

Tennessee and Kentucky to look at the issues faced by military parents raising children. Senator CHAMBLISS did the same in Georgia, and Senators DODD and BEN NELSON will do the same in their respective home States of Connecticut and Nebraska.

Later this month, we will have a joint hearing in Washington of the Subcommittee on Children and Families, which I chair, and the Subcommittee on Personnel of the Armed Services Committee, which Senator CHAMBLISS chairs. Senators DODD and NELSON are the ranking Democrats. That joint hearing is to focus on military families raising children.

Our military has dropped from 3 million to 1.4 million, so we have fewer people in the Armed Services, but we have more missions; we have fewer soldiers; we have more women as a part of the military; we have more military spouses working; we have longer deployments; we have more military children. As a result, we need to be thinking about the families at home as we think about the warriors overseas. I wanted the full Senate to know that four Senators and two subcommittees are addressing these issues.

I think that makes it even more important that the leadership on the Republican and Democratic sides find a way to fix the problem that occurred with the child tax credit in the recently enacted Tax Bill.

President Bush had recommended that we increase from \$600 to \$1,000 the child tax credit to help parents raising children, including families that make \$10,500 to \$26,625. Refundability for these lower income families is to be increased from 10 to 15 percent in 2005 under the 2001 Tax Bill. The full Senate voted for that to be accelerated to 2003 and 2004 when it passed its version of the Tax Bill. In the final version of the Tax Bill, those between \$10,500 and \$26,625 were left out. Some of those families left out of the Tax Bill are serving in our military.

It was not the intention of the Senate to do that, I don't believe. I doubt if most Members of the House want that result. That is why on Tuesday I cosponsored Senator GRASSLEY's bill to fix the problem, and I am prepared to vote for any reasonable proposal in the Senate that the leadership can negotiate in the next few days to make it clear that our Senate and our Congress put a priority on parents raising children.

I thank the Chair.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, morning business is now closed.

ENERGY POLICY ACT OF 2003

The PRESIDENT pro tempore. 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:

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.

Domenici (for Frist) Amendment No. 850, to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence.

Schumer/Clinton Amendment No. 853 (to Amendment No. 850), to exclude Petroleum Administration for Defense Districts I, IV, and V from the renewable fuel program.

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

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from California, Mrs. BOXER, is recognized.

Mrs. BOXER. 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.

Mrs. BOXER. I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 854

Mrs. BOXER. Mr. President, I send an amendment to the desk on behalf of myself, Senator LUGAR, and Senator CANTWELL.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 854.

The PRESIDING OFFICER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To promote the use of cellulosic biomass ethanol derived from agricultural residue)

On page 8, strike lines 16 through 19 and insert the following:

“(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol—

“(A) shall be considered to be the equivalent of 1.5 gallons of renewable fuel; or

“(B) if the cellulosic biomass is derived from agricultural residue, shall be consid-

ered to be the equivalent of 2.5 gallons of renewable fuel.”

Mrs. BOXER. Mr. President, I am very delighted to offer this amendment on behalf of myself, Senator LUGAR, and Senator CANTWELL. I think it is quite a pro-ethanol amendment because what we are trying to do here is encourage the development of ethanol that is produced from agricultural residues.

This amendment will, in fact, promote the production of agricultural residue ethanol. I want to tell my colleagues why this is important. I believe that biomass ethanol derived from agricultural residue could be a significant source of ethanol in California and also throughout the United States. Every State has agricultural waste, including those producing corn.

I hope my colleagues who have the production of corn, wheat, sugarcane, rice, barley, beets, or oats in their States will realize this amendment is very important to them. I also believe the use of agricultural residue ethanol will make it easier for many of our States—certainly for California—to meet an ethanol mandate without price spikes and gasoline shortages as it increases the flexibility that the country has to meet this mandate.

What is agricultural residue ethanol? I am sure if people are watching, they are thinking: This cannot be interesting. To me, it is very interesting because it is fuel made from the fibrous portion of plants, as is ethanol, but it differs from conventional ethanol in the following significant ways.

First, the manufacturing process does not consume fossil fuels but rather uses plant byproducts and waste to create the energy to run the process. So, in a time in our history when we are trying to lessen our dependence on fossil fuel, I think this amendment is quite an important statement for us to make. I am very proud that Senator LUGAR agrees because he is someone with much experience in this area.

Second, the raw material does not compete as a food source for humans and is available today based on existing farm practices.

Third, it uses existing waste products, thus decreasing disposal needs.

Ethanol made from agricultural residue, such as rice, wheat straw, and sugarcane waste, can be locally produced and does not require that corn and other commodities be grown just to make ethanol.

What we are talking about is using the residue, not growing food just to produce ethanol at a time when we are throwing food away because we have an overabundance in many of these areas. And, then we have been very energy inefficient by using the fossil fuel to develop the ethanol. What we are saying is the waste of agricultural materials is going to be put to good use.

Is this a pie-in-the-sky idea? No, it is not. In 1999, Sacramento Valley produced enough rice straw waste—500,000 tons of which is burned in the field—to

produce 100 million gallons of agricultural residue ethanol.

By putting these agricultural wastes to good use, converting them into energy resources, agricultural ethanol residue production reduces landfill disposal and open-air burning. We are using the waste we otherwise would dispose of either by burning, which dirties the air, or throwing it into a landfill. This will improve air quality and water quality.

Further, agricultural residue ethanol reduces greenhouse gases by more than 90 percent compared to gasoline. I reiterate, agricultural residue ethanol reduces greenhouse gases by more than 90 percent compared to gasoline. And it also creates markets for unused agricultural products that are generally expensive to dispose of. Agricultural residue ethanol can give our farmers and our rural communities enhanced economic security.

We clearly know that as a new technology, agricultural residue ethanol faces an uphill struggle to break into the ethanol market.

Right now we know, when we look at the marketplace, that there is much room to grow here if we look at the numbers. We only have a very small number of gallons that are being derived from anything other than corn. So we have a chance. This, again, is not a pie-in-the-sky idea.

Currently, the only commercial facility is the Iogen facility in Canada which converts wheat straw into fermentable sugar and the sugar into bio-ethanol. Iogen Corporation's goal is to produce 180,000 gallons of ethanol annually. I believe we should promote these types of facilities in the United States of America. Our amendment, I believe, will ensure this.

We provide in our amendment more incentives for this type of agricultural residue ethanol production in the United States of America. As this mandate hits my State of California, and other States, where they have to spend a lot of money to bring that ethanol into to the State, it is going to be very cost competitive to import this type of ethanol from Canada. Why do we want to do that when we have the ability, if we have wheat, corn, beets, oats, barley, or rice, to name a few? We can do this in our country, and we can have a whole new industry. We can make ethanol more affordable to those of us who live in States far away from the Midwest.

In the underlying bill, there is a 1.5-gallon credit for numerous types of biomass ethanol. This means that a gallon of biomass ethanol counts as 1.5 gallons in meeting the bill's mandate. So there is a little incentive to use biomass ethanol, and I am very proud of that because we worked hard on that issue in our committee.

What we want to do, it seems to me, is increase that credit to 2.5 gallons if the ethanol is made from agricultural residues. The fact is that agricultural residues provide us with an amazing

opportunity and a promising opportunity to produce ethanol that has the potential of providing many economic and environmental benefits.

We are very pleased to offer this amendment. Right now, up to this point, we have seen amendments that people have viewed as anti-ethanol. This is an amendment that should bring us together. It should unite us because there are so many other crops that could be used—and, by the way, are going to be used—but we want to incentivize those agricultural crops.

That is what our amendment does. Senator LUGAR, Senator CANTWELL, and I are very pleased to offer this amendment. We are very hopeful it will be adopted. We are very hopeful we will not have opposition.

Mr. President, I retain the remainder of my time and yield the floor. I also 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. 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. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Nevada does not control the time.

Mr. REID. Mr. President, I ask unanimous consent that the quorum call I will call for shortly be charged equally to both sides.

The PRESIDING OFFICER. Without objection, the quorum call will be charged equally to both sides.

Mr. REID. 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 that the order for the quorum call be rescinded.

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

Mr. DOMENICI. Mr. President, I note the presence of the Senator from California who has just offered an amendment which expands the substances that can be used for ethanol conversion. I am willing to accept the amendment. I favor the amendment. I understand the distinguished minority manager would like to speak on the subject at this point.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I congratulate the Senator from California on this amendment. It substantially improves this portion of the bill and does provide additional opportunity for developing ethanol from these other sources. It is good environmental policy. It is good energy policy. I very much support the amendment.

As I understand it, most of those people who looked at this agreed to it. I

agree with my colleague from New Mexico that this is an amendment we should agree to unanimously in the Senate and we should maintain it in conference, insisting on it in our discussions with the House.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I cannot thank enough both of my colleagues, my friends, from New Mexico, Senator DOMENICI and Senator BINGAMAN.

I want to make sure Senators understand exactly what we do. We increase the credit to 2.5 gallons if the ethanol is made from agricultural residue. It is giving an incentive to our farmers who produce rice, wheat, barley, oats, sugar beets, and others, an incentive to use the waste.

I was going to have a rollcall vote on this, but given the assurances of Senators DOMENICI and BINGAMAN, who have stated very clearly and have told me they will not drop this amendment in conference—can I rely on that commitment? I ask both my friends one more time.

Mr. DOMENICI. Yes, I say to the Senator, I will do my very best. I indicated that to you and I will do my very best. I make that commitment to you.

Mrs. BOXER. You will do your very best?

Mr. DOMENICI. Yes.

Mrs. BOXER. Meaning you will not drop it in conference, which is what you told me?

Mr. DOMENICI. That is correct.

Mrs. BOXER. And my other friend, my ranking member, has made the same pledge?

Mr. BINGAMAN. Let me respond, to the extent I am persuasive in the conference, I will commit to keeping this provision in the law.

Mrs. BOXER. I see the Democratic leader is on the Senate floor. It would be a wonderful thing if he could speak out on this amendment as well. We have both Senators from New Mexico, and Senator LUGAR. I am trying not to put the Senate through a rollcall vote. If I have these strong commitments, it will make me feel a lot better about it. I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, first let me thank the Senator from California for her efforts to improve upon this legislation. I have indicated to her privately that I support the amendment. I would support it if there were a rollcall vote.

The fact that DICK LUGAR, the initial cosponsor of this legislation when we introduced it several years ago, is a proud sponsor of this amendment is some indication of the degree to which the ethanol community and those of us who support this proposal would be supporting her amendment.

As my colleagues from New Mexico, both the chairman and the ranking member, have noted, there is no reason, when we get into conference, this

should not remain intact as part of the Energy bill.

It is a good amendment. It provides even more opportunities to meet the targets set out in this legislation.

So I would do all I could as Democratic leader to ensure that at the end of the day, when this legislation comes back in the form of a conference report, we will continue to see the Boxer amendment integrally a part of the bill itself and a part of this amendment.

Again, let me congratulate her, thank her, and indicate I will be very supportive.

Mrs. BOXER. Mr. President, I thank Senator DASCHLE. I know he is working endless hours to get this amendment finished. I think this enhances the amendment, I really do. I am very grateful.

Before I ask for a voice vote, 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. BOXER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mrs. BOXER. How much time remains?

The PRESIDING OFFICER. There are 8 minutes remaining to the Senator from California.

Mrs. BOXER. I yield 6 minutes to my colleague from Washington, Senator CANTWELL.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I thank my colleague from California for her hard work on this amendment. I am glad to join Senator LUGAR and Senator BOXER as a cosponsor of this amendment. Senator BOXER has spent an invaluable amount of time on the whole ethanol debate, but I think the amendment she offers this morning goes a long way in adding diversity and efficiency to our ethanol plan. It seems my colleagues are enthusiastic about supporting this in the overall energy package.

I rise to support the Boxer-Lugar-Cantwell amendment. As we have heard, this amendment would increase from 1.5 gallons to 2.5 gallons the credit available to refiners who choose to use ethanol derived from certain types of biomass to meet the requirement of our renewable fuels standard. Senator BOXER did an excellent job, giving us all a lesson in biomass 101 as it relates to ethanol and the products that could be used as part of this biomass requirement.

This amendment ensures that as we strive to reduce our reliance on foreign oil, displacing it with home-grown products that provide both environmental benefits and economic stimulus to our nation's rural communities, we also develop the renewable fuels diversity that is the hallmark of what I think is a good energy policy.

My colleagues may have been told this, or they may learn it now for the first time, but it was in 1925 that Henry Ford told the New York Times that ethanol was "the fuel of the future." But while 90 percent of the ethanol produced in this Nation today was derived from corn, Henry Ford's vision was much broader. He said:

The fuel of the future is going to come from apples, weeds and sawdust—almost anything. There is fuel in every bit of vegetable matter that can be fermented.

That is what he told the Times back in that period.

This amendment attempts to move forward on that vision. I believe it is logical, and I believe Senator BOXER and Senator LUGAR are right on target in providing leadership on this issue.

While today the ethanol that is derived from corn more or less dominates the renewable fuels market, this is not the circumstance for every State in our country. The State of Washington, for example, is much more a producer of wheat, which would hold significant promise as a potential source for the biomass ethanol.

Despite the promise of these alternatives, the technology for producing ethanol from these sources such as wheat and straw and other agricultural products has lagged behind for a number of reasons. Yet by providing appropriate incentives today with this amendment, and promoting research and development, we can move this forward on a cost-competitive basis.

The Boxer-Lugar-Cantwell amendment would increase the renewable fuels standard credit for one specific type of material, the agricultural residues such as wheat or rice or straw, from that 1.5 to 2.5, reflecting what is really a recent DOE analysis on what we should achieve.

So moving forward on these incentives for development of ethanol production is simply a matter of good public policy. I say this for four or five reasons.

We get the environmental benefits from this, we get the potential energy gains, we get the long-term cost impacts of having fuel diversity, and, of course, we get the spread of economic benefits to all of our Nation's agricultural communities.

In our State of Washington, there is much going on in this area. There are many farmers who have come together in a variety of ways to join in thinking about ethanol production. With the construction of one 40-million-gallon plant, the State of Washington could become entirely ethanol self-sufficient. According to a study conducted by our State university, such a plan would have a significant economic impact, particularly in our rural communities in the eastern part of Washington.

A single 40-million-gallon production plant could create 104 direct jobs and about 300 indirect jobs. Local communities could see an economic benefit, according to the study, of about \$19 million per year with a statewide ben-

efit of somewhere between \$20 million and \$30 million per year. With the construction of these various plants, Washington State could reach self-sufficiency and could, under the fuels standard proposal here today, become a supplier to other Western States.

The State of Washington and agricultural communities want to help meet the renewable fuels standard. They want to join with Senators FRIST and DASCHLE in their proposal. But we don't have the corn or the abundance to make that happen. So we want to see this diversity. In fact, a recent Washington State University extension program concluded that we could produce 200 million gallons per year in ethanol if we had improvement in technologies and diversification of resources.

In conclusion, to help this become reality, a broad coalition of Washington agricultural and environmental interests have banded together. They helped pass this package in our State legislature with a variety of tax incentives and broad production of biofuels. These bills were signed by our Governor last month and they have our State moving forward on this agenda.

The Boxer-Lugar-Cantwell amendment adds a Federal dimension to these efforts. This provision reflects good public policy from the Federal Government and good energy policy, and helps those States that are further away from ethanol diversity to participate in our national energy goal.

I yield the floor.

The PRESIDING OFFICER (Mr. TAL-ENT). The Senator from California.

Mrs. BOXER. Mr. President, I have a couple of minutes remaining. I know we are going to set our amendment aside.

I wanted to close this debate again by thanking Senator LUGAR for his leadership, Senator CANTWELL for her leadership, and both Senators from New Mexico as well as Senator DASCHLE for their help.

I think any Senator who has corn in their State, wheat in their State, sugarcane in their State, rice, barley, beets, oats, apples, or any fructose-rich product is going to be very happy with this amendment.

In order to use the agricultural residue and make it into ethanol, it is going to require a little incentive. Although the underlying bill has a slight incentive, experts tell us it is not enough to really move forward on this very good way to make ethanol. I think it will really help those States that are far away from the Midwest.

By the way, it does not hurt any State because corn will still be used.

I yield the floor. I thank my colleagues very much.

I ask unanimous consent that the amendment be set aside.

Mr. DOMENICI. We have no objection to setting it aside.

The PRESIDING OFFICER. Without objection, the amendment is set aside.

AMENDMENT NO. 856 TO AMENDMENT NO. 850

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, Mr. LEAHY, Mr. DURBIN, Mrs. FEINSTEIN, Mrs. CLINTON, Mr. JEFFORDS, and Mr. LAUTENBERG, proposes an amendment numbered 856 to amendment No. 850.

Mrs. BOXER. 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 provide for equal liability treatment of vehicle fuels and fuel additives)

Beginning on page 18, strike line 16 and all that follows through page 19, line 17, and insert the following:

“(p) RENEWABLE FUELS SAFE HARBOR.—Notwithstanding any other provision of Federal or State law, a renewable fuel used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing renewable fuel, shall be subject to liability standards that are not less protective of human health, welfare, and the environment than any other motor vehicle fuel or fuel additive.”.

Mrs. BOXER. Mr. President, I think for anyone in this Chamber who cares about the health and safety of people—I know that is every one of us—this amendment is very important.

A waiver of liability is in this underlying bill for renewable fuels. My amendment to the renewable fuels portion of this Energy bill will ensure that all motor vehicle fuels and fuel additives are held to the same liability standards by striking the safe harbor and adding the following language. This is the language of my amendment:

Notwithstanding any other provision of Federal or State law, a renewable fuel used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing renewable fuel, shall be subject to liability standards that are not less protective of human health, welfare, and the environment than any other motor vehicle fuel or fuel additive.

Is this not a fair idea? As we go into this whole new production of ethanol, be it derived from corn or be it derived from agricultural residues or municipal waste or wherever we wind up getting it, renewable fuel should be subject to the same liability standards as any other motor vehicle fuel.

We have expenses in this area—where we have added MTBE, for example, to fuel. We found out later it was very dangerous. It hurt a lot of our communities. I will get into that later.

The safe harbor language in this underlying bill waives all product liability design defect claims, including the failure to warn the people. Any claim that has not been filed by the date of enactment of this section will be forever barred.

We should not be doing this. We don't know all the impacts of what we are doing today. Why would we give a safe harbor to ethanol or various refiners of ethanol?

I have to say to those who will oppose me—and there will be many, and I know that, and I accept that—if ethanol is so safe—I pray it is; maybe it is, by the way—if it is so safe, why have the companies involved in its production transferred this liability provision in the bill? I think anytime someone says my product is 100 percent safe, but give me a waiver from liability, protect me from a lawsuit if something happens—you have to say who wins and who loses in this situation. Requests for this kind of special interest free pass require a very close look. And I hope we will take a look.

The interests behind this bill have gotten a loophole that eliminates a big chunk of the liability they would have under the law if they damaged the public health or the environment. The exemption language in the bill raises a red flag right away. It begins:

Notwithstanding any other provision of Federal or state law. . . .

Mr. President, you and I have been around here long enough to know that when we start off with “notwithstanding any other provision of Federal law,” the public is going to be losing rights.

The bill goes on to say that “Renewable fuel—ethanol cannot be found to be defectively designed or manufactured.”

Imagine, the bill says “Renewable fuels cannot be found to be defectively designed or manufactured.”

Compliance with laws and regulations is not necessary for getting the liability waiver. There is only a limited compliance requirement under the Clean Air Act.

Again, we all pray and hope that there will be no danger from widespread use of ethanol. The liability exemption, however, is dangerous because there are many unanswered questions about ethanol. We know there are real benefits to it, such as fewer carbon monoxide and toxic air emissions, but there are questions about adverse effects.

According to EPA's “1999 Blue Ribbon Panel Report on Oxygenates in Gasoline,” ethanol is extremely soluble in water and would spread into the environment. It may further spread plumes of benzene, toluene, ethyl benzene, and xylene because ethanol may inhibit the breakdown of these toxic materials.

This isn't Senator BOXER talking. This isn't the people who want this amendment talking. This isn't environmental groups talking. This isn't the American Lung Association talking or anybody else. This is EPA's 1999 Blue Ribbon Panel Report on Oxygenates in Gasoline.

Studies demonstrate that ethanol increases the size and migration of benzene plumes. Researchers say more ground water wells will experience contamination from MTBE and benzene, a known carcinogen, if ethanol leaks into water supplies. There are also questions about the impact of ethanol

on sensitive populations, such as children. We already know we have seen in our children more and more problems lately, more and more problems because they are so much more sensitive to pollutants in the environment.

Questions surrounding ethanol's effect on public health and the environment should be answered before Congress grants a broad waiver from liability for its harmful effects. We should err on the side of caution and we should err on the side of protecting the taxpayers.

Supporters of this liability exemption argue that immunity from product liability design defect claims is not so broad. They are going to tell you we keep every other claim in place but we only will limit product liability design defect claims. But this ignores the fact that product defect claims are the clearest way to hold accountable manufacturers whose products cause injury to public health or the environment. Litigation in California involving drinking water contaminated by MTBE rests on claims that MTBE was defective in design. In a landmark case, decided in April 2000, a San Francisco jury found that, based on the theory that MTBE is a defective product, several major oil companies are legally responsible for the environmental harm to Lake Tahoe's ground water. The jury found that many of these same oil companies acted with malice because they were aware of the dangers but withheld information.

So here you go, Mr. President. You can see it, a jury of our peers—not Senators, not people behind a microphone—found out that the product MTBE, which is an additive to gasoline, as is ethanol, was defective in design. The verdict came forward based on the product liability issue.

In that case, the oil companies knew the risks of MTBE. They did not warn anyone and—guess what—Lake Tahoe could have gotten stuck with a \$45 million cleanup bill. If it was not able to sue under the defective product claim, that \$45 million would have to come from the taxpayers who live in Lake Tahoe. Let's see what the MTBE cleanup cost would be. According to recent estimates, it would cost \$29 billion to clean up MTBE. MTBE, an additive to gasoline—when it was added, everyone stood up and said: Oh, it is safe. It is wonderful. It will clean up the air. It did. But it polluted the water. People can't drink the water.

If you ever smelled water that is contaminated by MTBE, you would know no one could drink it. It has a foul odor and it is yellow in color. This is what it is going to cost. If we waive the liability for the companies that make MTBE, guess who gets stuck with the \$29 billion bill. The taxpayers, instead of the people who made that product. That is not right.

By the way, in the House version of this bill, they not only give a safe harbor to ethanol, they give it to MTBE, which is a total, complete outrage. I

hope everyone understands that. It is in the House bill. I am happy it isn't in the Senate bill. I hope we can get rid of it in the conference.

Companies are responsible for this, not the taxpayers.

Now, this is the issue. Again, people will stand up and say: Oh, we are only waiving this very small area in liability law. They say: Product liability design defect is all we are waiving.

Well, let's look at what the judge said in the MTBE case. He threw out the negligence claim. He said that did not apply. He threw out the nuisance claim. He said that did not apply. The only thing that applied was defective product liability—and that is what my colleagues are going to waive for the makers of renewable fuels.

My colleagues, please listen to me. I know you want to have an ethanol bill. Bless your heart. Go for it. But do not waive liability for the manufacturers of ethanol because someday it could come back to haunt you.

If ethanol is so safe, you do not need to do this. It makes no sense.

You talk to my colleagues: Ethanol is safe. It has been out there since the 1970s. It is safe, it is safe, it is safe. I guess maybe they have not read the 1999 special EPA Blue Ribbon Report, which says: Danger, maybe there is a problem. But for them to waive defective product liability and to say that is the only thing they are waiving, when it is the only thing the courts have said is an opportunity, makes no sense at all.

I had one of my colleagues come up to me yesterday and say: Well, Senator BOXER, you voted for a safe harbor in the Y2K bill when the computer companies had to do a very quick fix on computers. I say to my friends, I did that. That only happens once in 1,000 years, and there is no direct impact on health and safety. So let's not confuse one safe harbor and another safe harbor.

So, clearly, we know this is kind of a shuck and a jive situation: Oh, we are only going to throw out one little part of liability law. But guess what. It is the only one that works. We do not want communities to be left holding the bag if there is a problem in the future because that is a pretty heavy bag for the local community and the local taxpayers to pick up—its cleanup costs, its possible health problems and its water pollution and possible air pollution.

I am going to get to the issue that the supporters will raise: That this is a mandate and, therefore, the suppliers deserve this liability exemption.

Congress regularly mandates that manufacturers meet a variety of guidelines and requirements, but we do not exempt all manufacturers from State and Federal product liability design defect laws.

When gasoline leaks today, there is no loophole. The polluter pays, despite the fact that Congress regulates gasoline. Congress mandated the installation of airbags in automobiles, made

them mandatory. Congress said: You must have airbags. You remember that battle. The automobile companies said: We don't want them. (Of course, now they are saying they are happy to have them.) But, in any case, we mandated them. But if there is a problem with airbags, we did not give a liability waiver to the automobile companies. If that product is defective, the product is defective and people have to be held accountable and responsible.

I thought that was what we stood for in the Senate. We talk about accountability. We talk about responsibility. We talk about people taking responsibility for their actions, and yet we are going to give some of the biggest companies in the world a waiver from liability. Shame on us if we do this. It is not as if we did not have experience before, doing it with MTBE. It is not as if we do not know that the cost to clean up MTBE is in the tens of billions of dollars. If the companies were off the hook, it would be the local taxpayers who have to pay.

Again, supporters of this liability loophole claim ethanol is safe so no one needs to worry about this liability exemption. So, again, I ask a question—a rhetorical question—if you are not worried about any ill-effects from ethanol, why are you fighting me so hard on this? Why not join hands with me and say we are going to treat ethanol like we treat every other product?

I, again, want to read the language I have added in this amendment which I hope will be adopted:

Notwithstanding any other provision of Federal or State law, a renewable fuel used or intended to be used as a motor vehicle fuel, or any motor vehicle fuel containing renewable fuels, shall be subject to liability standards that are not less protective of human health, welfare, and the environment than any other motor vehicle fuel or fuel additive.

That is all I am saying. I am not holding ethanol to a different standard. I just spoke in support of ethanol made from agricultural residues. I think those folks have to meet safety standards, and one way to make sure they do is to not take away their liability. Ethanol should be subject to liability standards as strong as any other fuel additive. No more, no less. We are not making it any harsher. We are not making it any easier on them. We should not shift the burden of cleaning up problems caused by ethanol to our local communities, our mayors, our city council people, our Governors, and the rest.

No public policy is served by immunizing the refiners and chemical companies from responsibility in the future if it turns out that this was a problem and they knew it, and they didn't tell anyone about it.

How much time remains on my side, Mr. President?

The PRESIDING OFFICER. The Senator has 13 minutes 23 seconds.

Mrs. BOXER. I will take another couple minutes. Then I will reserve the re-

mainder and allow my colleagues to argue this case.

Let me tell you who is on my side. Who is on the side of making sure that we don't give the safe harbor liability waiver for renewable fuels? Many local and State governments, water utilities support my amendment, public health, consumer and environmental organizations. These include the Association of Metropolitan Water Agencies; the American Water Works Association, which together represent water systems serving 180 million Americans across the country. Do you know why they are with me on this? They may be stuck cleaning up the water supply. They can't afford it. This is almost like putting an unfunded mandate on local people if, in fact, there are problems with ethanol. And that is why the American Water Works Association is for my amendment.

Continuing the list of those who oppose the liability waiver: Association of California Water Agencies; National Association of Water Companies; South Tahoe Public Utility District. Do you know why they are for it? Because they know if they didn't have the chance to sue on this, they would have to bear the cleanup responsibility from MTBE contamination. The City of Santa Monica and Orange County Water District likewise know the effect that ground water contamination can have. They are with me.

How about these groups? American Lung Association is for the amendment; American Public Health Association; California Clean Water Action; Citizens for a Future New Hampshire, Cahaba River Society; Citizen's Environmental Coalition; Clean Water Action; the Consumer Federation of America; Environmental Defense; Ecology Center; Environmental Working Group; Friends of the Earth; League of Conservation Voters; Mono Lake Committee; National Sludge Alliance; the Natural Resources Defense Council; the New Jersey Coalition Against Tonics; the New Jersey Environmental Federation; Physicians for Social Responsibility; the Sierra Club; Rivers Unlimited; Spring Lake Park Groundwater Guardians; and U.S. Public Interest Research Group.

That is just a partial list of the folks out there who are saying to Senators: Please, if you are going to move ahead with a new product like this—it is not a new product, but it is certainly going to be a product that is going to now be ubiquitous across the country—if you are going to do this, then make sure you take every caution and every protection not to waive the protections the American people now have from a defective product.

And, once more, just let's be clear on this. There are no other ways for communities to recover costs if this turns out to be a mistake. Negligence, out the window; nuisance, out the window. It is defective product liability the courts have said is the only way people can go.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has about 10 minutes 4 seconds remaining. Who seeks recognition?

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, to respond to the question asked by the distinguished Senator from California, why are we fighting it? One of the biggest problems is, you get in this quagmire of lawsuits and nothing ever gets done in terms of cleanup. This is something we have been fighting for a long time.

This is going to be a more brief statement than it was going to be before because right now we have a very significant piece of legislation before the committee I chair on the clear skies legislation, which is the most far-reaching reduction in powerplant pollutants in the history of clean air. So it is very significant, and I do have to get back.

I have stated on many occasions my concern about the fact that this country does not have a comprehensive energy policy. I have also criticized Republicans and Democrats alike. We didn't get a comprehensive energy policy in the Reagan administration or the first Bush administration or the Clinton administration. We are going to get one with this. That is why this is so significant.

As Deputy Defense Secretary Paul Wolfowitz said, it is a serious strategic issue. This is a national security issue.

The amendment we are talking about, the underlying bill, the Frist-Daschle-Inhofe amendment, represents a compromise on a lot of contentious issues. As with all compromises, there are provisions I like and I don't like. I am afraid there is a lot of misinformation being circulated about the safe harbor provision. Time and time again, we hear if the safe harbor provision is enacted into law, first, citizens cannot take refiners to court under our tort system; and, second, any responsible ethanol contamination that happens in the future would not get cleaned up. Nothing could be further from the truth.

First, let me address the statement that any tort claim that has not been filed by the date of enactment of this section will be forever barred. Even with the enactment of the safe harbor provision, if a plaintiff makes a case, here are just a few tort theories that can be used in environmental cases: Trespass, trespass is not affected by safe harbor; nuisance, not affected by safe harbor; negligence, not affected; breach of implied warranty, not affected by safe harbor; a breach of express warranty, not affected by safe harbor. Safe harbor does not affect any of these tort theories.

In fact, ethanol has been approved by the EPA as a fuel additive. Now Congress is mandating the use of ethanol. So the Federal Government has given ethanol its stamp of approval and now Congress is mandating it. How can we now say that refiners and blenders are

open to suits for claims that the "product has design or manufacturing defects"? Design defect claims actually hamper cleanups by interfering with regulatory agencies. Regulatory agency oversight—Federal, State, and local—is frustrated by the product liability claims because these agencies lose control of the remedy process. These agencies are supposed to be in control of the remedy process. That answers the question asked, Why are we concerned about this? We want to get these things cleaned up.

When product liability claims are permitted, the plaintiff's motive becomes recovery of a large money judgment rather than a judgment mandating a remedy to be performed by the party who released the gasoline. Very often, the only thing getting cleaned up are the trial lawyers' mansions purchased with the spoils of these settlements. In fact, a recent report from the Council of Economic Advisors found that using the tort system in this way "is extremely inefficient, returning only 20 cents of the tort cost dollar for that purpose."

Now, I would like to address the rumors that sites will not get cleaned up or that polluters will not pay. The Safe Harbor provisions—in no way—affects liability, and therefore, cleanups under any Federal or State environmental law. Any statement to the contrary is false. Enforcement of these laws is by the authorized Federal agency and States. If there were a spill, here are some examples of environmental laws that offer cleanup and liability provisions:

1. Resource Conservation and Recovery Act (RCRA); 2. Clean Water Act; 3. Oil Pollution Act (OPA); 4. Superfund. Generally speaking, Congress intended that oil spills be cleaned up by the Oil Pollution Act. However, the Inhofe Amendment to last Congress' Brownfields bill signed into law by the President is taking huge strides in cleaning up nearly 250,000 petroleum contaminated sites, such as abandon gas stations.

No. 5, Natural Resource Damages (NRD), under the Oil Pollution Act, Superfund, and the Clean Water Act.

So as you can see, there are enormous protections through the tort system as well as through environmental laws. Again, I ask my colleagues to oppose the Boxer amendment and support the motion to table.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DORGAN. Will the Senator yield to me for about 1 minute?

Mr. BOND. I am happy to accommodate my colleague.

Mr. DORGAN. Mr. President, I know the Senator is prepared to speak against the Boxer amendment, as his colleague just did. I, too, have come to the floor to speak against the Boxer amendment.

The underlying Frist-Daschle amendment creates a narrow prospective safe

harbor from liability for defect in design or manufacture of a renewable fuel. There is no liability protection for MTBE in the underlying amendment. I oppose the Boxer amendment. Many colleagues in the Senate feel strongly in opposition, I believe, and we will be able to defeat this amendment.

And, to qualify for the limited protection that is in the underlying amendment, a renewable fuel must be evaluated by EPA for toxicity, carcinogenicity, air quality impacts, and water quality impacts, and must be used in compliance with any restrictions imposed by EPA.

Further, the burden of cleanup for environmental contamination would not be shifted.

That is, the safe harbor provision that is in the RFS amendment would not affect liability under Federal and state environmental laws, and therefore would not affect response, remediation and clean-up.

Let me make this point clear: the underlying provision would not affect in any way a company's legal responsibility to clean up the contamination of any groundwater by gasoline, regardless of whether it contained oxygenates or additives of any kind.

In addition, the safe harbor provision for renewable fuels does not affect liability under other tort law provisions, including negligence, trespass, and nuisance, and it does not prevent the award of compensatory or punitive damages.

Importantly, defective product liability cases only make up 0.002 percent of all civil cases filed each year according to the National Center for State Courts.

Finally, an amendment to change or strike the safe harbor provision would destroy this long-standing renewable fuels agreement, and result in the status quo and no national phaseout of MTBE, which has contaminated some groundwater supplies.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank my colleague for his fine statement. Really, the fact that we are here today in a bipartisan effort reflects the good work that has gone on. After intense negotiations between the ethanol and oil industries, agriculture, the environmental community, consumer groups, and the States, we have a historic agreement that is embodied in the Frist-Daschle bill which will provide for significant growth in the renewable fuels industries, including ethanol and biodiesel.

Industry has been working for months to implement these recommendations that are protective of the environment, provide refiners with increased flexibility, and provide agriculture with certain growth in market opportunities for ethanol and biodiesel. Certainly, the occupant of the chair, who is from Missouri, knows how great the growth of the ethanol and biodiesel industry is in our State, as farmers are

coming together in cooperatives to build facilities to meet the need for this clean, renewable fuel. These are tremendous opportunities for improving our environment, reducing our dependence upon foreign oil, and providing a strong economic base for rural America.

The key provisions of the bipartisan agreement, I think most people know, are:

A Renewable Fuels Standard (RFS) in which part of our nation's fuel supply, growing to 5 billion gallons by 2012, is provided by renewable, domestic fuels; eliminating the Federal reformulated gasoline, RFG, 2.0 wt. percent oxygen requirement; phasing down the use of MTBE in the U.S. gasoline market over 4 years; and protecting the air quality gains of the reformulated gasoline program.

These provisions will increase U.S. fuels supplies, promote more U.S.-sourced energy, protect the environment, and stimulate rural economic development through increased production and use of domestic, renewable fuels such as ethanol and biodiesel.

The historic fuels agreement contained in the Reliable Fuels Act, S. 791, provides for a gradual phase-in of the use of renewable fuels, beginning with 2.6 billion gallons in 2005 and growing to 5 billion gallons in 2012. Some have expressed concerns regarding the bill's renewable fuels "safe harbor provision," arguing it provides "sweeping liability exemptions for damage to public health or the environment resulting from renewable fuels or their use in conventional gasoline." This is a clear misrepresentation of the provision.

The safe harbor provision is intended to offer some protection to refiners that are required to use renewable fuels under this bill. It is aimed at as yet unknown and undeveloped renewable fuels, not ethanol. Ethanol has been used in the U.S. safely and effectively for more than 20 years. But without some limited safe harbor, refiners may be reluctant to commercialize new fuels that may otherwise qualify for this program.

Ethanol has received a clean bill of health. According to a report on ethanol's health and environmental fate completed by Cambridge Environmental, Inc., no health threat is expected from increased ethanol use. The report concludes exposure to ethanol vapors coming from ethanol-blended gasoline is very unlikely to have adverse health consequences. Importantly, after an exhaustive study of ethanol's impact on health, air quality and water resources, the California Environmental Policy Council awarded ethanol a clean bill of health.

Ethanol is rapidly biodegraded in surface water, groundwater and soil. Ethanol is a safe biodegradable and renewable fuel that does not harm drinking water resources. A recent study by Surbec Environmental concluded that ethanol poses no threat to surface water and ground water. According to

the report, ethanol is a naturally occurring substance produced during the fermentation of organic matter and can be expected to biodegrade rapidly in essentially all environments.

The safe harbor provision is very limited. It applies only to claims that a renewable fuel is defective in design or manufacture. These requirements include both compliance with requests for information about a fuel's public health and environmental effects and compliance with any regulations adopted by the EPA. If these requirements are not met, the safe harbor protection does not apply and liability will be determined under otherwise applicable law. This provision does not affect claims based on the wrongful release of a renewable fuel into the environment. Anyone harmed by a release of that kind would retain all the rights he has under current law.

Safeguards are provided for in the bill. The legislation requires EPA to conduct studies of the long-term health and environmental effects of renewable fuels. Under this bill, the Administrator has the authority to control or even prohibit the sale of renewable fuels that may adversely affect air or water quality or the public health. There is no safe harbor if the Administrator's rules are violated.

A vote for the amendment may disrupt the historic agreement. The bipartisan compromise on fuels issues in S. 791 represents a carefully crafted agreement among the oil industry, ethanol producers, agriculture groups, and environmental and public health interests, including the American Lung Association, the Union of Concerned Scientists and Northeast States for Coordinated Air Use Management, NESCAUM, among others. An amendment to change or strike the safe harbor provision would effectively dissolve the agreement, resulting in the status quo and continued MTBE use.

MTBE use is a problem. MTBE has been shown to be harmful, and MTBE must be phased out and replaced by the other renewable, benign oxygenate—ethanol.

I will just say generally, on all of these amendments designed to attack ethanol, there are tremendous economic benefits of this renewable fuel standard.

Tripling the use of renewable fuels will have a significant positive impact on both the farm and overall economy, while significantly reducing our foreign imports.

According to an economic analysis of the legislation completed by AUS consultants, over the next decade RFS would reduce the Nation's trade deficit by more than \$34 billion in 1996 dollars, increase U.S. gross domestic product by \$156 billion by 2012, create more than 214,000 new jobs throughout the entire economy, expand household income by an additional \$51.7 billion, increase net farm income by nearly \$6 billion per year, create \$5.3 billion of new investment in renewable fuel pro-

duction capacity, and displace more than 1.6 billion barrels of imported oil.

One other canard that is often raised against ethanol is that it is not a positive energy balance. Energy balance refers to the energy content of ethanol minus the fossil energy used to produce it. In 2002, the U.S. Department of Agriculture and Argonne National Laboratories concluded that ethanol contains 34 percent more energy than is used in the production process, including the energy used to grow and harvest the grain, process the grain into ethanol, and to transport the ethanol to gasoline terminals for distribution.

According to the U.S. Department of Energy, ethanol produced from biomass generates 6.8 Btu for every Btu of fossil energy consumed. The production of reformulated gasoline without ethanol generates only .79 Btu for every Btu of fossil energy consumed. Therefore, producing ethanol produces roughly eight times more Btu than using energy-produced reformulated gasoline. And it achieves a net gain in a more desirable form of energy. It provides clean environmental benefits.

With the war we face on terrorism, we have to be more concerned about U.S. energy. We need to reduce imported oil. We can develop and supply that oil from our rich farmlands. It will increase the availability of U.S. fuel supplies while easing an overburdened refining industry. No new oil refineries have been built in the U.S. since 1976, but 68 ethanol production facilities have been built during that time.

As ethanol and biodiesel are blended with gasoline and diesel after the refining process, they directly increase domestic fuel capacity. Blending 10-percent ethanol in a gallon of gas provides an additional 10-percent volume to the transportation fuel market, easing the oil refinery sector that is operating at capacity.

The environmental benefits have already been discussed. It can reduce global warming. In 2002, ethanol use in the U.S. reduced greenhouse gas emissions by 4.3 million tons, the equivalent of removing more than 636,000 vehicles from the road.

There is a long list of organizations that are supporting the fuels agreement. Rather than take the time of my colleagues to read those, I ask unanimous consent that this list of organizations supporting the fuel agreement before us today be printed in the RECORD.

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

American Farm Bureau Federation, American Petroleum Institute, Renewable Fuels Association, National Corn Growers Association, National Farmers Union, Northeast States for Coordinated Air Use Management, U.S. Chamber of Commerce, National Biodiesel Board, American Bioenergy Association, American Coalition for Ethanol, American Corn Growers Association, American Lung Association, American Soybean Association, Bluewater Network, California Farmers Union, California Renewable Fuels

Partnership, Citizens Committee to Complete the Refuge, Clean Energy Now (Greenpeace), Clean Fuels Development Coalition, Climate Solutions, Cook Inlet Keeper, County of Ventura Public Works Department, Earth Island Journal, Environmental and Energy Study Institute, Ethanol Producers and Consumers, General Biomass Company, Governors' Ethanol Coalition, Illinois Student Environmental Network, Institute for Agriculture & Trade Policy, Institute for Local Self-Reliance, International Marine Mammal Project, Kettle Range Conservation Group, Kinergy Resources, Mangrove Action Project, Masada Resource Group, National Grain Sorghum Producers, New River Foundation, New Uses Council, Northwoods Conservation Association, Oceanic Resource Foundation, Oregon Environmental Council, Pacific Biodiversity Institute, Plumas Corporation, Renewable Energy Action Project, Save Our Shores, Soybean Producers of America, The Brower Fund, The Minnesota Project, Tides Foundation, Union of Concerned Scientists, Waste Action Project, Waterkeeper Alliance, West Coast People's Energy Co-op, and Women Involved in Farm Economics.

Mr. BOND. Mr. President, I urge my colleagues to oppose this amendment and, just for good measure, I urge them to oppose all of the other amendments which seem to be targeted at ethanol. The manager of the bill, Senator DOMENICI, has pointed out that we see many attacks coming on ethanol. I ask my colleagues to continue to support ethanol and reject this and the other amendments.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mrs. BOXER. Mr. President, I am going to yield a couple of minutes to my friend from New Mexico. Before I do, I wish to point out that I consider this an ethanol-friendly amendment because I believe there will be much more confidence in ethanol as an additive to our gasoline if people know there are no special waivers of liability, that this fuel will have to be subjected to the same rigorous standards in a court of law should something go wrong.

I do not envision this as an unfriendly amendment, although I know some of my colleagues feel otherwise.

It is my pleasure to yield 2 minutes to the Senator from New Mexico, Mr. BINGAMAN.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank my colleague from California for offering the amendment. I do support the amendment.

The general rule which has served us well in this country is that if you design or manufacture a product that proves to be defective and that product then injures someone, you can be held liable. That has allowed us to protect the health and safety of the American people. It is a substantial protection for all of us.

This safe harbor provision that the Senator from California wants to strike says:

No renewable fuel shall be deemed to be defective in design or in manufacture or no motor vehicle fuel that contains renewable fuel shall be deemed to be defective in design and manufacture.

To my mind, it is unwise public policy for us to be writing into law this kind of exception to the general tort laws that we operate under in the country. We do not know enough, frankly. We do not know what the scientific and health experts are going to find when they fully investigate the impact of tripling the use of ethanol on the air that we breathe and the water we drink.

I certainly hope they will find there is no harmful health effect from it, but to say we are going to prohibit anyone from recovering if they are damaged from the design or manufacture of any of these renewable fuels I think is a big mistake.

I compliment the Senator from California. I support her amendment. I yield the floor.

Mrs. FEINSTEIN. Mr. President, I rise to support the amendment by my colleague from California to strike the so-called "safe harbor provision" in the amendment offered by the majority leader that would shield ethanol producers and refiners from any liability if the fuel additive harms the environment or public health.

Candidly, I find this "safe harbor provision" astounding.

I believe it is egregious public policy to mandate ethanol into our fuel supply in the first place—and even worse to provide complete liability protection to the fuel additive before scientific and health experts can fully investigate the impact of tripling ethanol on the air we breathe and the water we drink.

This is exactly the mistake we made with MTBE. Over the past several years, we have learned that MTBE has contaminated our water and may be a human carcinogen.

As exemplified by our Nation's experience with MTBE, there can be severe environmental and health repercussions when we mandate the use of any one fuel additive.

Last fall a California jury found there was "clear and convincing evidence" that three major oil companies acted "with malice" by polluting ground water at Lake Tahoe with MTBE because the gasoline they sold was "defective in design" and there was failure to warn of its pollution hazard. After a 5-month trial, Shell Oil and Lyondell Chemical Company were found guilty of withholding information on the dangers of MTBE. The firms settled with the South Lake Tahoe Water District for \$69 million.

This case demonstrates why we cannot surrender the rights of citizens to hold polluters accountable for harm they inflict.

How can the Senate favor exempting the ethanol industry from this kind of wrongdoing? I urge my colleagues to take a look at the so-called "safe har-

bor" provision that will give the ethanol industry unprecedented protection against consumers and communities that may seek legal redress against the harm ethanol may cause.

Our amendment would strike this ridiculous exemption.

If we do not strike this provision, polluters will receive unprecedented protection from damage to public health or the environment.

If we do not strike this provision, what incentive will there be for ethanol manufacturers and refiners to make their products as safe as possible and thoroughly test their long-term effects?

If we do not strike this provision, how else can we hold manufacturers accountable when fuel additives cause harm?

Mandating ethanol into our fuel supply raises serious health and environmental concerns. What effect will an ethanol mandate have on our environment? What are the health risks?

Although the scientific opinion is not unanimous, evidence suggests that; one, reformulated gasoline with ethanol produces more smog pollution than reformulated gas without it; and, two, ethanol enables the toxic chemicals in gasoline to break apart and seep further into groundwater even faster than conventional gasoline.

Ethanol is often made out to be an ideal "renewable fuel" giving off fewer emissions. Yet, on balance, ethanol can be a cause of more air pollution because it produces smog in the summer months. Smog is a powerful respiratory irritant that affects large segments of the population. It has an especially pernicious effect on the elderly, children, and individuals with existing respiratory problems such as asthma.

Just last week the American Lung Association named California the smoggiest state by listing nine counties and six metropolitan areas in California as having the worst conditions.

A 1999 report from the National Academy of Sciences found, "the use of commonly available oxygenates [like ethanol] in [Reformulated Gasoline] has little impact on improving ozone air quality and has some disadvantages. Moreover, some data suggest that oxygenates can lead to higher Nitrogen Oxide (NO_x) emissions." Nitrogen Oxides are known to cause smog.

The American Lung Association report also noted that half of Americans are living in counties with unhealthy smog levels. Why would we want to take the chance of increasing these unhealthy smog levels by mandating billions of unnecessary gallons of ethanol into our fuel supply?

Thus, ethanol can be both good and bad for air quality. To me it would make sense to maximize the advantages of ethanol, while minimizing the disadvantages. This is exactly why States should have flexibility to decide what goes into their gasoline in order to meet clean air standards, and ethanol should not be mandated—certainly not at this level. And if we are

mandating it, why exempt manufacturers and refiners from their legal responsibility to provide a safe product?

Evidence also suggests that ethanol accelerates the ability of toxins found in gasoline to seep into our groundwater supplies. The EPA Blue Ribbon Panel on Oxygenates found ethanol "may retard biodegradation and increase movement of benzene and other hydrocarbons around leaking tanks."

And according to a report by the State of California entitled "Health and Environmental Assessment of the Use of Ethanol as a Fuel Oxygenate," there are valid questions about the impact of ethanol on ground and surface water. An analysis in the report found there will be a 20 percent increase in public drinking water wells contaminated with benzene if a significant amount of ethanol is used. Benzene is a known human carcinogen.

At a hearing held on the House side last year, Professor Gordon Rausser of UC Berkeley commented on the potential harm of ethanol on groundwater. Professor Rausser testified:

when gasoline that contains ethanol is released into groundwater, the resulting benzene plumes can be longer and more persistent than plumes resulting from releases of conventional gasoline. Research suggests that the presence of ethanol in gasoline will delay the degradation of benzene and will lengthen the benzene plumes by between 25 percent and 100 percent.

This evidence on the potential harm of ethanol is extraordinarily troubling.

I am at a loss to understand why the Senate would support sweeping liability protection for fuel producers. Taking away the ability of families and communities to seek redress for the harm caused by fuel additives is NOT something I believe this Senate should be doing.

Let me read part of a letter sent by California Attorney General Bill Lockyer opposing the ethanol safe harbor provision. Lockyer writes:

Congress should not enact the current safeharbor provisions, which could be construed as granting oil companies a very broad immunity. As exemplified by MTBE, there can be dire consequences from the use of defective fuel additives.

Lockyer continues:

If there is a defect with a particular fuel, the oil companies should be held accountable under the common law principles for using such a fuel. In addition, by including fuels and not just renewable fuels, this section has an extraordinarily broad reach. There is no reason to add immunity for a fuel just because one drop of renewable fuel is added to that fuel. For as long as automobiles have been used, oil companies have been subject to common law product liability rules. There is no need to change these fundamental principles.

We need to protect the basic rights American families enjoy remain in place to keep our air and water safe.

I urge my colleagues to support this amendment to protect our communities from harm caused by fuel additives.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, this debate is winding down and my colleagues are here to offer other amendments. I am going to finish shortly.

At this point in the debate, we ought to get real about what this is. There are certain matters that are right in society and there are certain matters that are wrong. It is not right to give special protection to one particular manufacturing group in this country that no one else gets. In a way, it is a subsidy given to those people because if there is a problem in the future with ethanol, guess who is going to pick up the tab? Guess who is going to pay the bill? Not the people who caused the problem but the taxpayers. That is wrong.

If we had a wonderful history, if we did not have communities in trouble because of MTBE and other additives we thought would be great, it would be different.

I see my friend, the Senator from New Hampshire, is in the Chamber for another amendment. The Citizens for a Future New Hampshire support the Boxer amendment because they do not want to be left holding the bag if something happens.

There is right and there is wrong. This issue, to me, is very clear: It is right to protect the people; it is wrong to give a special interest waiver to a particular manufacturer.

There is private special interest and there is public interest—taxpayers versus those who would pollute.

Finally, when my colleagues say they are only banning one type of option for citizens who are injured, namely effective product liability, that is all they are doing. People can still use the nuisance claim and the negligence claim and all of these other claims.

I hope they know they are forgetting recent history where there was a court case on MTBE, also an additive to gasoline, and what did the court say? The nuisance claim, denied; the negligence claim, denied. The only claim that could hold up, the only claim that could save the taxpayers of Lake Tahoe, who had a mess with MTBE, was defective product liability.

My colleagues stand up and say that is the only thing we are doing. They called it a narrow safe harbor. Well, it is an enormous safe harbor because it is the only place people can go to get recompense if ethanol turns out to be a problem.

My colleague from Missouri says there is a study in this underlying bill. Well, I am glad there is a study, but he is ignoring the fact that there has already been a study in 1999 by EPA's blue ribbon panel, and this is what they said: Ethanol is extremely soluble in water and would spread if leaked into the environment. It may further spread plumes of benzene, toluene, ethylbenzene, xylene, and ethanol may inhibit the breakdown of these toxic materials.

It says it may inhibit. That means it may be a problem. If my colleagues, in

their zeal to have ethanol in every single State in this country—and, by the way, it will be—and if they are so sure it is safe, then why on Earth are they saying ethanol should get special treatment, and why do they close down the door on the only area where people have found they have a chance to get cleanup money from the polluters? The answer is, they do not know if it is safe.

We hope it is safe. We hoped MTBE would be safe, and it has poisoned hundreds of wells in this country. Hundreds of water systems have shut down because of MTBE. And if it was not for the product liability claim being open to citizens, who would have to clean up the mess? Not the companies that caused it but the taxpayers in those areas.

So it seems to me, if I might use the word "disingenuous," to say that ethanol is 100 percent safe, but we want a safe harbor so no one can sue if something goes wrong.

I was not born yesterday. That is obvious. I know when somebody says they have the safest product in the world but give me special protection so that no one can ever sue me, my antenna goes up, just as a person with common sense, and I say that is not right.

Researchers say that more ground water wells will experience contamination from MTBE and benzene, which is a carcinogen, if ethanol leaks into water supply, and there are the questions about the impact of ethanol on sensitive populations, our children.

Now, there is not one Senator who does not want to protect kids. Come on. We know that. Most of us are parents. A lot of us are grandparents. We are aunts, we are uncles. We want to protect our children and we want to protect the Nation's children. How can we close our eyes, then, to what we are about to do if we do not agree to this Boxer amendment? What we are doing is saying that the makers of this product do not have to worry about a thing in terms of harming our kids.

Our kids, because of the developmental stage they are in—they are growing, they are changing, their hormones are starting—they are very sensitive to contaminants. We know that. That is why I wrote the Children's Environmental Protection Act, and parts of it have been passed by the Senate. I am so proud of it. Is it not better to say up front to a manufacturer—any manufacturer—if they harm children, we can take them to court and they are going to have to clean up the mess and clean up their product?

Oh, no, not if they are making ethanol. They are going to have special exemption. It breaks my heart to see us do this. I figure I will lose this amendment only because we tried it once before and we did lose it.

The PRESIDING OFFICER. The Chair informs the Senator from California her time has expired.

Mrs. BOXER. I ask unanimous consent for one additional minute, to close.

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

Mrs. BOXER. So there are unanswered questions surrounding ethanol. There are unanswered questions according to the EPA special panel in 1999, and all the Senator from California is saying to her colleagues is this: Just make sure this product, which is going to be a new product in several States, that it does not have special advantages so that if something happens, the makers of the product do not get off scott-free. That is not right. It is un-American. It is not fair. It is an unfunded mandate on our communities.

I was happy to hear Senator BOND say he does not support a waiver for MTBE—good for him—because we need to strip that out of the House bill. But this is a new day. This is a new additive, and we should hold it to the same responsibility as we hold all other additives, all other products. Because if MTBE had this waiver, communities all over this country would be in trouble.

I thank my colleagues very much for listening to me. I feel very strongly about this. I hope we will have a good “aye” vote.

I ask for the yeas and nays, and also ask the amendment be set aside for a vote at a later time.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. Parliamentary inquiry, Mr. President: May I ask the managers of the bill approximately what time they expect to be voting on the Boxer amendment?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. At this point it looks as if we are not going to vote on anything until about 3, and the Boxer amendment would be second or third in line.

Mrs. BOXER. That is fine. I say to my friend, could I have 1 minute at that point, and a minute on the other side, to explain the amendment?

Mr. DOMENICI. Unless the Senator wants to seek that consent at this point, there is no such arrangement.

Mrs. BOXER. I ask unanimous consent at this point.

The PRESIDING OFFICER. The Chair informs the Senator that 2 minutes has already been provided in the unanimous consent agreement, so the Senator will have that 1 minute.

Mrs. BOXER. I yield the floor.

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

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, with the consent of the minority, I make the following unanimous consent request. I ask unanimous consent that—I withhold until the minority whip is present, 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. DOMENICI. 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. DOMENICI. Mr. President, now I ask unanimous consent that at 3:30 today the Senate proceed to a vote in relation to the Schumer amendment No. 853, to be followed immediately by a vote in relation to the Boxer amendment No. 856, to be followed by a vote in relation to the Boxer amendment No. 854; provided further that following those votes the Senate proceed immediately to a vote on the adoption of amendment No. 850, without further intervening action or debate.

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

The Senator from Nevada.

Mr. REID. Mr. President, also for the information of Senators, I have spoken to the two managers of the bill. There are a number of people who are ready to offer amendments. The Republican manager of the bill has an amendment waiting to go. We also have a very important amendment on which there has been an agreement on the time for that amendment. We would want that set up for early next week. It is one of the most important amendments in this whole bill.

But we are not going to be able to move forward until 3:30 on anything, until the two leaders announce to the floor managers that there has been something worked out on the amendment originally offered by the Senator from Arkansas, Mrs. LINCOLN.

It is my understanding that there has been work done to arrive at a point where that matter can be disposed of, but until that is done, we are not going to move forward on anything other than these.

As I indicated, the two leaders may even be talking as we speak. Until we hear from them, we will be happy to fill in this time, until 3:30, with the amendment of the Senator from New Mexico, or whatever the two managers think is appropriate. But until then, we are not going to agree to set it aside to move to anything else.

So we have no problem talking about the bill or amendments that may be offered. But until the matter involving the child tax credit is worked out with the two leaders, we are not going to move forward on this bill.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. For the information of the Senate, I might indicate that the

second of the Boxer amendments, which had been listed in the unanimous consent, is probably not going to require a rollcall vote but will be adopted by voice. Immediately after that, the underlying ethanol amendment will be voted on, and a rollcall vote is being required on that.

The Senator from New Mexico, the manager of the bill, intends when appropriate, when matters have been agreed on between the leadership, that we can proceed to offer an Indian amendment, which I think then would be followed by a second-degree amendment by the Senator from New Mexico, the minority manager of the bill.

We are also pursuing with a degree of vigor an effort to see if we cannot get Senator GREGG and Senator KENNEDY to agree to work out the LIHEAP portion of this bill. There are two amendments there. If they are able to work that out, that will put us in a position where we will dispose of that entire matter sometime this afternoon, hopefully. It seems they are very close to working that out, if the Senator is.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, in response, let me indicate my best information is they are still insisting that we not deal with LIHEAP in this legislation, which is of course not my position. I think we should deal with it.

Accordingly, I would not agree to just a sense of the Senate on that subject, which is their preference, as I understand it.

I hope we can persuade them otherwise. If not, then we will have to have a vote.

Mr. DOMENICI. In any event, I am pursuing them so that there will be a vote. Sooner or later we would like to dispose of it. If they insist, they can have a vote on the first part of theirs. If they win or lose, that leaves you in a position of whether you have the amendment on this bill or not, depending upon the disposition of the first, the amendment that precedes it, both of which have been set aside by consent and are pending action by the Senate.

I see my friend Senator WYDEN on the floor. I know we had been talking about a proposed agreement with reference to a matter on nuclear power. Let me suggest to the Senator, we are in accord as to that. We will enter into it but not at this point. We are examining the language carefully. But you have our assurance that at an appropriate time today that agreement will be entered into and then we will be ready to have a very important vote sometime on the day of Tuesday with reference to nuclear power, with you being a proponent of a motion to strike.

Mr. WYDEN. Mr. President, if I could just respond, Senator SUNUNU and I will be in the Chamber talking in a bit more detail. I always appreciate the graciousness of the chairman of the committee in working with me. I think we are going to get an agreement.

There are probably a lot more Senators who will want to speak on this than first estimated.

So the Senate knows, originally Senator SUNUNU and I were prepared to offer an amendment to strike the \$16 billion for nuclear subsidies. The amendment is supported strongly by the Taxpayers Union, but at the request of the chairman of the committee, that vote will be put over until next week.

I am very hopeful that we will be able to get a consent agreement before long to have this debate. This is a significant exposure for taxpayers. It is not a question of whether someone is pro-nuclear or anti-nuclear. The Congressional Budget Office has said that there is at least a 50-percent risk of failure with respect to these facilities. The Congressional Research Service has indicated the taxpayers will be on the hook for in the vicinity of \$16 billion.

What I worry about is what happened in our part of the country. Four out of five facilities were never built. In this case, if the Congressional Budget Office is right and you have over a 50-percent risk of failure at these facilities, this will be a huge exposure for taxpayers.

I tell Senators there is no other source of energy in this legislation which gets a direct subsidy for building a facility.

I am going to try to find a way to reach a procedural accommodation with the chairman of the committee. I am a personal friend, and I want to accommodate him. I hope we will be able to do that.

This is a very significant taxpayer issue for the Senate. It is not a question of whether someone is pro-nuclear or anti-nuclear. In my own inimitable way, I have managed to make both sides mad over my career in public service. But it is a taxpayer issue of enormous importance.

I hope Senators will read what the Congressional Budget Office and the Congressional Research Service have had to say about this. The Congressional Budget Office reports that there is more than a 50-percent risk of failure with respect to these facilities, if subsidized. The Congressional Research Service has talked about a \$16 billion subsidy.

I would point out that this is even too rich for the blood of the other body. The other body has not talked about anything like this.

We will work with the chairman of the committee. Senator SUNUNU and I will be coming to the floor before long as well so that we can begin to lay out the bipartisan support we have with Senator BINGAMAN, the ranking minority member, Senator ENSIGN, and others.

I would just tell the chairman of the committee that I think there are probably more Senators who want to discuss this than we thought. We already have some indication that 90 minutes equally divided with an up-or-down

vote may not be enough. It is my intention to work with the chairman of the committee, the ranking minority member, and others to try to work out this unanimous consent so we can have that done expeditiously.

I point out that this Senator and the Senator from New Hampshire were asked to come today to have our amendment brought up. We felt pretty good about it. We know there is going to be an awful lot of back and forth with Senators between now and the time we vote Tuesday.

I ask that Senators look at the Congressional Budget Office report and the Congressional Research Service report over the next few days as the discussions go on and off the floor.

I look forward to working this out in terms of procedure with the chairman of the committee probably over the next hour or so.

I yield the floor.

Mr. DOMENICI. Mr. President, we will have a great deal of time to discuss what I believe is the most important issue for America's future; that is, are we going to have an alternate source of energy for electricity, aside and apart from coal and natural gas?

I believe the time has come. We ought to set in motion the authorization—not the approval, not the appropriations, but the authorization—to start down the path that says the United States may be ready to build a nuclear powerplant. The arguments that have just been made in anticipation of the agreement are not exactly as such. This bill says America should have an opportunity to have a variety of energy sources. We have provided subsidies for coal so that coal can be made clean and delivered to our people as clean as possible. That is subsidized. We have an enormous tax subsidy for wind and energy. In fact, it is so big and so current that there will be windmills built all over this country, and the amount is a direct tax credit. It is not something that may happen. Every time one of those windmills is built, the tax credit will apply and money will be used in large quantities.

In addition, we are talking about whether nuclear powerplants are being built today. For instance, General Electric nuclear powerplants are being designed and built in Taiwan right now at a cost—believe it or not, and which we will show here to the Senate—that belies all of the information that is submitted by the Congressional Budget Office, which we believe is speculative. It will be shown that they are constructing these nuclear powerplants at \$1,250 a kilowatt. That means they are perilously close today to producing nuclear powerplants that will be competitive with natural gas in the United States.

We are not asking the Senate for any of this to happen. We are saying that, as a matter of policy, we should put in the Energy bill the opportunity for this to happen. We will go into great detail as to the conditions, how it will hap-

pen, how it won't happen, and who has to approve and who has to disapprove.

We think before we are finished, we will have convinced a majority of Senators that the time has come to give a rebirth to this alternative source so that if, as a matter of fact, in the next decade or so the need arises, we will be ready, willing, and able to move ahead.

Having said that, I have just indicated nothing else is going to happen in the Senate until sometime around 3 o'clock or 3:30. We will try to get our unanimous consent agreement sometime this afternoon.

I yield the floor.

Mr. WYDEN. Mr. President, I want to be very brief. In fact, we are going to get an agreement with the Senator from New Mexico to work out the process for considering nuclear subsidies.

I just want to make sure Senators are clear with respect to what the subsidy is all about. The Senator from New Mexico, the distinguished chairman of the committee, said wind is going to get vast amounts of subsidies. I wanted to point out to the chairman that if wind farms produce power, they get a tax credit for the energy they produce. But wind farms do not get any subsidy to build a facility.

What is unique about the \$16 billion exposure for taxpayers is only one energy source, under this legislation, gets a subsidy to build a facility. That has troubled the National Taxpayers Union. That is why they have been a strong supporter of the Wyden-Sununu amendment. This is not going to be about whether you are pro-nuclear or anti-nuclear. This is about whether Senators want to put at risk the taxpayers of the country for the prospect that the Congressional Budget Office has said has a 50-percent or higher failure with respect to constructing these facilities.

We will have more to say about the bipartisan Wyden-Sununu amendment before long, but I wrap up this part of the discussion by simply saying, again, I hope Senators will look at what the Congressional Budget Office and the Congressional Research Service have had to say about that. Those are reports that lay out, in a frank and objective way, what the risk is for taxpayers. I hope Senators will review it carefully.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I ask unanimous consent that I be permitted to speak for 15 minutes as in morning business.

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

(The remarks of Mr. AKAKA pertaining to the submission of the resolution are printed in today's RECORD under "Statements on Submitted Resolutions.")

Mr. AKAKA. Mr. President, I yield back the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The Senate is currently debating S. 14.

Mr. BYRD. What is the pending question before the Senate, Mr. President?

The PRESIDING OFFICER. The pending question is the Frist-Daschle amendment No. 850.

Mr. BYRD. I thank the Chair.

Mr. President, is the Senate operating under any time control at the moment?

The PRESIDING OFFICER. There is no time control. There is no time agreement.

Mr. BYRD. Mr. President, I have one final question. Has the Pastore rule expired?

The PRESIDING OFFICER. The Pastore rule expired 5 seconds ago.

Mr. BYRD. Mr. President, I thank the Chair.

IRAQ'S WMD INTELLIGENCE: WHERE IS THE OUTRAGE?

Mr. BYRD. Mr. President, with each passing day, the questions concerning and surrounding Iraq's missing weapons of mass destruction take on added urgency. Where are the massive stockpiles of VX, mustard, and other nerve agents that we were told Iraq was hoarding? Where are the thousands of liters of botulinum toxin? Wasn't it the looming threat to America posed by these weapons that propelled the United States into war with Iraq? Isn't this the reason American military personnel were called upon to risk their lives in mortal combat?

On March 17, in his final speech to the American people before ordering the invasion of Iraq, President Bush took one last opportunity to bolster his case for war. The centerpiece of his argument was the same message he brought to the United Nations months before, and the same message he hammered home at every opportunity in the intervening months, namely that Saddam Hussein had failed to destroy Iraq's weapons of mass destruction and thus presented an imminent danger to the American people. "Intelligence gathered by this and other governments leaves no doubt that the Iraq regime continues to possess and conceal some of the most lethal weapons ever devised," the President said.

Now, nearly 2 months after the fall of Baghdad, the United States has yet to find any physical evidence of those lethal weapons. Could they be buried underground or are they somehow camouflaged in plain sight? Have they been shipped outside of the country? Do they actually exist? The questions are mounting. What started weeks ago as a restless murmur throughout Iraq has intensified into a worldwide cacophony of confusion.

The fundamental question that is nagging at many is this: How reliable were the claims of this President and key members of his administration that Iraq's weapons of mass destruction posed a clear and imminent threat to the United States, such a grave threat that immediate war was the only recourse?

Lawmakers, who were assured before the war that weapons of mass destruction would be found in Iraq, and many of whom voted—now get this—to give this administration a sweeping grant of authority to wage war based upon those assurances, have now been placed in the uncomfortable position of wondering if they were misled. The media is ratcheting up the demand for answers: Could it be that the intelligence was wrong, or could it be that the facts were manipulated a little here, a little there? These are very serious and grave questions, and they require immediate answers. We cannot—and must not—brush such questions aside. We owe the people of this country an answer. Those people who are listening, who are watching this Chamber, and every Member of this body ought to be demanding answers.

I am encouraged that the Senate Armed Services and Intelligence Committees are planning to investigate the credibility of the intelligence that was used to build the case for war against Iraq. We need a thorough, open, gloves-off investigation of this matter, and we need it quickly. The credibility of the President and his administration hangs in the balance. We must not trifle with the people's trust by foot-dragging.

What amazes me is that the President himself is not clamoring for an investigation. It is his integrity, President Bush's integrity, that is on the line. It is his truthfulness that is being questioned. It is his leadership that has come under scrutiny. And yet he has raised no question that I have heard. He has expressed no curiosity about the strange turn of events in Iraq. He has expressed no anger at the possibility that he might have been misled by people in his own administration. How is it that the President, who was so adamant about the dangers of WMD, has expressed no concern over the whereabouts of weapons of mass destruction in Iraq?

Indeed, instead of leading the charge to uncover the discrepancy between what we were told before the war and what we have found—or failed to find—since the war, the White House is circling the wagons and scoffing at the notion that anyone in the administration exaggerated the threat from Iraq.

In an interview with Polish television last week, President Bush noted that two trailers were found in Iraq that U.S. intelligence officials believe are mobile biological weapons production labs, although no trace of chemical or biological material was found in the trailers. "We found the weapons of mass destruction," the President was quoted as saying. But certainly he can-

not be satisfied with such meager evidence.

At the CIA, Director George Tenet released a terse statement the other day defending the intelligence his agency provided on Iraq. "The integrity of our process was maintained throughout and any suggestion to the contrary is simply wrong," he said. How can he be so absolutely sure?

At the Pentagon, Doug Feith, the Undersecretary of Defense for policy, held a rare press conference this week to deny reports that a high-level intelligence cell in the Defense Department doctored data and pressured the CIA to strengthen the case for war. "I know of no pressure. I can't rule out what other people may have perceived. Who knows what people perceive," he said. Is this administration not at all concerned about the perception of deception? The perception is there.

And Secretary of State Powell, who presented the U.S. case against Iraq to the United Nations last February, strenuously defended his presentation in an interview this week and denied any erosion in the administration's credibility. "Everybody knows that Iraq had weapons of mass destruction," he said. Should he not be more concerned than that about U.S. claims before the United Nations?

And yet . . . and yet . . . the questions continue to grow, and the doubts are beginning to drown out the assurances. For every insistence from Washington that the weapons of mass destruction case against Iraq is sound comes a counterpoint from the field—another dry hole, another dead end.

As the top Marine general in Iraq was recently quoted as saying, "It was a surprise to me then, it remains a surprise to me now, that we have not uncovered weapons, as you say, in some of the forward dispersal sites. Again, believe me, it's not for lack of trying. We've been to virtually every ammunition supply point between the Kuwaiti border and Baghdad, but they're simply not there."

Who are the American people to believe? What are we to think? Even though I opposed the war against Iraq because I believe that the doctrine of preemption is a flawed and dangerous instrument of foreign policy, I did believe that Saddam Hussein possessed some chemical and biological weapons capability. But I did not believe that he presented an imminent threat to the United States as indeed he did not.

Such weapons may eventually turn up. I said so weeks ago; they may eventually turn up. But my greater fear is that the belligerent stance of the United States may have convinced Saddam Hussein to sell or disperse his weapons to dark forces outside of Iraq. Shouldn't this administration be equally alarmed if they really believed that Saddam had such dangerous capabilities?

The administration took steps to protect the oil facilities in Iraq from being damaged and set on fire. The administration took extraordinary steps

to do that. Why did it not take equally extraordinary steps to protect chemical, biological, radiological, nuclear weapons, possibly, from being looted, from being stolen, from being taken away by those who would sell them, possibly, to terrorists?

Saddam Hussein is missing. Osama bin Laden is missing. Iraq's weapons of mass destruction are missing. And the President's mild claims that we are "on the look" do not comfort me. There ought to be an army of UN inspectors combing the countryside in Iraq or searching for evidence of disbursement of these weapons right now. Why are we waiting? Is there fear of the unknown or fear of the truth?

This nation—and, indeed, the world—was led into war with Iraq on the grounds that Iraq possessed weapons of mass destruction and posed an imminent threat to the United States and to the global community. As the President said in his March 17 address to the Nation, "The danger is clear: using chemical, biological or, one day, nuclear weapons, obtained with the help of Iraq, the terrorists could fulfill their stated ambitions and kill thousands or hundreds of thousands of innocent people in our country, or any other."

That fear may still be valid, but I wonder how the war with Iraq has really mitigated the threat from terrorists. As the recent attack in Saudi Arabia proved, terrorism is alive and well and unaffected by the situation in Iraq.

Meanwhile, the President seems oblivious to the controversy swirling about the justification for the invasion of Iraq. Our Nation's credibility before the world is at stake. While his administration digs in to defend the status quo, Members of Congress are questioning the credibility of the intelligence and the public case made by this administration on which the war with Iraq was based. Members of the media, Members of the fourth estate, are openly challenging whether America's intelligence agencies were simply wrong or were callously manipulated. Vice President CHENEY's numerous visits to the CIA are being portrayed by some intelligence professionals as "pressure." And the American people are wondering, once again, what is going on in the dark shadows of Washington.

It is time that we had some answers. It is time that the American people were given some answers. It is time that the administration stepped up its acts to reassure the American people that the horrific weapons that the administration told us threatened the world's safety have not fallen into terrorist hands. It is time that the President leveled with the American people. It is time that the President of the United States demanded that we get to the bottom of this matter and to follow every lead, regardless of where that lead goes.

We have waged a costly war against Iraq. American fighting men and women are still dying in Iraq. We have

prevailed. But we are still losing, as I said, still losing American lives in that nation. And the troubled situation there is far from settled. American troops will likely be needed there for months, many months—even years. Billions of American tax dollars will continue to be needed to rebuild that country. I only hope that we have not won the war only to lose the peace. Until we have determined the fate of Iraq's weapons of mass destruction, or determined that they, in fact, did not exist, we cannot rest, we cannot claim victory.

Iraq's weapons of mass destruction remain a mystery, an enigma, a conundrum. What are they, where are they, how dangerous are they? Or were they a manufactured excuse by an administration eager to seize a country? It is time these questions were answered. It is time—past time—for the administration to level with the American people, and it is time for the President of the United States to demand an accounting from his own administration as to exactly how our Nation was led down such a twisted path to war. His credibility and the credibility of this Nation is at stake.

I yield the floor.

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. THOMAS. 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. THOMAS. Mr. President, I understand we are on energy.

The PRESIDING OFFICER. The Senator is correct.

Mr. THOMAS. We need to talk a little bit about energy. I think that is what we are on. That is what we are doing this week. I must confess, I am a little disappointed that we seem to get off on other things that are unrelated when it seems to me that doing something with an energy policy to try and look ahead in this country as to where we need to be on energy is among the most important things that we could possibly do.

I understand there are different views about how you do that, and that it is legitimate to talk about those, but I do feel badly when we move off on something that isn't related when we are trying to get this done. I think it is important that we do it. We are obviously ready to move on to health care and Medicare and pharmaceuticals the week after next. But we have been over this now. Last year we worked very hard trying to do something with energy. We passed it here. I think the process that was used was not conducive to a successful finish and, indeed, we didn't have one. But this year we went through the committee. We have already discussed all these issues. We have argued back and forth.

Obviously, not everyone agrees, but I think it is hard not to agree that en-

ergy is one of the things that affects most of us more than almost anything else that we can do here. It affects whether we have lights. It affects whether we have heat. It affects whether we have an opportunity to use our automobile. And, more importantly, it has a great deal to do with security for this country. So I really feel strongly that we should get on with it. We should come up with an energy policy out of the Senate. We should go into conference committee with the House.

Remember, one of the first things that the President and the Vice President did when they came into office was to outline an energy policy recognizing how important that is. Since that time, we have, of course, had more and more unrest and more and more war and terrorism in the Middle East. We have allowed ourselves to get into a position where 60 percent of our oil comes in on imports. We are that dependent, which is very risky. We have seen it move up and down and have different effects over the country when different things happen with regard to energy. Yet we seem kind of lackadaisical about trying to deal with it in terms of policy.

Let me emphasize that is what we are talking about here is a policy. In my view, a policy normally indicates that you are trying to look ahead at what you think the situation ought to be in the future with regard to that issue, what it means to your family and to your community and to the country, to try and get a vision of where we want to be in 10 or 15 years with respect to energy. And having established a policy of that kind, obviously, then it becomes much easier and more effective and more useful to measure the things we do in the interim as to how they affect the accomplishment and the realization of that vision and policy that we have seen.

I must confess that I am a little concerned from time to time that vision is not always something that has a very high priority in the Senate, and that really ought to be our major concern—seeing what we can do here to accommodate reaching certain goals in the future.

So we are talking here about an energy policy that has been drafted, a rather general, wide energy policy that I think is very important. We are talking in this policy about conservation, about ways to save on the amount of energy we have and the needs we have. We are talking about finding alternatives so that we can have access to different kinds of energy than we have had in the past. We are talking about research so that we can do things such as have more clean coal, so we have better air quality with respect to generating electricity. We are talking about the possibility of converting some of our fossil fuels to things such as hydrogen so that we are able to move them about easier, able to have a cleaner environment. And we are able to do all of these things.

Of course, very important among all of these is to increase domestic production. We have great opportunities for production in this country. Much of it lies in the West. I happen to be from the West. Our State is 50 percent owned by the Federal Government. Many of these resources are on those Federal lands. Now, we have to do that carefully so that we have a balance between protecting the environment, on the one hand, and using the resources for energy, or whatever, on the other hand. We can do that. It is our responsibility to be particularly careful. We have the largest resource of fossil fuel for this country in the future, which is coal. We have an opportunity to do a great deal with coal. We met this morning in the Environment Committee on finding new ways to set standards for SO₂, and for other air quality standards, including mercury. We can do those things.

That is what part of this bill is about—moving us forward in being able to produce energy and, at the same time, protect the environment, which all of us want to do. But we need to move forward to be able to do that. We need to have easier access to public lands and multiple-use lands, and have all the other uses as well for energy extraction. Certainly, we won't want to use some lands for that. We will set them aside as wilderness and special use. We have more wilderness in Wyoming than in any other State in the country—except perhaps Alaska.

In any event, these are the kinds of issues with which we are faced. They are not insurmountable. As a matter of fact, they are problems to which we have the solution, but we seem hesitant to move forward and get this job behind us. So I hope we will.

We have to modernize our infrastructure. Many things have changed. It is not as if energy production remains the same over the years. In years past, in the matter of electricity, you had a distribution area where an electric company generated the electricity for everybody. Now we are finding more and more that we generate electricity one place and the market is somewhere else. So you have to have transmission. We can find more efficient ways for transmission with the kind of research that we do and take the same transmission line and make some changes in it, and it has much more capacity. But you have to move to do that.

We find that almost all the generation plants built in the last several years are oil fueled. The fact is, if you really want to look at the future, there are many more uses for oil than for coal. We ought to be using coal for the generation of electricity and oil and gas for other kinds of functions. That makes a lot of sense. But we fail to set the incentives to cause ourselves to be able to do that.

After all of our needs for electricity, we find that absent hydro, which makes it about 7 percent, the renewables represent only 3 percent of our electric supply. People keep talking about renewables. The fact is that

until we do some more research, making them more efficient, they are not going to be able to have a significant impact. But there is a possibility of doing that. That is what this policy is all about. That is what we need to be doing, is moving forward to find some ways for transmission and to do those kinds of things.

We really have a lot of opportunities to move forward, and I think we can do that. As I said, I come from a place where we have probably the richest source of coal. We provide about 14 percent of the coal now of the United States. We are seventh in oil production and fifth in gas production. Those are challenges. And there is really kind of an exciting opportunity to do some more with hydrogen. Take coal and manufacturing hydrogen, which can be used for cars and homes and for many things—probably the cleanest energy we have talked about.

There are some opportunities to do a better job with nuclear power. We have States in which about 30 percent of the energy is produced by nuclear power. We have to be able to do more work and research, particularly on waste—probably the cleanest resource for the production of electricity.

I am simply trying to say that I understand there are different views about how some of these things are done. Obviously, that is legitimate and we ought to talk about that. But we ought to move forward and get the idea that this matter of energy policy is one of the most important things we can do. We have done something on taxes, and we are going to do something on health care. If we can do something on energy as well, we will have one of the most productive periods we have had for a long time. We have a great opportunity to do that.

So I certainly urge that we take a long look at what we are doing and find a way to move forward. Everyone should be given the opportunity to put in their amendments. That is fine. But you cannot keep waiting for days and days to get all the amendments in. We have been talking about this for several weeks, yet we keep hearing, "We have not drafted our amendment yet." If you are serious about an amendment, get it drafted and get it out there. Let's deal with it and move forward in accomplishing the goal we have before us, which is a great opportunity to move forward in this country economically, to create jobs, and to do more for security and make our life better over a period of time, which is something we all seek to do.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. SUNUNU. 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. SUNUNU. Mr. President, I wish to take a few moments in this debate

on the Energy bill to talk about an amendment that my colleague from Oregon, Senator WYDEN and I will offer next week. He is the lead sponsor on the amendment. I certainly hope we can win strong bipartisan support for what will be an effort to make this Energy bill better, to improve it, and improve it in a way that does justice for the taxpayers by eliminating what I think is an inappropriate and unnecessary subsidy for the energy industry in general, and for the nuclear power industry in particular.

Our amendment will strike one small section of the bill. It is a section that provides federally backed loan guarantees for new nuclear powerplant construction.

I strongly believe we should have a diversified energy supply in this country. We should have competitive energy markets, and nuclear power is a very important part of that mix. Nuclear power has proven itself time and again. It has been cost effective and environmentally sound. We have worked through tough, but important, legislation to deal with the nuclear waste issue in the last session of Congress. In my own State of New Hampshire, we have a powerplant at Seabrook that has had an outstanding record, an excellent record for both efficiency and safety, and it continues to generate a very substantial portion of the electricity used not just in New Hampshire but throughout New England.

At the same time, nuclear power, like coal-fired electricity or gas-fired power, wind, solar, or hydroelectric power ought to be competing in the marketplace on a level playing field. However, there is a provision in this Energy bill that provides Federal loan guarantees to pay for up to half the cost of as many as six new nuclear powerplants. That is a pretty significant financial commitment, and a level of support will have to be made by the taxpayers of the United States.

If we look at the estimated cost of six plants—perhaps \$3 billion per plant, maybe a little bit less, maybe a little bit more—and take a look at half the cost of the plant in the Federal guarantee, we could conceivably be looking at a long-term cost of \$10 billion or \$15 billion. That is a cost that American taxpayers should not be asked to bear. That is one of the reasons Senator WYDEN and I are offering our amendment.

A second concern is the simple precedent this would set: providing Federal loan guarantees for any private powerplant construction. Again, my concern is not directed at the fact that the loan guarantees are for nuclear powerplants, or for large powerplants. It is about private plant production. If it were gas-fired plants, coal-fired plants, or new hydroelectric plants for which we were giving Federal guarantees, I would have the same concerns. We are setting a bad precedent in public policy when we offer this kind of tax subsidy.

We have to ask time and again, Are we being fair to the taxpayers? Are we being fair to the marketplace? I do not believe we are. I think this kind of a program, this kind of a tax subsidy would distort our energy markets and would distort the performance of our capital markets where private companies go out to borrow week after week, month after month, and year after year.

We need an energy policy in this country that promotes a strong diverse supply of energy and promotes competition. Sometimes that means making sure the Federal Government treads very lightly in the marketplace. This provision in the bill does not do that by any stretch.

The amendment we will offer is a commonsense amendment, and in the long run, our energy markets and even our nuclear power industry will be better served by striking this unnecessary subsidy. If we are going to have a healthy and strong nuclear power industry, what that really means is we have to have commonsense regulations. We need to work hard to streamline and to extend some of the relicensing capabilities so those plants that have performed well can continue to operate for an extended period of time. And, of course, we need to deal with the issue of nuclear waste, which we have begun to do through our efforts last year, and which I support.

The amendment that will be offered by Senator WYDEN and me is an amendment that has support from the National Taxpayers Union, from Citizens Against Government Waste, and a number of groups that have quite a reputation for looking out for taxpayer interest.

It also has support from a number of environmental groups, including the League of Conservation Voters and USPIRG, groups that have tried to look out for environmental interests that raise concerns for them as well.

It is a broad coalition of groups coming at this from different perspectives, but all recognize this section of the bill is not good public policy, this is not the right kind of approach if we want to have competitive energy markets, and it certainly is not the right kind of approach for taxpayers.

I thank Senator WYDEN for working with me on this amendment. We are working on an agreement that will allow us to bring this amendment forward on Tuesday with at least 2 hours of debate and an up-or-down vote on the amendment.

I thank Chairman DOMENICI for working with us on that agreement and allowing us to get this important amendment to the floor, give us a vote, and see if we can save the taxpayers a lot of money and help improve this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. I thank the Chair. Mr. President, the Senator from New Hampshire has said it very well. I will

offer just a couple of additional remarks. It is clear there is going to be an effort, as this is discussed in the Senate, to simply make this an "Are you for nuclear power or are you against nuclear power?" issue. I think that would be very unfortunate.

I said earlier when we began to discuss this, I have inimitable abilities that over the years have managed to make both sides of the nuclear power debate unhappy with me. In a sense, I hope we can do as Senator SUNUNU has done, which is to keep the focus on the taxpayer question. I urge Senators, in particular, as they make up their minds on this issue to look at two important reports. The Congressional Budget Office report and the report done by the Congressional Research Service are particularly illuminating in that the Congressional Budget Office report talks about how, in their judgment, there is a more than 50-percent probability that these plants will not be successful, that they will fail. And the Congressional Research Service, in their analysis, indicates if that is the case, taxpayers would be on the hook for in the vicinity of \$16 billion.

In my part of the world, this is not exactly an abstract issue. In fact, with the WPPSS debacle, which was the largest municipal bond failure in the country's history, four out of the five facilities were not, in fact, even built, and the people in my region and many investors, of course, were on the hook.

If the scenario of the Congressional Budget Office were to come to pass, all of our constituents—all of them—would, in effect, be exposed to these very significant costs.

That is why Senator SUNUNU and I are going to try our best, between now and the Tuesday vote, to make sure that for us this is first and foremost a taxpayers' issue.

To try to drive that point home, we had a discussion about how this affects other aspects of energy development. If this provision stays in the bill, in other words the amendment that the Senator from New Hampshire and I are offering is unsuccessful, nuclear energy would be the only part of this field that would get a direct subsidy for constructing a facility.

For example, the distinguished chairman of the committee, who has been very gracious to the two of us in terms of working on process and all of the issues towards getting this offered, talked at some length about wind and talked about subsidies for wind. Well, in fact, when wind is produced, there are various credits and incentives, which I guess are very appropriate, but there is no subsidy for constructing any other facility under this legislation other than in the nuclear area.

In fact, right now there is nothing preventing any utility from going forward with a nuclear project simply by going to the Nuclear Regulatory Commission and getting a license to build the plant.

Let me repeat that. Anybody who wants to build a nuclear powerplant in

this country simply has to go to the Nuclear Regulatory Commission and get the license. They can do that if they satisfy the safety standards.

The issue, as propounded by Senator SUNUNU and myself, is whether or not there should be these very large subsidies; whether or not the taxpayer should be exposed, in the vicinity of \$16 billion, with respect to building these plants.

I do not think this is an issue about whether one is for or against nuclear power, and that is why the National Taxpayers Union and a host of other organizations that have been watchdogs for taxpayers have made this a priority item. In their letter to me, they took the position that they are neither for nor against nuclear power. They say that explicitly in the letter. What they and a number of other taxpayer watchdogs are concerned about is the \$16 billion exposure for taxpayers that is contained in this provision.

So I am very pleased that before long we will be able to enter into a consent agreement for an up-or-down vote on Tuesday on the Wyden-Sununu legislation. I think the chairman of the Energy Committee will be leading us in that discussion with respect to a UC before too long.

The Senator from New Hampshire is still in the Chamber, and I thank him for all of his involvement in this. He has a long record of being a taxpayer watchdog, and that was, in fact, the special reason why I thought it was so important for the two of us to try to do this together.

I am sure between now and Tuesday, as this is discussed, to some extent some will try to make this into a referendum on whether one is for or against nuclear power. I will be doing my best to try to make sure that it is a taxpayers' issue. That is central and critical to me, and I look forward to the discussion that we will have on Tuesday. We should have a UC ready to go before long. I thank Chairman DOMENICI for his willingness to work out the procedure on it, and I am particularly grateful to my cosponsor, Senator SUNUNU.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am quite sure that before we are finished—if we finish, and I hope we will—the Senate and those who are interested in energy policy will hear a lot about the various kinds of energy that are provided, as a matter of policy, in this Energy bill.

I am having a lot of difficulty understanding the Senate these days. I regret to say that almost every amendment we talk about some Senator is unable to be present. It is either they had to leave early or they had a previous engagement or there is something else they had to do. So it seems as if we cannot get the amendments done. But the Democrats are going to help us try to convince Senators that

they ought to start to list their amendments soon so we will have some idea, sooner rather than later, the extent of amendments we are going to have on this bill.

On the issue of nuclear power, before we are finished with this debate, we will lay before the Senate what the Energy Committee, in its markup of this bill, did so as to make sure the United States had an array of energy sources during the next 10, 20, and 30 years.

We have tax credits for solar energy. We have tax credits for wind energy. The Senator argues that is different. Well, maybe we ought to change and have just plain tax credits for nuclear power. Maybe there would be no objection to it. Perhaps we could convert what we thought was a better way to do this to some kind of a tax credit, which would mean that if they produced, and only if they produced, would they get any credit.

What we did in the instance of nuclear power was to say if the Secretary of Energy, at some time, finds that the United States needs a nuclear powerplant because it needs a diversity of energy or it needs it because there is some clean air problem, then to a creditworthy applicant, a creditworthy builder, of a nuclear powerplant, they may subsidize half the cost with a guaranteed loan.

Now, one can talk about that in terms of how much that is going to cost. The Senator from New Mexico assumes we look at all of these from the standpoint of the benefits, what are the benefits to America?

Twelve years ago, this Senator started looking at nuclear power. With the passage of each year, as I studied it and wrote about it and thought about it, I became more embarrassed and more ashamed of what the United States of America had done with this superb technology that we had invented, that was being used in the world and that we had set on the shelf because a few people frightened us to death.

Do people know that today two nuclear powerplants are being built in Taiwan? They are building a modern, General Electric design. Guess what they tell us the cost is going to be. In fact, I believe we will introduce a letter next week during the argument. The costs will be very close to the equivalent costs of what we are now paying to build natural gas burned, natural gas fed, powerplants. Who would have thought it?

What has happened is, since natural gas is the singular source of energy, the cost is skyrocketing because there is no competition. We intend there to be competition, not only from nuclear but we have ample money in this bill for great research in coal, too. We have over \$2 billion in research for clean coal. It does not produce any coal. It just says do the research to try to make technology work.

What we have done overall for the first time in the last 20 years is to say, let us develop a nuclear policy for the

greatest nation on Earth and let us show the world that we have not abandoned the safest way to produce energy, electricity for people in the world. Let us show that we are not abandoning that. Let us show that we are going to lead again. And so there is a three-pronged policy. The Price-Anderson Act, which makes it possible for the private sector to be involved, is made permanent.

This bill says, let's build a demonstration project in the State of Idaho, a brandnew concept, so we will build a nuclear powerplant that will be passive. By passive, we mean we will prove it cannot burn. There are people who speculate a nuclear powerplant can burn. They have spoken of its burning its way through the earth. This new powerplant will be physically made so it is passive. It will produce high enough temperatures so you can produce hydrogen for the new hydrogen economy we are looking at.

America is close to being able to build a nuclear powerplant again, like they are being built in Taiwan, like they have been built year after year in France. France produces 80 percent of its electricity from nuclear power. They do not run around frightened to death of technology like the United States. If anyone wants to see France's nuclear waste, they will take you to a gymnasium. You can walk into the gymnasium, like walking into a school, and walk on a glass floor. One might ask, where is the waste? You are walking on it. It is encapsulated for 50 years at least, and nothing can happen to it while they figure out what to do with it.

What does the greatest nation on Earth do? We sit paralyzed, waiting around for something to happen in Nevada. I am sure we will hear that argument before we finish the debate next Tuesday. We know that is an engineering issue that will be solved.

What we do not know: Will the United States continue to remain dependent upon natural gas almost exclusively or will we say it may be time for American companies to build one or two nuclear powerplants? We understand they are very close. They have experienced litigation and other impediments. It is hard to get over the hurdle, over the hump. We have asked, what would it take to start a couple of them? What a day, when America starts a couple new nuclear powerplants. We would be entering an era of cheap electricity, available to everyone, poor countries and rich countries. Guess what. There will be no pollution problem. The ambient air will be affected zero.

We knew it was worth the effort to get America going again regarding its strength and power as the inventor of the safest energy ever produced by mankind to this point. We could have put in tax credits: If you produce something, we will give you a tax credit. Then our friends would not be making the argument; you are giving them

something before they produce. We chose what we thought was most simple and least expensive to the Federal Government, saying, if necessary, you can give them half the costs in a loan guarantee, to get us going again.

That is the whole issue. Should we do that or should we not do that? Before we are finished, the Senate will understand, in spite of it having difficulty with this Energy bill—we cannot seem to get people to focus on the Energy bill—but they will understand the significance of this issue. They will understand that the fear regarding nuclear power and nuclear fuel rods is about nothing but a red herring. They are nothing that engineering competence cannot handle.

I close this opening argument on nuclear power and whether or not it is safe by saying to everyone listening or worrying about nuclear power versus the other power in America, there are over 100 American Navy vessels on the high seas of the world with engines that are nuclear powerplants. Nuclear powerplants run battleships, run aircraft carriers. They have fuel rods in them. They carry them everywhere on the seas. They are at every port in the free world, save one in New Zealand because New Zealand has an agreement against it. They are so safe, there are boats and ships all around the world that have nuclear powerplants on board, with nuclear waste sitting right there in the hulls of the ships.

When you add all that, it is the safest way to produce energy for the world in the future. Our package includes the research facility we will build in the State of my good friend who is sitting on my right. We say to our executive branch, in the event you think it is necessary, you can issue a loan agreement for half the cost of a nuclear powerplant to get it going.

I understand there are those who will just add up costs under the worst of circumstances. I would rather add up all the pluses and take a risk that is worthwhile. If ever there was a risk that was worthwhile, it is a plain and simple risk to revive nuclear power in America for America and for the world. That is what is at issue in this bill.

Those who argue not to gamble any money on this will not raise a pinky on spending \$1.6 billion to research hydrogen, for a new hydrogen economy. It may not work. It may be thrown away. But it is in this bill to start the idea of engines that are going to use the new fuel. We are spending that money. We are not guaranteeing it. We are spending it. We are not guaranteeing General Motors. We are saying, enter into a partnership. We will spend some money. We hope it works.

This is an issue of risk. When you look at the other kinds of fuels, all of which we promote, none of which we shortchange, will we say America is a coal country, spend money to make the coal clean so that the ambient air of America is, indeed, clean? And spend plenty of it. We say, build windmills

and give huge credits for them to such an extent that there may be too many of them built in the next decade; we have to pass an national ordinance so they will not build them too close to some of our cities because there will be so many of them when this bill is passed with the subsidy included, the tax subsidy that will be attached. Geothermal—there are plenty of subsidies. Every kind of energy you can imagine, we have said: Help it move along. At the same time, we have put into a package that rare opportunity for the United States to face up to the fact that, although we invented nuclear power, we hid from it. Others didn't. It is time we come back and revisit it. It is time that, as a package, coupled with all the other policies, we take a little risk in terms of its future, for the future of the world.

Mr. President, I have a series of remarks that I delivered on the nuclear subject on October 31, 1977, at Harvard University, which summarizes my views to that point. I ask unanimous consent that they be printed in the RECORD.

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

A NEW NUCLEAR PARADIGM
(By Senator Pete V. Domenici)

Earlier this week, I spent substantial time on the subjects of nuclear non-proliferation, the proposed Comprehensive Test Ban Treaty, nuclear waste policies, and nuclear weapons design issues. The forums for these discussions were open and closed hearings of two major sub-committees of the United States Senate, a breakfast where two Cabinet secretaries joined 10 United States Senators, and private discussions with specialists in these fields.

During the week before, I spent time on the question of whether or not a 1,200 foot road should be built in a National Monument, a monument whose enabling legislation I authored almost a decade ago.

Without demeaning any person's sense of perspective, I have to not to you today that for every person who attended the nuclear hearings, 50 attended the road hearings. And, for every inch of newspaper coverage the nuclear matters attracted, the road attracted 50 inches.

Strategic national issues just don't command a large audience. In no area has this been more evident during these last 25 years than in the critical and interrelated public policy questions involving energy, growth, and the role of nuclear technologies. As we leave the 20th Century, arguably the American Century, and head for a new millennium, we truly need to confront these strategic issues with careful logic and sound science.

We live in the dominant economic, military, and cultural entity in the world. Our principles of government and economics are increasingly becoming the principles of the world.

There are no secrets to our success, and there is no guarantee that, in the coming century, we will be the principal beneficiary of the seeds we have sown. There is competition in the world and serious strategic issues facing the United States cannot be overlooked.

The United States—like the rest of the industrialized world—is aging rapidly as our birth rates decline. Between 1995 and the

year 2030, the number of people in the United States over age 65 will double from 34 million to 68 million. Just to maintain our standard of living, we need dramatic increases in productivity as a larger fraction of our population drops out of the workforce.

By 2030, 30 percent of the population of the industrialized nations will be over 60. The rest of the world—the countries that today are “unindustrialized”—will have only 16 percent of their population over age 60 and will be ready to boom.

As those nations build economies modeled after ours, there will be intense competition for the resources that underpin modern economies.

When it comes to energy, we have a serious, strategic problem. The United States currently consumes 25 percent of the world's energy production. However, developing countries are on track to increase their energy consumption by 48 percent between 1992 and 2010.

The United States currently produces and imports raw energy resources worth over \$150 billion per year. Approximately \$50 billion of that is imported oil or natural gas. We then process that material into energy feedstocks such as gasoline. Those feedstocks, the energy we consume in our cars, factories, and electric plants, are worth \$505 billion per year.

So, while we debate defense policy every year, we don't debate energy policy, even though it already costs us twice as much as our defense, other countries' consumption is growing dramatically, and energy shortages are likely to be a prime driver of future military challenges.

When I came to the Senate a quarter of a century ago, we debated our dependence on foreign sources of energy. We discussed energy independence, but we largely decided not to talk about nuclear policy options in public.

At the same time, the anti-nuclear movement conducted their campaign in a way that was tremendously appealing to mass media. Scientists, used to the peer-reviewed ways of scientific discourse, were unprepared to counter. They lost the debate.

Serious discussion about the role of nuclear energy in world stability, energy independence, and national security retreated into academia or classified sessions.

Today, it is extraordinarily difficult to conduct a debate on nuclear issues. Usually, the only thing produced is nasty political fallout.

I am going to bring back to the market place of ideas a more forthright discussion of nuclear policy.

My objective tonight is not to talk about talking about a policy. I am going to make some policy proposals. Tomorrow there are sessions on energy policy and nuclear proliferation. I'll give them something to talk about.

I am going to tell you that we made some bad decisions in the past that we have to change. Then I will tell you about some decisions we need to make now.

First, we need to recognize that the premises underpinning some of our nuclear policy decisions are wrong. In 1977, President Carter halted all U.S. efforts to reprocess spent nuclear fuel and develop mixed-oxide fuel (MOX) for our civilian reactors on the grounds that the plutonium could be diverted and eventually transformed into bombs. He argued that the United States should halt its reprocessing program as an example to other countries in the hope that they would follow suit.

The premise of the decision was wrong. Other countries do not follow the example of the United States if we make a decision that other countries view as economically or

technically unsound. France, Great Britain, Japan, and Russia all now have MOX fuel programs.

This failure to address an incorrect premise has harmed our efforts to deal with spent nuclear fuel and the disposition of excess weapons material, as well as our ability to influence international reactor issues.

I'll cite another example. We regulate exposure to low levels of radiation using a so-called “linear no-threshold” model, the premise of which is that there is no “safe” level of exposure.

Our model forces us to regulate radiation to levels approaching 1 percent of natural background despite the fact that natural background can vary by 50 percent within the United States.

On the other hand, many scientists think that living cells, after millions of years of exposure to naturally occurring radiation, have adapted such that low levels of radiation cause very little if any harm. In fact, there are some studies that suggest exactly the opposite is true—that low doses of radiation may even improve health.

The truth is important. We spend over \$5 billion each year to clean contaminated DOE sites to levels below 5 percent of background.

In this year's Energy and Water Appropriations Act, we initiated a ten year program to understand how radiation affects genomes and cells so that we can really understand how radiation affects living organisms. For the first time, we will develop radiation protection standards that are based on actual risk.

Let me cite another bad decision. You may recall that earlier this year, Hudson Foods recalled 25 million pounds of beef, some of which was contaminated by E. Coli. The Administration proposed tougher penalties and mandatory recalls that cost millions.

What you may not know is that the E. Coli bacteria can be killed by irradiating beef products. The irradiation has no effect on the beef. The FDA does not allow the process to be used on beef, even though it is allowed for poultry, pork, fruit and vegetables, largely because of opposition from some consumer groups that question its safety.

But there is no scientific evidence of danger. In fact, when the decision is left up to scientists, they opt for irradiation—the food that goes into space with our astronauts is irradiated.

I've talked about bad past decisions that haunt us today. Now I want to talk about decisions we need to make today.

The President has outlined a program to stabilize the U.S. production of carbon dioxide and other greenhouse gases at 1990 levels by some time between 2008 and 2012. Unfortunately, the President's goals are not achievable without seriously impacting our economy.

Our national laboratories have studied the issue. Their report indicates that to get to the President's goals we would have to impose a \$50/ton carbon tax. That would result in an increase of 12.5 cents/gallon for gas and 1.5 cents/kilowatt-hour for electricity—almost a doubling of the current cost of coal or natural gas-generated electricity.

What the President should have said is that we need nuclear energy to meet his goal. After all, in 1996, nuclear power plants prevented the emission of 147 million metric tons of carbon, 2.5 million tons of nitrogen oxides, and 5 million tons of sulfur dioxide. Our electric utilities' emissions of those greenhouse gases were 25 percent lower than they would have been if fossil fuels had been used instead of nuclear energy.

Ironically, the technology we are relying on to achieve these results is over twenty years old. We have developed the next generation of nuclear power plants—which have

been certified by the NRC and are now being sold overseas. They are even safer than our current models. Better yet, we have technologies under development like passively safe reactors, lead-bismuth reactors, and advanced liquid metal reactors that generate less waste and are proliferation resistant.

An excellent report by Dr. John Holdren for the President's Committee of Advisors on Science and Technology, calls for a sharply enhanced national effort. It urges a "properly focused R&D effort to see if the problems plaguing fission energy can be overcome—economics, safety, waste, and proliferation." I have long urged the conclusion of this report—that we dramatically increase spending in these areas for reasons ranging from reactor safety to non-proliferation.

I have not overlooked that nuclear waste issues loom as a roadblock to increased nuclear utilization. I will return to that subject.

For now, let me turn from nuclear power to nuclear weapons issues.

Our current stockpile is set by bilateral agreements with Russia. Bilateral agreements make sense if we are certain who our future nuclear adversary will be and are useful to force a transparent build-down within Russia. But I will warn you that our next nuclear adversary may not be Russia—we do not want to find ourselves limited by a treaty with Russia in a conflict with another entity.

We need to decide what stockpile levels we really need for our own best interests to deal with any future adversary.

For that reason, I suggest that, within the limits imposed by START II, the United States move away from further treaty imposed limitations and move to what I call a "threat-based stockpile."

Based upon the threat I perceive right now, I think our stockpile could be reduced. We need to challenge our military planners to identify the minimum necessary stockpile size.

At the same time, as our stockpile is reduced and we are precluded from testing, we have to increase our confidence in the integrity of the remaining stockpile and our ability to reconstitute if the threat changes. Programs like science-based stockpile stewardship must be nurtured and supported carefully.

As we seriously review stockpile size, we should also consider stepping back from the nuclear cliff by de-alerting and carefully re-examining the necessity of the ground-based log of the nuclear triad.

Costs certainly aren't the primary driver for our stockpile size, but if some of the actions I've discussed were taken, I'd bet that as a bonus we'd see major budget savings. Now we spend about \$30 billion each year supporting the triad.

Earlier I discussed the need to revisit some incorrect premises that caused us to make bad decisions in the past. I said that one of them, regarding reprocessing and MOX fuel, is ham-stringing our efforts to permanently dismantle nuclear weapons.

The dismantlement of tens of thousands of nuclear weapons in Russia and the United States has left both countries with large inventories of perfectly machined classified components that could allow each country to rapidly rebuild its nuclear arsenals.

Both countries should set a goal of converting those excess inventories into non-weapon shapes as quickly as possible. The more permanent those transformations and the more verification that can accompany the conversion of that material, the better.

Technical solutions exist. Pits can be transformed into non-weapons shapes and weapon material can be burned in reactors as MOX fuel, which by the way is what the Na-

tional Academy of Sciences has recommended. However, the proposal to dispose of weapons plutonium as MOX runs into that old premise that MOX is bad despite its widespread use by our allies.

MOX is the best technical solution. I challenge you to develop a proposal that brings the economics of the MOX fuel cycle together with the need to dispose of weapons grade plutonium. Ideally, incentives can be developed to speed Russians materials conversion while reducing the cost of the U.S. effort. The idea for the U.S. Russian HEU Agreement originated at MIT, and I know that Harvard does not like to be upstaged.

I said earlier that I would not advocate increased use of nuclear and ignore the nuclear waste problem. The path we've been following on Yucca Mountain sure isn't leading anywhere very fast. I'm about ready to re-examine the whole premise for Yucca Mountain.

We're on a course to bury all our spent nuclear fuel, despite the fact that a spent nuclear fuel rod still has 60-75% of its energy content—and despite the fact that Nevadans need to be convinced that the material will not create a hazard for over 100,000 years.

Our decision to ban reprocessing forced us to a repository solution. Meanwhile, many other nations think it is dumb to just bury the energy-rich spent fuel and are reprocessing.

I propose we go somewhere between reprocessing and permanent disposal by using interim storage to keep our options open. Incidentally, 65 Senators agreed with the importance of interim storage, but the Administration has only threatened to veto any such progress and has shown no willingness to discuss alternatives.

Let me highlight one attractive option. A group from several of our largest companies, using technologies developed at three of our national laboratories and from Russian institutes and their nuclear navy, discussed with me an approach to use that waste for electrical generation. They use an accelerator, not a reactor, so there is never any critical assembly. There is minimal processing, but carefully done so that weapons-grade materials are never separated out and so that international verification can be used. And when they get done, only a little material goes into a repository—but now the half lives are changed so that it's a hazard for perhaps 300 years a far cry from 100,000 years. It sure would be easier to get acceptance of a 300 year, rather than a 100,000 year, hazard, especially when the 300 year case is also providing a source of clean electricity. This approach, called Accelerator Transmutation of Waste, is an area I want to see investigated aggressively.

I still haven't touched on all the issues imbedded in maximizing our nation's benefit from nuclear technologies, and I can't do that without a much longer speech.

For example, I haven't discussed the increasingly desperate need in the country for low level waste facilities like Ward Valley in California. In California, important medical and research procedures are at risk because the Administration continues to block the State government from fulfilling their responsibilities to care for low level waste.

And I haven't touched on the tremendous window of opportunity that we now have in the Former Soviet Union to expand programs that protect fissile material from moving onto the black market or to shift the activities of former Soviet weapons scientists onto commercial projects. Along with Senators Nunn and Lugar, I've led the charge for these programs. Those are programs a foreign aid, I believe they are sadly mistaken.

We are realizing some of the benefits of nuclear technologies today, but only a fraction of what we could realize—

Nuclear weapons, for all their horror, brought to an end 50 years of world-wide wars in which 60 million people died.

Nuclear power is providing about 20% of our electricity needs now and many of our citizens enjoy healthier longer lives through improved medical procedures that depend on nuclear process.

But we aren't tapping the full potential of the nucleus for additional benefits. In the process, we are short-changing our citizens.

I hope in these remarks that I have succeeded in raising your awareness of the opportunities that our nation should be seizing to secure a better future for our citizens through careful reevaluation of many ill-conceived fears, policies and decisions that have seriously constrained our use of nuclear technologies.

Today I announce my intention to lead a new dialogue with serious discussion about the full range of nuclear technologies. I intend to provide national leadership to overcome barriers.

While some may continue to lament that the nuclear genie is out of his proverbial bottle, I'm ready to focus on harnessing that genie as effectively and fully as possible, for the largest set of benefits for our citizens.

I challenge all of you to join me in this dialogue to help secure these benefits.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the two managers and the two sponsors of the amendment, the Wyden-Sununu amendment, agreed that I ask for this unanimous consent, and I will do so: That on Tuesday, when the Senate considers the Wyden-Sununu amendment relating to commercial nuclear plants, there be 120 minutes equally divided in the usual form; provided further that no amendments to the amendment or the language proposed to be stricken be in order prior to the vote in relation to the amendment; and if the amendment is not disposed of, the amendment remain debatable and amendable.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. There is no objection.

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

Mr. REID. We are also very close to working something out on the matter that has been holding up the Energy bill today, and that is the child tax credit. We are within minutes of being able to enter into an agreement on that.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we have arrived at a time and a defined period for debate on the Wyden amendment to subtitle B of this act. I think it is critical that we bring this issue to the forefront and make a decision on it.

The Senator from New Mexico, the chairman of the Energy Committee, has done an excellent job in the last 20 minutes outlining the dynamics of this major piece of legislation for our country and the kinds of issues embodied in it that are so critical to all of us as we debate the general issue of energy and this particular subtitle that relates to

the development of new technology but, more importantly, the deployment of the concept of new reactor design into actual producing reactors in the United States. The Senator from New Mexico is so accurate in his overall review of where we are as a nation with energy or the absence thereof.

My colleague from Oregon and I live in the Pacific Northwest, where hydro is dominant as a part of our energy-producing capability. Even that marvelous, clean resource today is under attack. Why? Because it impounds rivers to produce hydro, and by impounding rivers, it changes the character of those rivers. Certain interest groups want those rivers, in large part, by some estimation, to be freed. So they wanted to reshape hydro. In all instances, it has reduced the overall productive capability of hydro facilities.

We have frustration in a variety of other areas. The Senator from New Mexico outlined our problem with burning coal under the Clean Air Act, and the ambient air as a result of that, and the cost now being driven against retrofitting and new coal-burning designs to produce energy.

That is in part—not in total but in part—what has developed a willingness on the part of our country, I believe, to renew our nuclear option and possibly to renew it under a new design concept, under a passive reactor design concept that the Senator from New Mexico has talked about.

Passive reactor design means, simply, one that reacts on its own when certain conditions arise. The human factor doesn't necessarily have to be there to start throwing switches and making adjustments because those kinds of things happen automatically. We believe our engineering talent in this country is now capable of that kind of design development. In doing that design, we would couple with it an electrolysis process that would make the reactor itself so much more efficient that it would run at peak load at all times, as reactors should in performing best.

But power demand isn't always constant. When you can switch that load to development of hydrogen fuels, through the electrolysis process, and then convert it back to use within a power grid, you make for phenomenal efficiencies and the cost of production goes down dramatically.

In doing that, in bringing back to this country an abundant source of electrical energy and a reliable supply to our grid system—a system we are working to improve today through the development of regional transmission authorities and a variety of other things that tie us together—we found out a few years ago in the Pacific Northwest that it has certain liabilities. If the energy in the system itself in other parts of the grid isn't abundant, and it starts pulling power from us and forcing our power rates up, it can be a problem. Where it is produced with an abundance in the system and

the system is fully interrelated and interconnected all can generally benefit.

As a result of bringing some of these new concepts on line, where we are actively subsidizing other areas of production, we thought it was reasonable to bring to the floor of the Senate a similar concept, to take some of the risk out of new design development for the commercial side, and to do so in a way that our country has always done—to use public resources to advance certain technological causes and, out of those causes and their development, to generate phenomenal consumer benefits.

There is no greater consumer benefit in this country today than reliable, high-quality electrical energy at reasonable prices. Our world runs on it. Our world's wealth depends on it. This country's workforce depends on it.

What we have brought to the floor in this Energy bill is not a hunt and a pick. It is not a political decision versus another political decision. That is not the case. It is not green versus nongreen. That is not the case.

What the chairman of the Energy Committee has said in this bill, and what the committee itself has said, is that all energy is good energy as long as it meets certain standards, and as long as it fits within our environmental context, we ought to promote it and we ought to advance it.

That is exactly what this bill does. As the Senator from New Mexico characterized it a few moments ago, we have enough credit in this bill to put windmills about anywhere they want to go, or are allowed to go, to produce energy.

Some would say that is great, we don't need anything else.

Oh, yes, we do. The reason we do is you can put a windmill everywhere you can in the air sheds that can produce wind energy, and you can only get up to about 2 percent of total demand. That is about it.

But we ought to do it because it is clean and it is renewable and it is the right thing to do. But what we are already finding out in my State of Idaho that has a couple of wind sheds that fit, if this bill passes, interest groups are stepping up and saying: Oh, I don't think we want that windmill there; that is a spike-tail grouse habitat; there are some Indian artifacts there and we certainly don't want them damaged. And we don't.

What I am suggesting is in these most desirable of wind sheds for windmills, there is going to be somebody stepping up and saying "not here." And they are right. They probably won't go there.

That is public land, by the way, not private land. On some private land, the same argument will occur. Simply, they don't want in their backyard a machine that goes whomp, whomp, whomp and produces electricity. Something about the sound disturbs their sleep. As a result, my guess is some

city ordinance will soon suggest, "not in my backyard."

But there are some backyards where we can put wind machines and we will and we already have and we ought to promote it and we ought not to be selective, and we are subsidizing them by a tax credit. You bet we are.

We are going to pass that provision. That is the right and the appropriate thing to do.

We have subsidized in most instances, in one form or another, through a tax credit or through an easing of regulation or through the ability to site on Federal lands, energy projects, historically, because our country, our Government, this Senate for well over 100 years has said: The best thing we can do for this country to make it grow, to make it prosper, and to make it abundant to the working men and women of America is a reasonable and available energy supply in whatever form the marketplace takes.

We also know we can shape the market a bit by a subsidy, by a tax credit, and we also do that.

We are going to do some wind. We are going to do some solar in here. We hope we do clean coal technology. Certainly the coal-producing States of our country want to keep producing coal, and they should. We should use it, and we will.

There is a provision in here on which Senator BINGAMAN and I disagree a little; that is, on the relicensing of hydro. We think it ought to be relicensed and environmentally positive. When we can retrofit it and shape it, we ought to do so as we relicense it into the next century. But hydro produces a nice chunk of power in this country today. We are going to relicense over 200 facilities in the next decade. That represents about 15 million American homes and 30 million megawatts of power. Any reduction in that productive capability means we have to produce that power somewhere else.

Some of those old plants, when relicensed and retrofitted, may lose some of their productive capability in the licensing process. We ought to have new supplies coming on line.

Several years ago, this Senate became involved in a very serious debate over an issue that we call climate change. We became involved as a nation internationally in this debate because we thought it was the right thing to do. We knew our global environment was heating, or appeared to be heating, faster than it had in the past, and we didn't know why. Some argued it was the emission of greenhouse gases which created a greenhouse effect around our globe which was largely a product of the burning of hydrocarbons and that we ought to do something about it.

Many of us were very concerned that if we didn't have the right modeling and the right measurement and the right facts to make those decisions, we would shape public policy and head it in a direction that was not appropriate and would allocate billions of dollars of

new resources that might put tens of thousands of people out of work if we did it wrong. At the same time, there has been and there remains a nagging concern as to the reality of this particular situation globally, environmentally. Or is it simply the natural characteristic of the changing world and evolving changing world?

We have known down through geologic time that this world has heated and cooled and heated and cooled. Is it the natural cycle? We didn't know that. But out of all of it, we generally grew to believe that the less emission into the atmosphere the better off we would be.

This bill embodies that general philosophy—that clean energy and clean fuels are better, that we ought to advance them, that we ought to subsidize them where necessary, and that we ought to plot them through the public policy which we debate here on the floor today. Out of all of that, we knew one thing: Energy generated by nuclear-fueled generating systems was clean with no emissions. It is the cleanest source in the country other than hydro with no emissions.

As a result of that, there was no question that the popularity of that consensus began to grow. Other nations around the world were using it. The senior Senator from New Mexico spoke of France and their use of it. Japan, a nation once very fearful of the atom, now builds almost a reactor a year coming on line to produce—what? Power for its citizens, power for its economy, and power for its workforce. We once led the world in that technology. But we fell dramatically behind over the last three decades because there was a public perception fueled by some and feared by some that the nuclear-generating facilities of our country were not safe. Yet they have this phenomenal history of safe operation.

Through the course of all of this, and as the facilities aged, as they were relicensed and retrofitted, guess what happened over the course of the last few years. As we spiked in our power demands at the peak of the economy in the late 1990s and as electrical prices went through the roof, the cost of operating reactors was stable; it was constant. They became the least cost producers of electricity of any generating capacity in the country other than existing hydro. The world began to react in a favorable way to that.

All of that became a part of the production of the legislation before us now—to once again get this great country back into the business of the research and development of new reactor systems that not only are in every way perceived to be safer and cleaner in the sense of waste production at end of the game, but would do something else for our country in a way that we think is the right direction; that is, the development of hydrogen to fuel the next generation of surface transportation and to start growing our economy into

an age of hydrogen-fueled systems, fuel cells, generating electricity, turning the wheels of automobiles, trucks, and other forms of transportation; and, on a case-by-case basis, the potential of a fuel cell to light a home, to fuel and light a given industry by having one of those on location. We believe all of those things are possible.

What I hope is that the Senate will agree with us that it is now time to lead in all aspects of energy production in this country instead of nibbling around the edges selectively and politically determining what ought to be and what ought not to be because one individual thinks this way is better than another.

I have dealt with the energy issue all of my political life. While at one time I will honestly admit I was selective, I am no longer that. I support it all. I am voting for wind. I am voting for clean coal. I want to develop a responsible relicensing system for hydro. I am supporting nuclear development and nuclear growth. I am supporting oil production. Why? I don't want future generations of this country to be fuel-starved and victim to the politics of a region of the world which is unstable because this Senate didn't have the wisdom to produce when it could have and create incentives and maximum energy production for our country.

That is what this bill is about. The Senator from Oregon chooses to be selective for a moment in time. I wish he wouldn't be. I understand why he is. I think he is wrong.

Mr. WYDEN. Mr. President, will the Senator yield for a question?

Mr. CRAIG. I would be happy to yield in just a moment.

I think the Senator from Oregon is wrong on this issue. I think it is a form of selectivity as it relates to our willingness as a country to use public resources in the advancement of all forms of energy resources as the kind that is offered by the committee to, once a new reactor design is developed, allow for loan guarantees to guarantee up to about 8,400 megawatts of electrical development through nuclear reactor construction.

I would be happy to yield to my colleague from Oregon.

Mr. WYDEN. I thank my good friend for yielding. I listened patiently to him and to the chairman of the committee raising the concern that in some way the opponents of the subsidies are engaging in scare tactics, red herrings, and the like. This is not a red herring. This is a dollar and cents issue.

I was curious whether the distinguished senior Senator from Idaho was aware that the Congressional Budget Office "considers the risk of default on such a loan guarantee to be very high, well over 50 percent."

Is the distinguished senior Senator from Idaho aware of that? I would be curious about his reaction because to me—and as the Senator from New Mexico said—this is about risk. The Congressional Budget Office has given us

an objective, nonpartisan assessment of risk here. They consider "the risk of default on such a loan guarantee to be very high, well over 50 percent"—coupled with the Congressional Research Service memo indicating the exposure is \$16 billion. Is the distinguished Senator from Idaho aware of that? I would be curious what the distinguished Senator's reaction to that is.

Mr. CRAIG. Mr. President, I thank my colleague for bringing up that issue. There are red herrings. Maybe some of them are blue and some of them are green, as we debate these issues. I don't know what a red herring really is here.

I do know that when you sit a group of economists or accountants down and say, project backwards over the last 20 years or 30 years as it relates to the cost of developing nuclear reactors, and/or their failure—and out in the Pacific Northwest we had some that were funded and then brought down because the economy and the politics would not accept them—if you do that, you might get to a 50-percent risk factor.

If you project forward to a new concept design that is under a new Nuclear Regulatory Commission licensing process that meets the demand of the electrical systems, that is a cleaner process, that drives down the cost—and my colleague, the senior Senator from New Mexico talked about the new concepts in Taiwan; one of them may well be built here—my guess is they did not factor that in. Because those are all things you and I, as Senators, will insist upon and do over the next decade, and that when we do that, the risk factors come down dramatically.

But this is what the Senator from Oregon and I need to look at. You came to the Congress how many years ago?

Mr. WYDEN. We were both young; in 1980.

Mr. CRAIG. In 1980. In 1980, the United States was about 35-percent dependent on foreign hydrocarbons, foreign oil. Now, there were some folks out there saying: Boy, if we don't get busy here, we could someday be 40-percent dependent.

Well, they were right. We did not get busy. In fact, we increasingly restricted the ability to refine and the ability to discover and the ability to produce, and by 1984 or 1985, we were at 45 percent. And that kept going on.

What is the risk factor there? We know what the risk factor is. The risk factor is, we did not do anything and we are now over 50-percent dependent, and in some instances as high as 65 percent, give or take, dependent on foreign oil sources.

You see what has happened at the pump. I don't know what you or I were paying for gas in 1980 but it was well under \$1 a gallon. Now we are paying \$1.55, \$1.60 a gallon for regular fuel. The average household is spending a great deal more on energy today than it did in 1980. We did not develop a policy. We did quite the opposite. We began to restrict the ability to produce, whether or not it was hydrocarbons.

We have not brought on line a nuclear reactor, fire-generating system for the purpose of electrical production in the last 10 or 12 years. One got started under construction, and, of course, as we know in the Pacific Northwest, we actually stopped construction on some.

Are there risks? You bet. There is no zero-sum game here. There isn't anything you or I could possibly legislate. But there is a reality; the reality is that energy prices in Oregon shot through the roof in the last 3 years and the energy prices in Idaho went up dramatically. The cost of living in the State of Oregon and the economy of the State of Oregon reeled under the hit, as is true of the State of Idaho. I am not, anymore, going to stand here and be selective on the production of and the future opportunity to produce energy for this country because I want to get your State's economy moving and my State's economy moving.

(Mr. CRAPO assumed the Chair.)

Mr. WYDEN. Will the Senator yield for yet another question?

Mr. CRAIG. I am happy to yield.

Mr. WYDEN. I thank my colleague.

Again, the Senator from Idaho has been critical of the Congressional Budget Office report, saying that perhaps they did not look forward; they just looked backward. I would urge my colleagues to look at the report because the report does, in fact, look to 2011 and the future, and that is what the Congressional Budget Office did make their judgment on, where they said there was a risk of default that was well over 50 percent.

But my question to my colleague is whether my colleague thinks it is relevant about who assumes risk with respect to energy production. Because he is absolutely right, there are no fool-proof guarantees in life. There is no question there is risk. Here, however, I see the taxpayer being at risk. The taxpayer is on the hook for \$16 billion.

I thought it was interesting that the distinguished chairman of the committee talked about the credits for production.

Well, the fact is, when you get a credit for production, the producer is largely at risk because in order to get the break, you have to produce something. There is no tax credit, I say to my colleagues, for failing to produce a successful wind venture. You get the credit if your wind venture is successful.

My understanding is that here, with the subsidy, the person who assumes the risk is the taxpayer, not the producer. I was wondering if the distinguished Senator from Idaho thinks it is relevant with respect to who takes the risk. This Senator does because the taxpayer is on the hook rather than those who produce. I am curious of the reaction of the distinguished Senator from Idaho.

Mr. CRAIG. I am pleased the Senator brought this issue forward because you and I live in an environment in the Pacific Northwest that was substantially

subsidized by American taxpayers to produce a massive electrical system known as the Bonneville Power Administration—direct appropriations of hundreds of millions of dollars to build a hydro system in the Snake and Columbia watersheds and in other places. These were not loan guarantees. They were just outright expenditures to be paid back. They have been paid back over a long period of time, and we are continuing to pay them back.

So the American taxpayer, to our benefit, has always been on the hook in the Pacific Northwest for the production of energy. In fact, you and I worked to just get some borrowing capability for Bonneville to expand its transmission system—a big chunk of money. We fought for that, and we should have. Why? Because it will generally benefit the Pacific Northwest. It is not a loan guarantee. It is an outright appropriation to be paid back.

Mr. DOMENICI. Will the Senator yield?

Mr. CRAIG. I am happy to yield.

Mr. DOMENICI. I would like to comment on what the distinguished Senator, Mr. WYDEN, just raised, and say to my good friend, the Congressional Budget Office is wrong almost every way it turns.

First, it uses forecast figures on plant costs of \$2,300 per kilowatt. The right number is \$1,250 per kilowatt. How do I know? There are two being built in Taiwan right now that General Electric designed—brand spanking new. They came to our office. I don't know if they had time to come and see you, I say to the Senator, but they brought with them their experts and told us those plants will cost not \$2,300 per kilowatt but, rather, \$1,250 per kilowatt. That is about half, as this Senator sees it.

Mr. CRAIG. Yes.

Mr. DOMENICI. So they are half wrong right up front in terms of their assessment.

Furthermore, the bill itself says that if this section that is being debated is ever used, the Secretary will evaluate the creditworthiness of any new project under this program. So they are already wrong by half on the cost.

Then I would ask, Does the Congressional Budget Office really believe the Secretary will approve a significant risk? If he approves a significant risk, he would be in violation—direct conflict—of the law that we are discussing that he would be acting on that the CBO assumes will cost this extraordinary amount and impose this extraordinary risk.

I thank the Senator for his comments and his responses. I am quite sure the Congressional Budget Office, as this Senator knows—I have only worked with it for the sum total of 26 years on all kinds of issues—I believe there is no subject they are more wrong on than their estimates of the cost of matters nuclear. First of all, they assume that everything that has gone wrong in the past is going to go

wrong again, while the world is out there proving that such is not the case, while we are saying only under very limited circumstances would you ever use these sections to begin with, which would eliminate part of their reasoning, which would just leave the scene and would not even be applicable as they attempt to make the risk estimate.

I thank the Senator.

Mr. CRAIG. Mr. President, I thank the chairman of the full Energy Committee and the primary author of this legislation for making what are extremely important clarifying points in relation to the Wyden amendment that would strike this provision of subtitle (b) as it relates to the deployment of new nuclear plants.

In another life, I once studied real estate and had a real estate license. I know when you try to assess the value of a piece of property, you do what is called a comparable appraisal. You find other properties that are comparable in size, productive capability, if it is a house in square footage, in age, in all of those features. You say that in the marketplace, this house is worth about so much because the comparables, one that has recently sold that is like it or near like it, cost about this much.

When it comes to our ability to project the cost of a nuclear powerplant in construction in 2011, there are no U.S. comparables. We are talking about all kinds of new things. We are talking about a new design, a GEN-IV passive reactor design. What size are we talking about, 600-, 800-, 1,000-megawatt plant? Under what kind of regulatory authority? Has the license been developed and what are the peculiarities, the particulars, the specifications within the license? We don't know that. You cannot effectively project.

What you can do is exactly what this subtitle does. It gives the Secretary of Energy authority to examine, to make a determination based on fixed criteria that we have placed in the law to protect the public resource. We are going to make the assumption in 2011 that the Secretary of Energy and his or her staff are bright, talented, clear-thinking people who will have to operate under the law. The reason they will have to operate under the law? Because if this is a loan guarantee, it becomes a part of their budget, it becomes scored, and the Congress of the United States has to appropriate the money or at least offset it because it is a guarantee in the market.

That is how it works. I am not going to be here then, more than likely, and others of my colleagues will not. But we will have written into law the right kind of public policy to protect the citizens' resource, his or her tax money. So the ultimate question is, Does this portion of the title as it relates to nuclear energy fit for the future? Is it the way we get this industry started again, obviously dealing with the provision in the law that creates a liability shield as it relates to Price

Anderson, as a new design concept that we think is the right design, the safer design, the cleaner design, the more efficient design, and the reality of a future energy source? And have we created the right incentive to move us into the production of electricity from nuclear-fueled powerplants of the future?

That is what this subtitle is all about. That is why it is important. I don't know that the detail of it has been written, or I should say read or understood specifically. It is very clear. It is very short. The requirements are particularly important. Let me read them:

Subsection (b), Requirements:

Approved criteria for financial assistance shall include the creditworthiness of the project—

that is, the responsibility of the Secretary and his or her team to make those determinations—

the extent to which financial assistance would encourage public-private partnerships and attract private sector investment, the likelihood that financial assistance would hasten commencement of the project, and any other criteria the Secretary deems necessary or appropriate.

That is a totally open-ended clause that says the Secretary can, in fact, develop more findings if necessary to protect the safety and the security of this kind of loan guarantee.

The Secretary, under the confidentiality provision, shall protect the confidentiality of any information that is certified by the project developer to be commercially sensitive. The full faith and credit of all financial assistance provided by the Secretary under this subtitle shall be a guaranteed obligation of the United States backed by its full faith and credit.

That is fairly boilerplate language. What that says is very clear. If the Secretary makes that determination, that becomes a part of a decision that the Appropriations Committee and the Budget Committee in the Senate then deal with. This is not locking in the money. This is simply authorizing the ability of the Secretary in the future to move in a direction that the Congress can make a decision on. That is what this provision is all about.

I believe, we believe, and that is why the Energy Committee in a bipartisan way brought this to the floor for the whole Senate's consideration, because we think it is the right thing to do. It is the right thing to look forward, not just a year from now or 2 but 30 and 40 and 50 years from now and say that we have developed a public policy that will produce the kind of energy that a growing, expanding U.S. economy needs, that it is of high quality, and that it fuels our factories, lights our homes, cools our homes, and in the new age of technology it keeps the Internet humming, by then probably such a wireless communication system that it keeps, if you will, cyberspace vibrating.

A couple of years ago I had the opportunity to visit China, a huge nation, a nation that is expanding by leaps and

bounds, a nation that is pushing all sides of development and technology. My wife and I had the opportunity to stay in a beautiful hotel in Shanghai, a state-of-the-art hotel. In this city of Washington, DC, it would probably be called at least a four-star hotel, absolutely a marvelous facility. When we got to our room, the finest of facilities, there were all kinds of places to plug in your computer. It was wired for the state of the art. But it had a problem. The power kept going out. The lights kept blinking. The air-conditioning kept shutting off and turning on.

The problem that beautiful, new, state-of-the-art hotel had that made it nearly impossible to plug your computer in and go online and, with your e-mail, talk to the United States is that China doesn't have a power grid.

China doesn't have adequate electrical power. China has developed its electrical resources on a city-by-city, county-by-county basis. They are now striving ahead at a phenomenal cost to create a national power grid to tie themselves together because they know that to compete with us, to put their people to work, and to hopefully some day generate a lifestyle comparable to ours, and an economy comparable to ours, they have to have a power system that is reliable, stable, productive, and that is connected.

No matter how beautiful the building, no matter how high-tech the facility, if it is not turned on, if it is not wired in, if it is not lit up, it doesn't work. Boy, have we learned that in this country. California has learned that in the last couple of years.

If all goes well, I am going to be in the heart of the Silicon Valley on Saturday. I will tell you what the conversation is going to be about with some of the high-tech producers down there: Is the Energy bill going to pass? Are you going to get us back into the business of producing energy? We are large consumers of it and we need a high-quality, stable supply of energy that doesn't blink, shut off, or put our production at risk. If you are building chips in a high-tech factory today, known as a FAB, and the power blinks, you lose the whole production. You may lose millions of dollars in a blink of the power connection. So high-quality, stable power is extremely valuable, and if it is not priced right, if it is not competitive, and somewhere else in the world they can provide that high-quality power that is priced differently and in the competitive market, the great tragedy of our economy today in a world environment is that the chips will go elsewhere.

That is one of many examples that can be used. That is why, finally, when President George W. Bush was elected and came to town, his first priority, among so many, was to assign the Vice President to assemble as many bright thinkers in the energy field as he could and to produce for us, the Congress, a challenge—a national energy policy and a list of criteria that we ought to

develop in the form of public policy for this country. There were well over a hundred points in that proposal. Two-thirds of them have already been implemented by rule and regulation by the Secretary of Energy and other agencies of our Government to get this country back on line and producing energy. But about 30 percent of them, or 30-plus, are not. They have to be legislated. It requires new public policy to fully implement what our President envisions as a national priority, what America envisions as a national priority, and what I trust the Senate of the United States clearly understands to be a national priority.

We tried mightily in the last year or so. The politics, for a variety of reasons, would not allow us to get there. There are factors not in this bill today that were in the bill of a year ago that are highly controversial. There are some changes in this bill. But it was crafted in the committee of authorization. It was voted on piece by piece. It does have a new bipartisan base of support, and we believe it is the kind of energy policy on which we can work out our differences with the House and put on the President's desk and two decades from now look back and say we did the right thing for our country, the right thing for young people today who will be in that labor force 10, 15 years from now, who will demand and require an abundant supply of high-quality energy that is environmentally sound and at a reasonable price for their homes, for their recreation, but, most importantly, for their work site, for the job they are going to seek. That is why this legislation is so important.

We may differ and we are going to have more amendments to come, but I hope our leader and the minority leader recognize the high priority we have here and give us the time to debate this thoroughly and responsibly and deal with all of the amendments that are necessary to get us to that point where we can vote up or down and let the American people clearly understand that the Senate of the United States does support a national energy policy, and that the one we have, in the form of S. 14, is a quantum leap forward into America's future of an abundant energy and a robust economy.

I yield the floor and 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. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

VOICE ON AMENDMENT NO. 853

The PRESIDING OFFICER. Under the previous unanimous consent order, the hour of 3:30 p.m. having arrived, the question is on agreeing to the Schumer amendment No. 853.

Mr. CRAIG. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. CRAIG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 853. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

I further announce that if present and voting the Senator from Nevada (Mr. ENSIGN) would vote "yea".

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUE), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 26, nays 69, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—26

Akaka	Feinstein	Reed
Allen	Gregg	Santorum
Bennett	Hollings	Schumer
Bingaman	Kennedy	Specter
Boxer	Kyl	Sununu
Clinton	Lautenberg	Thomas
Collins	Leahy	Warner
Corzine	McCain	Wyden
Enzi	Murray	

NAYS—69

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

NOT VOTING—5

Ensign	Inouye	Murkowski
Graham (FL)	Lieberman	

The amendment (No. 853) was rejected.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 856

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. I have cleared this with the Republican manager of the bill. I ask unanimous consent that the Senator from California have 90 seconds to

speak on the next amendment and the opposition have 90 seconds, an extra 30 seconds on each side.

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

The Senate will be in order. The Senator from California.

Mrs. BOXER. Mr. President, the Senate is still not in order. It is a complicated amendment. I would like to be able to explain it.

The PRESIDING OFFICER. The Senator will please be in order.

The Senator from California.

Mrs. BOXER. Mr. President, in 90 seconds I want to tell you why this amendment is so important. I offer it on behalf of myself and Senator DURBIN, a strong supporter of ethanol, Senators LEAHY, FEINSTEIN, CLINTON, JEFFORDS, and LAUTENBERG.

My amendment simply removes the safe harbor provision in the bill, which treats ethanol like no other fuel, giving consumers and communities no legal recourse if it turns out that the water is polluted or the air is polluted or people get sick from this increased amount of ethanol. Believe me, I hope ethanol is totally safe. But no one is sure. Just read the 1999 blue ribbon EPA panel. They raise some serious questions. Of course, the ethanol manufacturers say ethanol is 100 percent completely safe. Then I ask why they demand this safe harbor provision. Look at what happened to the last gasoline additive we promoted, MTBE. This is the cost to our people because of MTBE pollution: \$29 billion. My friends, if we had had the same safe harbor for MTBE as some of us are seeking for ethanol, this would not have fallen completely on your taxpayers and your communities. I call this an unfunded mandate.

People who oppose this say they only are putting forward a very narrow safe harbor. They say everyone will have a lot of ways to go. But the truth is that defective product liability is the only remedy. The courts have said no to negligence and no to nuisance. The only claim they have is defective product liability.

All we do is say treat ethanol as we do any other additive.

I urge an aye vote.
The PRESIDING OFFICER. Who yields time?

The Senator from Oklahoma.
Mr. INHOFE. Mr. President, what we are doing here is not giving our stamp of approval on ethanol. We are not mandating. The vast majority of Members here feel more strongly about this than I do.

I know the Senator from California would not deliberately mislead you. What she is saying is just flat wrong.

I keep hearing it over and over again: If a safe harbor provision is enacted into law, No. 1, citizens will not be able to take refiners to court under our court system; and, No. 2, any possible ethanol contamination that happens in the future wouldn't get cleaned up.

It just isn't true. Even with the enactment of the safe harbor provisions,

if a plaintiff makes his case—that is a very significant part of this—there are just a few court theories that could be used in environmental cases: Trespass, not affected by safe harbor; nuisance, not affected by safe harbor; negligence, not affected by safe harbor; breach of implied warrant, not affected by safe harbor; breach of express warranty, not affected by safe harbor.

As far as cleanups are concerned, if there were a spill, here are some examples of environmental laws that are on the books right now that would take care of the problem and are not affected by safe harbor: No. 1, Resource Conservation Recovery; No. 2, Clean Water Act; No. 3, Oil Pollution Act; No. 4, Superfund; and it goes on and on.

Neither of these assertions is true. They would be able to have their day in court, and at the same time we have adequate laws in the court system and environmental laws to accommodate any cleanup that would take place.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the amendment. The yeas and nays were previously ordered on the amendment, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

I further announce that if present and voting the Senator from Nevada (Mr. ENSIGN) would vote "Yea".

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM), the Senator from Hawaii (Mr. INOUE), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 38, nays 57, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—38

Akaka	Durbin	Murray
Biden	Feingold	Nelson (FL)
Bingaman	Feinstein	Reed
Boxer	Gregg	Reid
Byrd	Hollings	Sarbanes
Cantwell	Jeffords	Schumer
Carper	Kennedy	Smith
Chafee	Kerry	Snowe
Clinton	Lautenberg	Specter
Collins	Leahy	Sununu
Corzine	Levin	Warner
Corzine	McCain	Wyden
Dayton	Mikulski	
Dodd		

NAYS—57

Alexander	Craig	Inhofe
Allard	Crapo	Johnson
Allen	Daschle	Kohl
Baucus	DeWine	Kyl
Bayh	Dole	Landrieu
Bennett	Domenici	Lincoln
Bond	Dorgan	Lott
Breaux	Edwards	Lugar
Brownback	Enzi	McConnell
Bunning	Fitzgerald	Miller
Burns	Frist	Nelson (NE)
Campbell	Graham (SC)	Nickles
Chambliss	Grassley	Pryor
Cochran	Hagel	Roberts
Coleman	Harkin	Rockefeller
Conrad	Hatch	Santorum
Cornyn	Hutchison	Sessions

Shelby	Stevens	Thomas
Stabenow	Talent	Voinovich

NOT VOTING—5

Ensign	Inouye	Murkowski
Graham (FL)	Lieberman	

The amendment (No. 856) was rejected.

Mr. DOMENICI. Mr. President, how long did that last vote take?

The PRESIDING OFFICER. Twenty-four minutes.

Mr. DOMENICI. I thank the Chair.

AMENDMENT NO. 854

The PRESIDING OFFICER. There are now 2 minutes evenly divided before a vote on the second Boxer amendment.

The Senator from California.

Mrs. BOXER. Mr. President, I am pleased to say that the Boxer-Lugar-Cantwell amendment, which encourages production of agricultural residue ethanol, is going to be accepted by a voice vote with a promise to fight for it in conference.

Our amendment says that if you produce ethanol from the residue of agricultural crops, you get a special incentive. So if your State grows corn, rice, sugar, apples, wheat, oats, barley, and other crops high in fructose, this amendment would help your farmers, your rural communities, and your States meet the ethanol mandate. Again, it simply gives an incentive to produce ethanol from agricultural residue.

I am grateful to my colleagues on both sides of the aisle for accepting the amendment. I am happy to take it by voice vote.

Mr. DOMENICI. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 854) was agreed to.

Mrs. BOXER. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. FEINGOLD. Mr. President, I rise to support the amendment offered by the majority and minority leaders, Mr. FRIST and Mr. DASCHLE, on renewable motor fuels. Others may support this amendment for different reasons, but I support the amendment because of its potential to increase motor fuels supply, especially in the Federal reformulated fuels, or RFG, program. This amendment includes provisions that I, and my Wisconsin House colleagues, Congressman Paul Ryan and Mark Green, have long advocated to address supply shortages that the Midwest has experienced in recent years.

This amendment makes significant changes to the Clean Air Act motor fuels programs that will increase the supply of cleaner fuels nationwide. It bans methyl tertiary butyl ether, or MTBE, which is no longer used in my home State of Wisconsin. MTBE, as others will likely discuss in detail, is a reformulated gasoline additive that has

contaminated drinking water supplies nationwide.

The amendment also contains a mandate to increase the supply of ethanol to 5 billion barrels by 2012 both to replace MTBE as an oxygenate in reformulated gasoline and to reduce our dependence upon foreign oil. It also would allow Governors the ability to increase reformulated gasoline supply by opting their entire State into the reformulated fuels program, and increasing the market demand for RFG in their State.

The amendment also has a provision to increase the amount of reformulated gasoline by reducing the number of boutique fuel blends. The bill reduces the number of Federal reformulated fuel blends by creating a single set of standards. This would broaden the supply from which Wisconsin could draw in times of tight supply.

If enacted, this amendment would improve fungibility of RFG nationwide, by standardizing volatile organic compound, VOC, reduction requirements. In practice, when combined with the renewable fuels mandate, this would enable States like Wisconsin that use Federal RFG to draw on supplies of Federal RFG from other areas, such as St. Louis and Detroit, if necessary. The ability to rely on other sources of RFG is especially important when sudden supply shortages arise due to unexpected events such as refinery fires or breakdowns which the Midwest has also experienced in recent years.

This amendment is important because, at present, southeastern Wisconsin cannot draw on RFG from other areas because the Chicago/Wisconsin RFG formula is not used elsewhere in the country. This amendment would help address this boutique fuel problem by bringing other areas that use Federal RFG in line and standardizing VOC reduction requirements and requirements for the production of renewable fuels such as ethanol—the Chicago/Wisconsin area is the only part of the country that uses solely ethanol in its blend of RFG.

As the use of ethanol blended RFG becomes more widespread, supply problems will become easier to address. This benefits Wisconsin drivers because easing supply shortages will help put an end to severe price spikes, and drivers nationwide by continuing to supply them with RFG that meets Federal Clean Air Act standards in light of State bans on MTBE.

So far, Mr. President, in light of military conflict in the Middle East, we have been lucky that we have avoided significant increases in gas prices so far this year. But, for folks in Wisconsin, the thought of another approaching summer unfortunately dredges up memories of the high gas prices that have plagued our families in recent years. The Senate must take preventative action today to make sure gas prices stay under control, and our this amendment will help do that. By scrapping the multiple Federal fuel

blend requirements and replacing them with a more simplified, streamlined system, this measure will work to make gas supplies more stable and keep prices at the pump within reason. This is a good amendment, and it deserves the support of the Senate.

Mrs. CLINTON. Mr. President, I would like to take a few minutes to address the Frist-Daschle amendment and the Energy bill in general.

Now, do I think there is a way to soundly and responsibly increase our use of alternative fuels? Sure. Do I think that we should increase our use of alternative fuels? You bet. I am just not convinced that the provision we are considering today is the best way to make that happen. And I am not convinced that it is the best way to make that happen for a State such as New York.

I think that an Energy bill has the potential to be a win for us not just on energy and the environment but also on economic development and job creation. An Energy bill could truly be an engine for developing new technologies, manufacturing new products, building new facilities, and with all of that—creating new jobs, while at the same time increasing our energy security and improving the quality of our environment.

I commend my colleagues Senators DOMENICI and BINGAMAN, for their efforts in bringing this bill to the floor. They have worked arduously to tackle many complicated and controversial issues.

But with all due respect to my colleagues, in many cases, I am afraid that this bill unfortunately still falls far short—in terms of energy policy, environmental policy, and economic policy. We need a comprehensive and balanced energy policy that strengthens our energy security, safeguards consumers, protects the environment, spurs economic development, and create jobs.

Yet this bill does not truly harness our potential for greater energy efficiency and for newer, cleaner sources of energy. It too often looks to the past to try to solve the energy challenges of the present and turns a blind eye to all that our energy future could be.

For example, it looks to possible oil and gas resources on the Outer Continental Shelf—areas of the ocean that have been under drilling moratoria for years in an effort to preserve precious ocean and coastal resources and the coastal tourism economies of a number of our States.

It also apparently requires an inventory of oil and gas resources on Federal lands, as well as an inventory of restrictions or impediments to development of those resources. Now my colleagues in New York and I have been fighting for years to protect the Finger Lakes National Forest from drilling, and so I have a difficult time with provisions like this.

The bill permanently extends the authority of the Nuclear Regulatory

Commission to indemnify nuclear powerplants against liability for nuclear accidents under the Price-Anderson Act, and provides other substantial subsidies to the nuclear power industry. Yet the bill does not do enough to increase the diversity of our energy supply, which would also create new business and economic growth opportunities.

I am pleased that the bill contains provisions related to the increased use of fuel cells and hydrogen fuel because this is a key example of how we can be working to increase our energy security, while also improving the environment and creating jobs. And it is places like Upstate New York, where we have many companies and universities doing exciting work in this area, which will emerge as world leaders in his technology. That is why I have joined with Senator DORGAN, Senator LIEBERMAN, and others in supporting legislation that would go even further than the bill we are currently debating in supporting fuel cells. And that is in part why, when we debated the renewable fuel provisions in the Senate Environmental and Public Works Committee, Senator BOXER and I fought to include provisions that would provide Federal support for the construction of waste-to-ethanol plants and other cellulosic biomass ethanol production facilities.

Because these projects would help States such as ours produce more renewable fuel—produce fuel from waste products, which would therefore also help the environment—and at the same time produce more jobs as well.

We are grateful for the committee's support for our amendments, and we are pleased that these provisions remain in the amendment that is before us today.

But many of my colleagues and I still have reservations with respect to this amendment. That is why some have pushed to have their States exempted entirely from the renewable fuels requirements in this amendment, while many others have voted to require States to proactively opt-in to the renewable fuels program.

Despite the many outstanding questions regarding the renewable fuels requirements in this amendment—whether it is transportation or storage or other infrastructure issues, market concentration concerns, impacts on gasoline prices for consumers at the pump, air quality impacts, you name it—there is a seeming unwillingness to consider even the slightest changes to the provisions before us—at least for some States.

While certain States are exempted all together, other States that have special considerations, such as my State of New York which has a State ban of MTBE that goes into effect in just a few months, which has certain air quality issues, and very little existing ability to produce significant quantities of renewable fuel—our special needs go unmet.

With all of the concerns I have regarding the amendment before us, I

have even more concerns about the provisions passed by the House, which I believe in many respects are greatly inferior to the provisions we are considering here today. So that gives me even further pause in taking up this issue.

For example, whereas the amendment before us contains a welcome and long-awaited Federal phase-out of the use of MTBE over the next 4 years, the House bill does not phase out MTBE at all. Even more disturbing, it includes a liability safe harbor for MTBE.

Now, there is no question that the time has come to take action at the Federal level on MTBE. New York is on the front lines of this battle. We have banned MTBE use in the State as of January 1, 2004.

There are a number of other States that have taken action to phase out or limit the use of MTBE as well, including: California, Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Washington. Now, those are the States that have actually passed State laws. But here are a number of other States that have tried to pass laws and are still trying to pass laws to phase out or ban MTBE.

In the absence of any Federal action, States have been forced to take action on their own to limit MTBE use in motor vehicle fuel because it has wreaked havoc on the environment—in particular, on drinking water sources. Unfortunately, those State actions are now being challenged in court.

Yet the States are acting for good reason. New York has experienced first-hand the impact of MTBE contamination on our drinking water—particularly on Long Island.

According to testimony before the Senate Environment and Public Works Committee offered recently by Mr. Paul Granger, superintendent of the Plainview Water District on Long Island, “New York has identified some 1970 MTBE spill sites with 430 of them on Long Island alone.”

That is why New York, once again out in front on the issue of MTBE, has probably the toughest standard in the Nation for the amount of MTBE allowed in surface and ground water—10 parts per billion.

But according to Mr. Granger's testimony, “At least 21 states have reported well closures due to MTBE groundwater contamination.” It is estimated that more than 500 public drinking water wells and 45,000 private wells throughout the country are contaminated by MTBE.

According to testimony recently offered by the American Lung Association before the Environment and Public Works Committee, millions of Americans are being served by drinking water sources contaminated by MTBE.

As we are far too familiar now, the cost of cleaning up this MTBE contamination are significant. According

to the testimony of Mr. Craig Perkins, director of Environment and Public Works for the city of Santa Monica, CA, “Current estimates for the total cost of nationwide MTBE clean-up are \$30 billion and counting.” That is why we have lawsuits pending in New York regarding MTBE contamination of ground water, because these communities, these water suppliers, and ultimately their customers, cannot meet the financial burden of these cleanups.

So while having clean air to breathe is important, so is having clean water to drink. We should not have to trade one for the other.

Phasing out the use of MTBE as a fuel additive is the right thing to do from a drinking water perspective, from an overall environmental and public health perspective, and from a fuels perspective. That is why such a phase-out of MTBE was recommended over 3 years ago by the EPA Blue Ribbon Panel on Oxygenates in Gasoline.

The State-by-State approach to MTBE that we are currently operating under does not work. It does not work for the markets, the refiners, or the distributors to have this patchwork of States that do or do not allow the addition of MTBE to gasoline.

I am very pleased that the Frist-Daschle amendment includes such a phase-out but I am concerned about other provisions of this amendment pertaining to renewable fuels, including the safe harbor provisions. I am deeply concerned that the House bill does not include a phase-out of MTBE but does provide a liability safe harbor for MTBE.

The reality is that we can phase out MTBE and repeal the existing 2 percent oxygenate requirement under the Clean Air Act while still ensuring that we meet current clean air standards. And I support legislation that will do these three things.

After banning MTBE and removing the oxygenate requirement, there would still be an increase in the use of ethanol in this country—with or without the mandate we are contemplating here today.

Mr. VOINOVICH. Mr. President, I rise today in support of Senate amendment 850, an amendment to add a renewable fuels package to the energy bill.

This language establishes a nationwide renewable fuels standard of 5 billion gallons by 2012, repeals the Clean Air Act's oxygenate requirement for reformulated gasoline and phases down the use of MTBE over 4 years.

This language has strong bipartisan support and is the result of long negotiations between the Renewable Fuels Association, the National Corn Growers Association, the Farm Bureau Federation, the American Petroleum Institute, the Northeast states for Coordinated Air Use Management, NESCAUM, and the American Lung Association.

Passage of this ethanol language will protect our national security, economy, and environment.

The amendment that the majority leader has introduced—a compromise that will triple the amount of domestically-produced ethanol used in America—is one essential tool in reducing our dependence on imported oil.

President Bush has stated repeatedly that energy security is a cornerstone for national security. I agree. It is crucial that we become less dependent on foreign sources of oil and look more to domestic sources to meet our energy needs. Ethanol is an excellent domestic source—it is a clean burning, home-grown renewable fuel that we can rely on for generations to come.

Ethanol is also good for our Nation's economy. Tripling the use of renewable fuels over the next decade will:

Reduce our National Trade Deficit by more than \$34 billion;

Increase U.S. GDP by \$156 billion by 2012;

Create more than 214,000 new jobs;

Expand household income by an additional \$51.7 billion;

Save taxpayers \$3 billion annually in reduced government subsidies due to the creation of new markets for corn.

The benefits for the farm economy are even more pronounced. Ohio is 6th in the Nation in terms of corn production and is among the highest in the nation in putting ethanol into gas tanks, over 40 percent of all gasoline sold in Ohio contains ethanol. 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 \$3 billion annually;

Passage of this amendment will create \$5.3 billion of new investment in renewable fuel production capacity.

Phasing out MTBE on a national basis will be good for our fuel supply. Because refiners are under tremendous strain from having to make several different gasoline blends to meet various State clean air requirements—and no new refineries have been built in the last 25 years—the effects of various State responses to the threat of MTBE contamination—including bans and phase-outs on different schedules—will add a significant burden to existing refineries. The MTBE phase-out provisions in this package will ensure that refiners will have less stress on their system and that gasoline will be more fungible nationwide.

Expanding the use of ethanol will also protect our environment by reducing auto emissions, which will mean cleaner air and improved public health.

Use of ethanol reduces emissions of carbon monoxide and hydrocarbons by 20 percent;

Ethanol also reduces emissions of particulates by 40 percent;

Use of ethanol RFG helped move Chicago into attainment of the federal ozone standard, the only RFG area to see such improvement;

In 2002, ethanol use in the United States reduced greenhouse gas emissions by 4.3 million tons—the equivalent of removing more than 630,000 vehicles from the road.

Our farmers can meet the ethanol standard. For 2003, the ethanol industry is on pace to produce more than 2.7 billion gallons. The amount of ethanol required under the FRS begins at 2.6 billion gallons in 2005. Adequate ethanol supply is simply not an issue.

Currently, 73 ethanol plants nationwide have the capacity to produce over 2.9 billion gallons annually. Further, there are ten ethanol plants under construction, which when completed will bring the total capacity to more than 3.3 billion gallons.

California has been cited as a major problem area; however, all but two small refiners have already transitioned from MTBE into ethanol. California will use close to 700 million gallons of ethanol in 2003 after consuming roughly 100 million gallons last year. The California Energy Commission has concluded the transition to ethanol “is progressing without any major problems.” The U.S. Energy Information Administration found the transition went “remarkably well.”

Individual States are banning the use of MTBE, but they cannot change the federal RFG oxygen content requirement. The collision of these two elements under current law will likely lead to higher costs.

Under current law, California's required ethanol use in 2005 would be 895 million gallons. Under this amendment, fuel providers supplying California will be required to use far less ethanol in 2005—291 million gallons. And more importantly, they will benefit from the bill's credit banking and trading provisions.

With the State MTBE ban set for January 2004, New York faces a similar situation. Under the status quo, fuel providers will be required to use 197 million gallons of ethanol in New York in 2005. However, if this amendment is enacted, refiners, blenders and importers would be required to use or purchase credits for even less—111 million gallons of ethanol in 2005.

A study conducted by Mathpro, a prominent economic analysis firm, found that, compared to a situation where States are banning MTBE and the federal RFG oxygen content requirement is left in place, this amendment will lower the average gasoline production cost: by about two-tenths of a cent per gallon.

In addition, this language provide safeguards. In the event that the RFS would severely harm the economy or the environment or would lead to potential supply and distribution problems, the RFS requirement could be reduced or eliminated.

Ethanol is already blended from Alaska to Florida and from California to New York. Ethanol is already transported via barge, railcar, and ocean-going vessel to markets throughout the

country. The U.S. Department of Energy studied the feasibility of a 5 billion gallon per year national ethanol market and found that “no major infrastructure barriers exist” and that needed investments on an amortized, per-gallon basis are “modest” and “present no major obstacle.”

Both the U.S. Department of Agriculture and the Congressional Budget Office have recognized the benefit of the investment of the ethanol program on the overall health to the nation's economy. Recently, the USDA stated the ethanol program would decrease farm program payments by \$3 billion per year. In its analysis of this amendment, CBO stated the provision would reduce direct spending by \$2 billion during 2005–2013.

The RFS agreement includes strong anti-backsliding provisions that prohibit refiners from producing gasoline that increases emissions once the oxygenate requirement is removed. A Governor can also petition EPA for a waiver of the ethanol requirement based on supporting documentation that the ethanol waiver will increase emissions that contribute to air pollution in any area of the state.

The fuels agreement would benefit the environment in a number of ways: reduces tailpipe emissions of carbon monoxide, VOCs, and fine particulates, phases down MTBE over 4 years to address groundwater contamination, and since ethanol biodegrades quickly, it will not have the same problem,

provides for one grade of summer-time Federal RFG, which is more stringent,

increases the benefits from the Federal RFG program on air toxic reductions,

provides states in the Ozone Transport Region and enhanced opportunity to participate in the RFG program because of unique air quality problems,

includes provisions that require EPA to conduct a study on the effects on public health, air quality, and water resources of increased use of potential MTBE substitutes, including ethanol.

The use of ethanol-blended fuels also reduces so-called greenhouse gas emissions by 12–19 percent compared with conventional gasoline, according to Argonne National Laboratory. In fact, Argonne states ethanol use last year in the U.S. reduced the so-called greenhouse gas emissions by approximately 4.3 million tons, equivalent to removing the annual emissions of more than 636,000 cars.

I also want to point out that the California Environmental Policy Council recently gave ethanol a clean bill of health and approved its use as a replacement for MTBE in California gasoline.

A similar provision has already passed the House of Representatives this year. Virtually the same agreement passed the Senate in April 2002 with 69 votes.

The fuels agreement is supported by the American Petroleum Institute; the

Renewable Fuels Association; the Northeast States for Coordinated Air Use Management (NESCAUM); U.S. Chamber of Commerce; US Action; the Union of Concerned Scientists; the Environmental and Energy Studies Institute; the Governor's Ethanol Coalition; General Motors; the Governors of California and New York; and all of the major agricultural organizations in the United States.

It is time to pass an ethanol bill, and I urge my colleagues to vote yes for America's farmers and this amendment.

Mr. INHOFE. Mr. President, it is important that Congress make available all possible options for refiners to ensure compliance with the renewable fuels standard and decrease chances for gasoline price and supply volatility. One such option for meeting the renewable fuels standard that has shown promise is ethyl tertiary butyl ether ETBE.

ETBE is a High-octane, low-vapor pressure, gasoline-blending component produced from a combination of ethanol and butane. Because both of these raw materials are produced in abundance domestically, ETBE will help expand US gasoline supplies, moderating possible gasoline price volatility.

ETBE is fully fungible with gasoline. This allows ETBE to be blended into gasoline at any point in the gasoline logistical chain and transported in gasoline pipelines to regions of the country where it is more costly to transport and blend ethanol into gasoline. Moreover, ETBE does not have a negative impact on gasoline vapor pressure, making it easier and more cost-effective to blend ETBE into gasoline—especially during the summertime ozone control season when gasoline vapor pressure is restricted.

ETBE reduces more gasoline evaporative and tailpipe emissions, lowers air toxics and carbon monoxide, and provides 20-percent more carbon dioxide emission reduction than other gasoline-blending components.

ETBE is 75 percent less water soluble than MTBE. This means use of ETBE substantially reduces the risks to ground water resources should gasoline leak from an underground storage tank. ETBE also has other physical properties which make it migrate slower and shorter distances—and easier to remediate—should a gasoline spill or leak occur.

I support the development of ETBE because of the benefits it provides for cleaner air, enhanced gasoline supply, and the ability to transport the fuel in the current infrastructure. Congress, in enacting a RFS, should not do anything to preclude its use. The marketplace should be allowed to determine how it will meet the requirements of the RFS.

VOTE ON AMENDMENT NO. 850

The PRESIDING OFFICER. The question is on agreeing to amendment No. 850 as amended. There are to be 2 minutes evenly divided on the amendment.

Mr. REID. Mr. President, we yield back our time.

Mr. DOMENICI. Yes.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Nevada (Mr. ENSIGN) and the Senator from Alaska (Ms. MURKOWSKI) are necessarily absent.

I further announce that if present and voting the Senator from Nevada (Mr. ENSIGN) would vote "no".

Mr. REID. I announce that the Senator from Florida (Mr. GRAHAM) and the Senator from Hawaii (Mr. INOUE) are necessarily absent.

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

The result was announced—yeas 68, nays 28, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—68

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

NAYS—28

Allard	Gregg	Santorum
Allen	Hollings	Schumer
Bennett	Hutchison	Sessions
Boxer	Kennedy	Specter
Clinton	Kyl	Sununu
Cornyn	Lautenberg	Thomas
Corzine	Leahy	Warner
Enzi	McCain	Wyden
Feinstein	Nickles	
Graham (SC)	Reed	

NOT VOTING—4

Ensign	Inouye
Graham (FL)	Murkowski

The amendment (No. 850) was agreed to.

The PRESIDING OFFICER. The Senator from Georgia.

CHANGE OF VOTE

Mr. CHAMBLISS. Mr. President, on rollcall vote No. 209, I voted no. It was my intention to vote aye. Therefore, I ask unanimous consent that I be permitted to change my vote since it will not affect the outcome.

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

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

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

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—H.R. 1308

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 52, H.R. 1308; that immediately upon the reporting of the bill, Senator GRASSLEY be recognized to offer a substitute amendment on behalf of himself, Senators LINCOLN, SNOWE, BAUCUS, and VOINOVICH; provided further that there be 30 minutes for debate equally divided between Senators GRASSLEY and BAUCUS or their designees prior to a vote in relation to the amendment, and that no other amendments be in order; provided further that if the amendment is agreed to, the bill be read a third time, and the Senate proceed to a vote on final passage of the bill as amended.

Further, I ask that if the amendment is not agreed to, then H.R. 1308 be placed back on the calendar and that no points of order be waived by this agreement. I further ask consent that following that vote, the Senate then insist on its amendment, request a conference with the House, and the Chair then be authorized to appoint conferees on the part of the Senate with a ratio of 3 to 2.

Finally, I ask unanimous consent that following passage of the bill, the amendment to the title be agreed to.

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

Mr. FRIST. Mr. President, for the benefit of my colleagues, we will have further announcements later in this evening. We would expect to have a final rollcall vote for the week approximately 30 or 40 minutes from now. Although we will have no more rollcall votes after that, we will stay and be available to debate amendments tomorrow, and we will be in session tomorrow. We expect not to have rollcall votes tomorrow. We will have further announcements later tonight with regard to the schedule tomorrow, as well as Monday.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, first let me compliment the distinguished majority leader for the effort he has made to bring us to this point. Were it not for his effort, we would not have accomplished what we have with this unanimous consent agreement. I appreciate his efforts.

Let me also single out in particular the distinguished Senator from Arkansas. Without her persistence and her effort, now weeks long, we would not be here. She has spoken out with courage and conviction and empathy on behalf of 12 million children, 8 million families who otherwise would be left out of tax relief. The argument that she has made from the beginning has been without this legislation those millions of children and those working families would get no tax relief on July 1. The passage of this legislation today will accommodate that concern, that need.

This will give us an opportunity to send the recommendation to the House. It will send a clear message to working families that we are serious about providing the kind of tax relief that is so necessary for these families if we are going to provide it to others; that it will be available. The refundable child credit assistance can be made available in time for tax relief provided to others as well.

I commend the Senator. I commend the majority leader. I thank my colleagues for this agreement.

I yield the floor.

Mr. DOMENICI. I ask the majority leader, would it be appropriate to dispose of the pending LIHEAP amendment to clear the record for the evening in spite of the unanimous consent request?

Mr. DASCHLE. Mr. President, I assume it has been cleared by the distinguished leader. I have no objection.

Mr. FRIST. We will proceed with that. It makes the most efficient use of everyone's time.

Mr. DOMENICI. We have a Senator who still wants to speak on the pending bill. I assume after the time just provided has expired, we will be back for the distinguished Senator from Colorado to speak to an amendment; is that correct?

Mr. FRIST. Yes.

AMENDMENT NO. 841 WITHDRAWN

Mr. DOMENICI. For the record, under the bill, I withdraw amendment No. 841.

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

The amendment (No. 841) was withdrawn.

AMENDMENT NO. 860 TO AMENDMENT NO. 840

Mr. DOMENICI. I send a new second-degree amendment to the desk on behalf of Senator BINGAMAN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BINGAMAN, proposes an amendment numbered 860 to amendment No. 840.

Mr. DOMENICI. 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 reauthorize LIHEAP, Weatherization assistance, and State Energy Programs)

In lieu of the matter proposed to be inserted, insert the following:

TITLE XII—STATE ENERGY PROGRAMS
SEC. 1201. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking "each of fiscal years 2002 through 2004" and inserting "fiscal years 2002 and 2003, and \$3,400,000,000 for each of fiscal years 2004 through 2006".

SEC. 1202. WEATHERIZATION ASSISTANCE PROGRAM.

(a) ELIGIBILITY.—Section 412 of the Energy Conservation and Production Act (42 U.S.C. 6862) is amended—

(1) in paragraph (7)(A), by striking "125" and inserting "150", and

(1) in paragraph (7)(C), by striking "125" and inserting "150".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking the period at the end and inserting " \$325,000,000 for fiscal year 2004, \$400,000,000 for fiscal year 2005, and \$500,000,000 for fiscal year 2006."

SEC. 1203. STATE ENERGY PLANS.

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by inserting at the end the following new subsection:

"(g) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of such State submitted under subsection (b) or (e). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions carried out in pursuit of common energy conservation goals."

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

STATE ENERGY EFFICIENCY GOALS

"SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of this title shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year 2010 as compared to calendar year 1990, and may contain interim goals."

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking the period at the end and inserting " \$100,000,000 for each of fiscal years 2004 and 2005 and \$125,000,000 for fiscal year 2006."

LIHEAP

Ms. CANTWELL. Mr. President, I rise to enter into a colloquy with the distinguished Chairman and Ranking Member of the Health, Education, Labor and Pensions Committee. I am pleased, colleagues, that we have been able to reach consensus on the need to include in this bill an increase in the authorization level for the Low-Income Home Energy Assistance (LIHEAP) program from \$2 billion to \$3.4 billion. With power costs on the rise around this nation, it is imperative that the Senate act now to respond to the needs of the 85 percent of eligible families that today do not receive the help they so desperately need, due to the perennially under-funded nature of the LIHEAP program.

There is another issue relevant to the LIHEAP program, however, that I hope the Senate will soon consider. I believe that we must address the manner in which the Department of Health and Human Services—and, of course, the Office of Management and Budget—have traditionally administered the "contingency" portion of the LIHEAP program. While the bulk of LIHEAP dollars are distributed to states via block grants and in accordance with a statutory formula, Congress has also authorized—and appropriated funds to—a contingency fund, designed to

"meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency." This money is not released according to formula—but solely at the discretion of the HHS Secretary.

Unfortunately, recent history suggests that there are problems with the way the "contingency" portion of LIHEAP is administered. In essence, there seem to be widely varying eligibility rules applied to the release of these contingency funds—leading to instances in which HHS has overlooked very real energy emergencies, including the recent power crisis in my home state of Washington.

I believe that clear rules for the release of these dollars will ensure that, in the unfortunate event of an energy emergency, low-income families will receive much-needed assistance in keeping the lights and the heat turned on—which is precisely what Congress intends when it appropriates money to the LIHEAP contingency fund. During mark-up on this bill in the Energy and Natural Resources Committee, Sen. SMITH and I added language—adopted unanimously—seeking to put guidelines around the release of these emergency LIHEAP funds.

However, I understand that the distinguished Chairman, Senator GREGG, and Ranking Member, Senator KENNEDY, intend to reauthorize the LIHEAP program in their Committee this year and examine very closely the administration of these contingency funds. I believe the language that Senator SMITH and I authored would go a long way toward adding clarity to the process, and I would be exceptionally pleased to work with the Chairman on this and other proposals to reform the LIHEAP emergency program to ensure it is as responsive as possible to the very real needs of low-income Americans.

Mr. GREGG. I thank the Senator from Washington for her comments. I agree that the manner in which LIHEAP contingency funds are distributed should be examined. I would be happy to work with the Senator on this important matter as the H.E.L.P. Committee works towards reauthorization of this program in the coming months.

Mr. KENNEDY. I also believe the Senator from Washington makes a very good point about the administration of LIHEAP emergency funds. I too would be happy to work with the Senator on including language to address her concerns when the Committee debates LIHEAP reauthorization later this year.

Mr. DOMENICI. I ask unanimous consent that the second-degree amendment be adopted and the underlying first-degree amendment No. 840, as amended, be agreed to.

Mr. REID. Mr. President, I ask consent following the disposition of the unanimous consent agreement dealing with the child tax credit, the Senator from Louisiana, Ms. LANDRIEU, be recognized to speak on LIHEAP. She

wanted to speak before the vote but this would be fine.

Mr. DOMENICI. Five minutes?

Mr. REID. Probably 10 minutes. I am sure she can complete a statement in 10 minutes.

Mr. DOMENICI. Senator CAMPBELL has been waiting for a long time. He has an amendment on the underlying bill.

Mr. REID. She can speak after he offers his amendment. He will not speak that long.

Mr. CAMPBELL. That is all right.

Mr. REID. How long will you speak?

Mr. CAMPBELL. I am going to speak for 15 or 18 minutes.

Mr. REID. She has waited around here all day to speak on LIHEAP. Why not limit her time to 5 minutes; that should be adequate.

Mr. DOMENICI. I yield the floor.

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

The amendment (No. 860) was agreed to.

The amendment (No. 841), as amended, was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

TAX RELIEF, SIMPLIFICATION, AND EQUITY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the clerk will report H.R. 1308.

The legislative clerk read as follows:

A bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to end certain abusive tax practices, to provide tax relief and simplification, and for other purposes.

AMENDMENT NO. 862

(Purpose: In the nature of a substitute)

Mr. GRASSLEY. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. GRASSLEY], for himself, Mrs. LINCOLN, Ms. SNOWE, Mr. BAUCUS, Mr. VOINOVICH, Ms. MURKOWSKI, Mr. WARNER, Mr. STEVENS, and Ms. LANDRIEU, proposes an amendment numbered 862.

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

Mr. GRASSLEY. I am pleased to join my distinguished ranking member, Senator BAUCUS, in the agreement we have reached on the child tax credit. I wish to take a minute to fill in my colleagues on how we are at this place at this time on another tax bill.

In the Finance Committee in the year 2001, Senator SNOWE and Senator LINCOLN added a refundable formula to enhance the child tax credit. This provision lasted through conference. The

formula was increased to 15 percent in 2005. President Bush proposed to accelerate the \$1,000 tax credit amount but did not accelerate the refundability formula.

In the Finance Committee, we accelerated the refundability formula. Unfortunately, that provision was dropped in conference. At that disappointing moment and at times since, I have indicated that I would like to revive that formula. I was joined by several Finance Committee members and both leaders in attempting to resolve this problem.

I am pleased to say this agreement moves the ball on the marriage penalty and the child tax credit. The relief is small but a start in addressing yet another marriage penalty.

I applaud Senator KAY BAILEY HUTCHISON for her steadfast interest in resolving this other marriage penalty provision.

Finally, our agreement is offset with an extension of customs fees, user fees. I urge the House to respond on our action today.

I would like to get the bill to the President. This will ensure that low-income families get the checks we expect to get out in the next few months that are related to the tax bill that the President signed last week. Without this additional provision we are working on now, we would have families who get an increase in the child credit of \$400 per child get a check this summer, but we would not get checks to people who are entitled to the usual refundability because it was not extended.

I would like to do a lot more on the child tax credit. Families should be able to rely on permanent tax relief. That is what the bill I introduced did—not this compromise before the Senate. That is close to what the Senate growth bill did. That is what we should do in the upcoming process on this legislation.

I hope we resolve the refundability formula. We address the marriage penalty and the child tax credit and we make progress on the longer term child tax credit. We simplify the definition of a child. This last measure is the principal recommended simplification of the Tax Code for individuals. This recommendation comes from the Joint Committee on Taxation and the Treasury Department and is something that should have been done a long time ago.

Today we make some major progress on simplifying the Tax Code. Of course, we need to do a lot more. This is what we do as we try to move forward on various pieces of legislation from the Finance Committee.

In this bill we are also going to help those serving in the Armed Forces overseas. Because some of their remuneration is not considered income, they would not benefit from the child tax refund the same way as other people who are not in a war zone. We ought to change that and do change it so every-body is treated fairly.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, is it correct that the order provides for 30 minutes equally divided?

The PRESIDING OFFICER. That is correct.

Mr. BAUCUS. I yield 10 minutes to the Senator from Arkansas. I might add, she is the prime mover of this bill. She is the one who made that happen. We are deeply indebted to her.

Mrs. LINCOLN. Mr. President, I give special thanks to my colleague from Montana. There are many people to thank today for moving forward in the right direction, recognizing the working families of this country. I thank Chairman GRASSLEY, who worked tirelessly with us, as well as the ranking member, Senator BAUCUS; certainly the leadership on both sides, Senator FRIST and Senator DASCHLE, who have both been willing to work with all of us to come together on this agreement.

I would also like to say a very special thanks to my colleague, Senator OLYMPIA SNOWE from Maine, who has been a wonderful colleague and certainly someone who has worked equally as hard as I have on this issue. I am very pleased to have worked with her, both now as well as in the past.

If people can go back as far as 2001, they will remember in that 2001 tax bill Senator SNOWE and I worked hard to bring about the refundability of the child tax credit, recognizing and understanding working Americans all across this country, trying to raise their families, were in need of the kind of assistance that refundable child tax credit would bring to them. I am very pleased and honored to have worked with her in the great work she has done in this effort.

I am certainly pleased that we have reached this agreement to restore the advanced refundability for the child credit, for the hard work Senator GRASSLEY has done in bringing about the uniform definition of a "child" in the Tax Code. To bring about those kinds of reforms are not easy steps. I think it is one of our first monumental moves in the right direction in which Senator GRASSLEY will lead us in other reforms in the Tax Code.

Certainly this agreement is the culmination of years of effort. I would like to recognize, however, and emphasize particularly the fact that we are helping working parents and working families. I know there are some critics out there who have referred to these provisions as welfare. I just find that description so disheartening, since we are talking about 200,000 military families, hundreds of firefighters, and teachers, and other hard-working Americans. I don't think of them, or view them, as welfare recipients. I don't think they think of themselves that way.

These are taxpayers. They are hard-working families who pay sales tax, both State and local. They have payroll taxes that come out of their checks. They pay excise tax, and in