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Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Once again, retired pastor emeritus of Georgetown Presbyterian, the Reverend Campbell Gillon, will lead us in prayer.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

O God of creation, while the brightest human minds painstakingly uncover the intricate fringes of Thy handiwork, we recognize that the proper attitude before Thee is not arrogance and self-satisfied cleverness but humility and wonder, for the ultimate question is not how, but who, since this mysterious gift of human life with its flawed grandeur, dissatisfied searching, and spiritual promptings point to a Giver who has yet something better in mind.

We come to Thee as recipients, entrusted with all that we have and are. Our gifts are different and disparate, yet Thou hast dealt with us all equally—in the measure of trust shown us, in the measure of responsibility for using what we are briefly given, and in the measure of commendation we shall receive if found faithful.

Lord God, teach us that in Thine economy none is an outright owner, but all are temporary stewards. We enter the world with nothing but the precious gift of life. We leave it with the character we fashioned by our use of the time, talents, and possessions with which we are entrusted. All we take to Thee is the person we have become.

So teach us to number our days, that we may apply our hearts unto wisdom— Psalm 90:12.

O Lord, grant such wisdom to the Members of this Senate that in leading they may be divinely led, that in taking counsel together, they may be in-

structed individually by a truth-quickened conscience, and as they share in enacting the laws of time, they may do so in the light of eternity. So, bless and give grace to each one. In the power of Thy Spirit we pray. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The deputy leader is recognized.

SCHEDULE

Mr. McCONNELL. Mr. President, this morning the Senate will resume consideration of S. 14, the Energy bill. There are currently two LIHEAP amendments pending to the bill, as well as the bipartisan ethanol amendment. At this time, I urge any Member who wishes to offer an amendment to contact the chairman or ranking member of the Energy Committee so that time can be scheduled for the consideration of such amendments.

Members should expect rollcall votes during today's session. It is anticipated that we will be able to dispose of several energy amendments later today. Members will be notified, of course, when the first vote is scheduled.

For the remainder of the week, the Senate will continue the consideration of the Energy bill and wrap up action on the Department of Defense authorization bill. Rollcall votes are therefore expected each day during this week.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Nevada.

Mr. REID. If my distinguished colleague will yield, it is my understanding also that the two managers have agreed to set aside the pending amendments for other amendments to be offered. I believe that is the case.

Mr. McCONNELL. I say to my friend from Nevada, I believe that is the case.

Mr. REID. I think those who have amendments should get to the Chamber as quickly as they can because one of the sponsors of one of the amendments now pending will not be here until this afternoon. So we can move that along with other amendments. It is my understanding that this bill, when it was up last year, took 8 weeks. It is my understanding that the majority leader wants to finish this bill within the next 2 weeks. So that is a really big order because some of these amendments are very difficult. Some of the issues are difficult.

I suggest we should get on this as quickly as possible because it is going to be very difficult to finish this bill in 2 weeks.

Mr. McCONNELL. Mr. President, as the Senator from Nevada has indicated, it is our hope that we can finish the Energy bill in the next couple of weeks. We intend to pursue that as vigorously as possible. The cooperation of all Members toward that end would be greatly appreciated.

The assistant Democratic leader is correct; it would be wonderful to have amendments laid down and debated. We are open for business.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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ENERGY POLICY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

The legislative clerk read as follows:

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

Pending:

Frist/Daschle amendment No. 539, to eliminate methyl tertiary butyl ether from the U.S. fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence.

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 deputy leader.

Mr. MCCONNELL. Mr. President, it is my understanding that Senator DOMENICI, the chairman of the committee, will be in the Chamber shortly. Pending his arrival, 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.

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. What is the order of business?

The PRESIDING OFFICER. The Senator must ask unanimous consent to set aside the pending amendment.

Mrs. FEINSTEIN. I ask unanimous consent to set aside the pending amendment.

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

AMENDMENT NO. 843 TO AMENDMENT NO. 539

Mrs. FEINSTEIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 843 to amendment No. 539.

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

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

The amendment is as follows:

(Purpose: To allow the ethanol mandate in the renewable fuel program to be suspended temporarily if the mandate would harm the economy or environment)

On page 12, strike lines 19 through 24 and insert the following:

"(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the renewable fuel requirement—

"(I) is not needed for the State or region to comply with this Act because the State or region can comply in ways other than adding renewable fuel; or

"(II) would harm the economy or environment of a State, a region, or the United States; or".

Mr. DOMENICI. Will the Senator yield?

Mrs. FEINSTEIN. I yield.

Mr. DOMENICI. I thank the Senator for coming early this morning and offering an amendment to help us get this bill going. We will be arranging a sequencing of these amendments later in the day. I thank the Senator for bringing forth the amendment at this time.

Mrs. FEINSTEIN. This is an amendment to the pending first-degree ethanol mandate amendment to provide authority to the Administrator of the Environmental Protection Agency to waive the ethanol mandate if a State or region does not need to meet the requirements of the Clean Air Act.

We all must understand this ethanol amendment is a permanent mandate. Regardless of what advances are made in technology, whether a hybrid engine, whether a hydrogen-driven engine, regardless of any advance, this ethanol mandate is forever. Therefore, it offers very real concern.

In the pending first-degree ethanol amendment, there is a waiver now that allows the Administrator of the EPA to waive the ethanol amendment if it would harm the economy or the environment of a State, a region, or the United States. I believe the EPA Administrator should also be able to waive the ethanol mandate if a State or a region does not need ethanol to make the air cleaner and meet the requirements of the Clean Air Act. Why require something that is not needed? Why require it if there should be an advance in technology that makes the use of ethanol unnecessary?

California and other States that do not need ethanol to meet the requirements of the Clean Air Act should be allowed to make their case to the EPA and then the Administrator can decide if the ethanol mandate should be waived.

For California, the ethanol mandate will force more ethanol into our fuel supply than we need to achieve clean air. The mandate forces California to use over 8 years 2.5 billion gallons that the State does not need.

This chart makes very clear this is a superfluous mandate. The blue shows what California needs in terms of ethanol over the next 8 years, to 2012. The top amount is 143 million gallons. It averages about 140 million gallons a year. California could use that amount and meet all of the clean air standards. This bill requires California to use over this period of time up to 600 million gallons, so it almost triples in the out-years the amount of ethanol that is forced on California beyond its need. This is a real problem in terms of legislation. Why would anyone force something on a State that it does not need and then provide, if the State does not use it, that it has to pay anyway?

If anything is poor public policy, this ethanol mandate is poor public policy. It also actually achieves a transfer of wealth from all States to the midwest corn States.

California does not need ethanol to produce cleaner air because the State has developed its own unique gasoline formula. Refiners use an approach called the predictive model which can produce clean burning reformulated gasoline with oxygenates, with less than 2 percent oxygenate or with no oxygenate at all.

As Red Cavaney, president of the American Petroleum Institute, said in March before the Energy and Natural Resources Committee:

Refiners have been saying for years that they can produce gasoline meeting clean-burning fuels and federal reformulated gasoline requirements without the use of oxygenates. . . . In addition, reformulated blendstocks—the base in which oxygenates are added—typically meet RFG performance requirements before oxygenates are added. These facts demonstrate that oxygenates are not needed.

As a matter of fact, virtually every refiner I talked to says if you want to clean the air, give us flexibility, allow us to blend gasoline to do that. In other words, set the standards as the Clean Air Act does and allow us to have the flexibility needed to meet those standards.

This mandate prevents that. It is driven by the self-interest of the corn States and driven by the self-interest of the ethanol producers, of which the largest beneficiary is Archer Daniels Midland. Archer Daniels Midland will control 46 percent of the ethanol market, with every other company controlling not more than 6 percent of the market. In essence, what we are doing is giving a huge transfer of wealth to one American company, an American company that has been convicted of corrupt practices in the 1990s.

I have real problems with this bill. As I said, California can achieve clean air without the use of oxygenates. The State has long sought a waiver of the 2-percent oxygenate requirement. I have written and called former EPA Administrator Browner, the current Administrator, Christine Todd Whitman, and President Clinton and President Bush, urging approval of a waiver for our State. Yet both the Clinton administration and the Bush administration have denied California's request. Despite the scientific evidence, it is unlikely that the EPA Administrator will ever grant a waiver for California, but I believe the necessity of the ethanol mandate for a State or region should be something the EPA Administrator considers. I don't believe it is too much to ask for the EPA to consider if ethanol is needed in a specific State or region when determining if a waiver from the mandate should be granted.

As I say, this amendment simply amends the waiver part of the Frist-Daschle bill to permit a waiver in the event that a State can demonstrate to the EPA Administrator that it can meet the clean air standards without the use of ethanol.