that they did, which are long term, and the issue we are trying to deal with, which is short term.

I also point out that another sort of flaw in the argument, at least in my view, is that we are now saying we do not need to put this extra safety valve in the legislation because we have a prediction by the Energy Information Agency and we have a prediction by the California Energy Commission that this will not be needed down the road. It may well not be needed, and certainly I am not here to predict that it will be needed. I am just saying this is a good insurance policy. This is a good safety valve.

The Energy Information Agency has been known to make mistakes in their predictions. As to the California En-

ergy Commission, although I am not totally familiar with all of their work, I would venture to say they have probably made a few mistakes in their predictions. I do not know exactly where they were on their predictions with regard to the price of electricity in California a few years ago, but they may well have missed the mark in predicting what that price was going to be, and they might well have wished there was some similar authority to this in place that could have been exercised or had been exercised when that crisis hit.

So I think this is good government practice, and clearly under most circumstances the appropriate course is to give public notice, to have opportunity for comment and hearings, have all the sides, all the interest groups come in and give their point of view. That is a good course. But if the price of ethanol has gone up substantially or there has been a supply disruption or there has been something that has occurred that has caused the price of gasoline to jump more than 10 cents that is directly traceable to this mandate, I believe the wise course is for us to give authority to the President to take action if he or she decides to take action.

As I say, there is nothing in this amendment that requires anyone to do anything. This amendment merely gives people authority to take action if a crisis occurs, if a price spike occurs, if they determine that action is appropriate.

It is possible, in some future administration, that there will be a Secretary of Energy who is opposed to ethanol perhaps, but I assume that the American people are going to elect Presidents in the future who reflect their views on most issues. If they do not reflect their views, then of course the voters have the opportunity to hold them accountable when there is a follow-on election.

Clearly, I think we are mandating a substantial increase in the use of ethanol. I am not opposing that in this amendment, but I am saying let us at least be a little bit humble about our own ability to predict what might occur in the future. If, in fact, there is a significant price spike because of some problem in transitioning to this new fuel mixture, if there is some price spike as a result of interruptions in supply, then let's have the President, with the authority, deal with the situation, and let's not just say, okay, we are going to require that they go through the normal hoops, give public notice and comments, have hearings, and all of that. I think there is certainly a time for all of that, but there is also a time to take action. When the American people elect a President, they expect the President to have authority to act when the circumstance requires. That is what our amendment would do, and we hope very much it will be agreed to.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Will the Senator join me in asking for the yeas and nays on his amendment?

Mr. BINGAMAN. I am glad to ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Let me ask, does Senator REID know if there is another Senator who has an amendment?

Mr. REID. Senator SCHUMER is due any minute to offer an amendment on this subject.

Mr. DOMENICI. I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I have spoken to the two managers of the bill. We have been dealing now for the second day on the ethanol section. What we would like all Members to hear, if anyone has any desire to offer an amendment on the ethanol section, is they should let their respective Cloakrooms know immediately. The knowledge we have at this time is Senator BOXER has two amendments, Senator SCHUMER has one amendment, Senator CLINTON has one amendment, and Senator FEINSTEIN has two amendments.

If there are amendments other than these that I have just enumerated—BOXER, TWO; SCHUMER, one; CLINTON, one; FEINSTEIN, two—they should let the cloakrooms know. It is my understanding Senator NICKLES may or may not offer an amendment but he is on the list.

Mr. DOMENICI. Should we put NICKLES on the list?

We think he will come off.

Mr. REID. He is on the list. If anyone else wants to offer an amendment, let us know immediately. Otherwise we are going to enter into an agreement that the amendments I have just listed will be the only ones in order on the ethanol section.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from New Mexico.

Mr. DOMENICI. Might we do it this way, so there will be a bit of finality. It is 10 minutes to 5. Could we enter into an agreement that that is it, unless some Senator contacts you or Senator BINGAMAN or myself by 5 o'clock?

Mr. REID. We should give people a little bit of time.

Mr. DOMENICI. That is plenty, 10 minutes. At 5:30?

Mr. REID. I personally would like to get off this section. We hope to have a vote, it is my understanding, by 5:15. We would know as soon as that vote is completed.

Mr. DOMENICI. For now we are going with the fact this is all we are

aware of. We hope Senators understand we are perilously close to making that a consent agreement but we have not yet, just in deference to somebody who might still come up with a new idea regarding this subject.

Mr. REID. If the Senator will yield, I have spoken to Senator FEINSTEIN. She is willing to offer one of her amendments tonight, as soon as the vote is completed. What we will try to do is have slots available, either tonight or first thing in the morning, to finish these amendments.

Mr. DOMENICI. I understand. To give her a little more time, I understand we could have two votes. What we will tell the Senate shortly, about LIHEAP, which may meet with your approval, Senator BINGAMAN—the idea would be to bring it back immediately following a vote on your amendment. It would make the pending business the LIHEAP amendments, both of them, at which time we would have a vote on the Domenici amendment that was offered in behalf of the chairman of the committee, and there would be a vote. Immediately following that vote there would be a vote, if required, on the LIHEAP amendment.

Mr. BINGAMAN. Madam President, in response to the question, my understanding is Senator CANTWELL, from Washington, did want to speak on this LIHEAP issue. I don't feel comfortable just agreeing we are going to lock her out of that opportunity. I think we have been advising people that the LIHEAP issue had been put aside for some period of time.

Until we can consult with her, at least, and find out—as I understand it, the Senator is suggesting we go ahead and go to a vote on the Gregg amendment?

Mr. DOMENICI. The Gregg amendment, yes.

Mr. BINGAMAN. That would essentially replace the LIHEAP provisions with a sense of the Senate.

Mr. DOMENICI. Right.

Mr. BINGAMAN. I am saying before I agree to that specific time I would like to be sure to protect Senator CANTWELL.

Mr. DOMENICI. I wonder if we could agree to vote on the Bingaman amendment and then say, when that vote has been completed and we finish it, there would be 10 minutes for debate, at which time I will give 5 of that to the Senator you just described, for her discussion, or 10, whatever you would like, after which we would have a vote? That gives you what you need and it sets up at least two votes and a disposition of your LIHEAP.

Mr. REID. If the Senator will yield, that may be appropriate, but we need to check with her first.

Mr. DOMENICI. All right. Could we just make sure everybody understands we are prepared to move, soon, to bring the LIHEAP issue back on the calendar where it belongs, and to dispose of it this evening?

With that, I assume we will proceed, Senator, to vote on your amendment, if that is all right with you.

Mr. BINGAMAN. Madam President, in response, I have no problem with proceeding to a vote on my amendment on ethanol at this point.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 851

Mr. DOMENICI. Madam President, there has been ample argument in opposition to the Bingaman amendment. The Senator from New Mexico, the manager of the bill, would merely like to say, while I accept the argument of the distinguished junior Senator from New Mexico, it seems to this Senator from New Mexico that to adopt the amendment truly creates an unworkable situation with reference to the source, supply, and the management of petroleum needs in the United States. That is all I have to say. I believe there is ample flexibility in the underlying bill. I do not believe we ought to make it more difficult to turn the spigot on and off with reference to the impact of ethanol on the gasoline supply in the country.

I believe it is almost unworkable, for any President to decide, for instance, what caused the increase and to turn that on and off with reference to the supply and refining capacity and the like.

With that, I yield the floor. I am prepared to vote up or down on the Bingaman amendment to the ethanol amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI. I am going to suggest the absence a quorum for about 10 minutes. Senators are being put on notice during that period of time that we are going to vote shortly. That is why we are having a 10-minute quorum call at this time. I yield the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Madam President, regular order.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Idaho (Mr. CRAPO) and the Senator from Ohio (Mr. VOINOVICH) are necessarily absent.

Mr. REID. I announce that 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 Massachusetts (Mr. KERRY) would vote "nay."

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

The result was announced—yeas 37, nays 58, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—37

Akaka	Hatch	Rockefeller
Allard	Hollings	Santorum
Allen	Inouye	Schumer
Bennett	Jeffords	Sessions
Bingaman	Kennedy	Shelby
Boxer	Kyl	Smith
Cantwell	Lautenberg	Snowe
Clinton	Leahy	Specter
Collins	McCain	Sununu
Cornyn	Murray	Warner
Ensign	Nelson (FL)	Wyden
Feinstein	Nickles	
Gregg	Reed	

NAYS—58

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

NOT VOTING—5

Crapo	Kerry	Voinovich
Graham (FL)	Lieberman	

The amendment (No. 851) was rejected.

Mr. REID. Madam 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.

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

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

Mr. DOMENICI. Madam President, I say to fellow Senators, we are going to have a unanimous-consent request that will pertain to ethanol. There will be no further votes this evening. We will have a unanimous-consent request regarding three amendments on ethanol that will be entered into shortly. All three will be voted on tomorrow, and that will dispose of the ethanol second-degree amendments.

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

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

Mr. REID. After visiting with the two managers of the bill, the next amendment that will be offered on this Frist-

Daschle amendment is one by the Senator from New York on behalf of himself and Senator CLINTON. The agreement on that is that there will be 20 minutes equally divided. That basically is what would happen on this amendment. This is a second-degree amendment. So that is all the protection they need.

I ask unanimous consent that Senator SCHUMER be recognized to offer his amendment, that there be 20 minutes equally divided on this amendment, and that the vote would occur sometime tomorrow, which will be subject to the two leaders.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Mr. DOMENICI. Do we have the rest of the consent ready?

Mr. REID. He is not quite ready yet.

Mr. DOMENICI. Does the Senator think we should wait now and do it or let Senator SCHUMER begin?

Just so everybody understands, we do intend to have a consent that disposes of all three amendments, with votes on all three, Schumer and two others. But that consent agreement will come along shortly.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New York is recognized.

AMENDMENT NO. 853 TO AMENDMENT NO. 850

Mr. SCHUMER. I have an amendment at the desk. I ask unanimous consent that Senator CLINTON be added as a cosponsor.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from New York [Mr. SCHUMER], for himself and Mrs. CLINTON, proposes an amendment numbered 853 to amendment No. 850.

Mr. SCHUMER. 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 as follows:

(Purpose: To exclude Petroleum Administration for Defense Districts I, IV, and V from the renewable fuel program)

On page 4, strike lines 6 through 15 and insert the following:

“(i) PROMULGATION.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in Petroleum Administration for Defense Districts I, IV, and V), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

Mr. SCHUMER. Madam President, I rise today to offer an amendment that would modify the renewable fuels provision of this amendment and limit it to Petroleum Administration Defense Districts II and III where corn and ethanol are most naturally available.

The objection that those of us from the coasts and the Rocky Mountain

areas have with this amendment is very simple. While corn is plentiful in the Middle West, as this chart shows, and ethanol will be a good additive for gasoline in terms of cleaner air, in terms of oxidation, it will not work on the coasts. First, we do not have the corn available. It has to be shipped. It has to be made into ethanol and then shipped. Since ethanol is combustible, shipping is expensive. It will raise prices for us. We do not know how much. There is a dispute. But when there is a better way to do it that will not raise any gasoline prices, there is no reason we should not be for this.

So this amendment would basically be very simple. It would say that PADDs II and III, the corn-growing areas of the country which produce most of the ethanol, would, indeed, still have the mandate before them, but it would allow PADDs I and IV and V to be exempt.

This body has no reason not to exempt. We have already exempted Alaska and Hawaii because they are far away. The issue is not the amount of water or land that must be traversed; it is how far the ethanol has to be transported, and it has to be transported quite a long distance to get to these other areas.

So I join with my colleague, Senator CLINTON, to offer this amendment and to say the main reason we are against this is very simple: There are cheaper ways to do this. This will raise the price of gasoline, and it will be an unfair burden, an unfair tax, on many of the people who live in the two coastal areas of this country and in the Rocky Mountain States.

Every one of my colleagues from the PADD IV, PADD V, and PADD I areas are not representing their constituents unless they vote for this amendment because the benefit for the few corn growers in our area will be far exceeded by the detriment to every driver in the area in terms of increased gasoline prices.

Some say it will not raise prices much. Most of the studies are admittedly divided on that, but there is too much evidence that says they will. If there is a better way to do it that does not require a mandate, why not? I say to my free market colleagues on the other side of the aisle, it is very hypocritical to be for the free market except when it benefits a product in their State. To force ethanol on areas that could do it better in other ways is not free market.

Ethanol is already subsidized dramatically. I have supported money for our corn growers, even though we have very few in New York. But if we are going to do it, it ought to come out of the Treasury, not out of the pockets of drivers throughout the Nation. We are going to be making a major mistake. We will come back 3, 4, 5 years from now, if we pass the Frist-Daschle amendment, and we will regret it.

Remember the catastrophic tax? This is the same type of thing. I do not want

any of my colleagues to say they did not know, because we are giving them warning loudly and clearly that the chances that this will raise gasoline prices significantly are too high to risk it, particularly when there are other ways to require the clean burning of fuels other than ethanol.

So for my colleague from Tennessee and for my colleague from South Dakota, who are both fine people, we are not exempting their areas. If they want to do it there, that is fine. It is not going to cost them much. It will help their corn growers and not cost their drivers much. But for all the people on the east coast, the west coast, and the Rocky Mountain States, this makes a huge difference.

I urge my colleagues to support this amendment, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I ask unanimous consent that the following be the only remaining second-degree amendments to No. 850 and that they be related to ethanol: No. 1, Schumer, which we are hearing now, 20 minutes equally divided; Senator BOXER, 1 hour equally divided on two amendments. I further ask unanimous consent that following debate on the Schumer amendment this evening, the amendment be temporarily set aside. I further ask consent that when the Senate resumes consideration of the Energy bill on Thursday, Senator BOXER be recognized—at that time, she be recognized in order to offer her first amendment.

Finally, I ask unanimous consent that following debate on the above listed amendments, they be temporarily set aside and the votes occur in relation to the amendments in the order offered at a time determined by the majority leader after consultation with the Democratic leader.

Mr. REID. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Democratic assistant leader.

Mr. REID. I ask that there be 2 minutes equally divided between the votes.

The PRESIDING OFFICER. Is there objection to modifying the unanimous consent request?

Mr. DOMENICI. I do not want to object, but I want to ask a question because I am rereading what I just read. It does not seem to me that it says there is a second Boxer amendment.

Mr. REID. Yes, she has two. It does say that.

Mr. DOMENICI. It says Senator BOXER be recognized to offer her first amendment.

Finally, I ask unanimous consent that following the debate on the above listed amendments—it does not say her second amendment.

Mr. REID. We want to make sure she gets to offer her second amendment.

Mr. DOMENICI. All right.

Mr. REID. Madam President, Senator BOXER has indicated she would be willing to come anytime in the morning. It

is my understanding, after having spoken to the managers of the bill, that she would need to be here at approximately 10 a.m. tomorrow.

Mr. DOMENICI. That is about right.

Mr. REID. We will go into session at 9:30. Staff should advise Senator BOXER to be here at 10.

The PRESIDING OFFICER. Is there objection to the request?

Mr. REID. Madam President, maybe I did not make it clear, because it was not clear, that we are going to have three votes. I assumed we would go right into the first vote and not need the 2 minutes, but we are going to do this later, so Senator SCHUMER would also need the 2 minutes as with the two Boxer amendments.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

The PRESIDING OFFICER (Mr. AL-EXANDER). The Senator from New York has 5 minutes remaining.

Mr. DOMENICI. I don't see anyone here who wants to argue in opposition to you. We have already voted. I know the Senator from New York has great, innovative capacity and that he has proudly come up with an amendment the likes of which the Senate has never seen or heard, but I have an inclination that it is similar to what we have voted heretofore; I don't believe it has been offered to do anything other than cause significant mischief to the ethanol bill which is before the Senate, which I understand has very broad support.

So my argument would merely be, in all deference, to suggest that enough is enough, and just as we voted heretofore in opposition to the other amendments, we follow suit and vote against the amendment of the distinguished Senator from New York.

I only used 3 minutes and I yield back any other time in opposition. I thank the Senator for being generous in only using a small amount of the Senate's time this evening. I do mean the latter seriously.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I conclude, first, one difference with this amendment—it has the support of the ranking Democrat on the Energy and Natural Resources Committee, which the others did not. Second, it affects all of the coastal States, not just one or two.

On the other amendments there was a general opt-out. Those who advocate ethanol would say every State could opt out and we would not have an ethanol program. Here, the main States that care about it in PADDs II and III, half of the States in the country or less, would not be allowed to opt out. It would be cheaper for them.

I say to my good friend, "mischief"? We are creating mischief with this amendment? My goodness, the amendment my good friend the chairman of the Energy and Natural Resources Committee is creating affecting the

drivers in more than half the country is enormous, all to help the corn growers and to help the ethanol industry. That is the kind of mischief that people do not like about Washington.

They are saying, you are telling me, Mr. John Q. Smith of New York, Miss Mary E. Jones of Oregon, Miss Young Teenager who just learned to drive from Denver, CO, they must use ethanol even if it costs more.

I see my good friend from Pennsylvania, one of the great upholders of free market principles—except when it comes to steel and corn.

Let's be realistic here.

Mr. SANTORUM. If the Senator from New York would yield, if he checks my vote on the last 2 amendments he would find I am a great defender of the free market principle and have joined the Senator from New York in support of those.

Mr. SCHUMER. I retract my remarks. I should not have assumed the worst.

Mr. DOMENICI. Will the Senator yield?

Mr. SCHUMER. I say to my friend from New Mexico who also upholds free market principles that this is not a free market bill. This is the opposite. Even the Wall Street Journal editorial page has come out against this proposal.

Can't we form a nice little coalition of the States poorly affected, the States that are hurt by this, plus all those who believe in the great free market, like my good friend from Pennsylvania on the issue of corn?

Mr. DOMENICI. I remind the Senator, in response to the Senator from New Mexico and his remarks about this being more of the same and enough is enough and his comment, one thing is different, and that is that the ranking minority member of the Energy Committee was on his amendment, I remind the Senator that same Senator has offered his own amendment and it did not get enough votes. If you get as many votes as he got, you are doing quite well. I don't know that you can expect more by saying he is on it since he has tried his best and failed already.

Mr. SCHUMER. Reclaiming my time, I simply say to my friend from New Mexico, the underlying is so bad and so egregious it is worth trying and trying again.

You know the old song: what made you think that ram could punch a hole in the dam? Everyone knows a ram can't punch a hole in the dam, but he had high hopes. He had high hopes, high, apple pie-in-the-sky hopes.

That is what we have here. We know if we persist, because we are right, we can do it, just like the ad, that could not move a banana tree plant in the same aforementioned song.

We are going to keep trying. We know it is an uphill fight. We do not think that is because we are wrong. We think that is because there is a lot of power on the other side. I guess our lack of strength and votes thus far is

somewhat made up for in the passion we felt about this issue in these amendments.

If my colleague would like to conclude, I yield him whatever time remains.

Mr. DOMENICI. I am anxiously awaiting for you to decide you have used your time up. Have you?

Mr. SCHUMER. I ask the President if I have.

The PRESIDING OFFICER. The Senator has 54 seconds.

Mr. SCHUMER. In deference to my good friend from New Mexico, and in hopes that he will see the error of his ways, I yield back those 54 seconds.

Mr. DOMENICI. I am so thrilled. That is the first act of generosity that has occurred with reference to the chairman, who has been trying to get this bill completed. I am very thrilled.

Tomorrow we will have three votes, as I indicated, starting sometime after 10 o'clock. They will all be on ethanol. We have a bill with all kinds of things in it and we will just be finishing the subject matter of both votes on ethanol.

I do thank the minority managers for their efforts, in particular Senator REID, in trying to narrow down the number of amendments on the Democratic side, which they have done.

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

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

MORNING BUSINESS

Mr. DOMENICI. Mr. President, I ask unanimous consent the Senate be in a period of morning business and Senators be permitted to speak for up to 10 minutes.

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

The Senator from Wyoming is recognized.

ENDANGERED SPECIES FUNDING ACT

Mr. ENZI. Mr. President, there is no question that the goals of the Endangered Species Act are noble. Wyoming residents understand the desire to maintain a healthy environment and to manage and protect wildlife. In fact, it is a business we have been in for generations. The fact that today's private lands are the primary habitat for a more abundant range of wildlife than can be found on Federal public lands is a strong testament to my Wyoming's residents' belief in protecting wildlife and their willingness to put those beliefs in action.

It was the State of Wyoming, not the Federal Government, that took action to find the believed extinct black-footed ferret. The State then used its own