

The PRESIDING OFFICER. Is there objection?

Ms. STABENOW. Reserving the right to object, as my colleague knows, we all agree we need to stop the tax increases on middle America. We are committed to that. At this time, on behalf of the majority leader, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CORNYN. Mr. President, I am disappointed, and I think the American people are going to be disappointed if we don't deal with the alternative minimum tax, which, of course, was targeted at the "rich" when it was passed but which now affects 6 million taxpayers and which, if we don't act, will affect 23 million middle-class taxpayers next year.

My distinguished colleague didn't mention the capital gains and dividends tax relief, which has been so important as a stimulus to the economy, which has resulted in 50 months of uninterrupted job growth since we passed that legislation. I hope we will continue to work on that.

Unfortunately, given the compression of time due to the squandering of opportunities earlier this year to act on this important legislation, I am afraid we are not going to get it done before we break for Christmas. The IRS is going to have to send out notices to many new taxpayers of their increased tax bill under this AMT, unless we act promptly.

I yield the floor and yield back the remainder of my time.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FARM, NUTRITION, AND BIOENERGY ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume conversation on H.R. 2419, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2419) to provide for the continuation of agricultural programs through fiscal year 2012, and for other purposes.

Pending:

Harkin amendment No. 3500, in the nature of a substitute.

Harkin (for Dorgan-Grassley) modified amendment No. 3695 (to amendment No. 3500), to strengthen payment limitations and direct the savings to increase funding for certain programs.

Brown amendment No. 3819 (to amendment No. 3500), to increase funding for critical farm bill programs and improve crop insurance.

Klobuchar amendment No. 3810 (to amendment No. 3500), to improve the adjusted gross income limitation and use the savings to provide additional funding for certain programs and reduce the Federal deficit.

Chambliss (for Cornyn) amendment No. 3687 (to amendment No. 3500), to prevent duplicative payments for agricultural disaster assistance already covered by the Agricultural Disaster Relief Trust Fund.

Chambliss (for Coburn) amendment No. 3807 (to amendment No. 3500), to ensure the priority of the farm bill remains farmers by eliminating wasteful Department of Agriculture spending on casinos, golf courses, junkets, cheese centers, and aging barns.

Chambliss (for Coburn) amendment No. 3530 (to amendment No. 3500), to limit the distribution to deceased individuals, and estates of those individuals, of certain agricultural payments.

Chambliss (for Coburn) amendment No. 3632 (to amendment No. 3500), to modify a provision relating to the Environmental Quality Incentive Program.

Salazar amendment No. 3616 (to amendment No. 3500), to amend the Internal Revenue Code of 1986 to provide incentives for the production of all cellulosic biofuels.

Thune (for McConnell) amendment No. 3821 (to amendment No. 3500), to promote the nutritional health of school children, with an offset.

Craig amendment No. 3640 (to amendment No. 3500), to prohibit the involuntary acquisition of farmland and grazing land by Federal, State, and local governments for parks, open space, or similar purposes.

Thune (for Roberts-Brownback) amendment No. 3549 (to amendment No. 3500), to modify a provision relating to regulations.

Domenici amendment No. 3614 (to amendment No. 3500), to reduce our Nation's dependency on foreign oil by investing in clean, renewable, and alternative energy resources.

Thune (for Gregg) amendment No. 3674 (to amendment No. 3500), to amend the Internal Revenue Code of 1986 to exclude charges of indebtedness on principal residences from gross income.

Thune (for Gregg) amendment No. 3673 (to amendment No. 3500), to improve women's access to health care services in rural areas and provide improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services.

Thune (for Gregg) amendment No. 3671 (to amendment No. 3500), to strike the section requiring the establishment of a Farm and Ranch Stress Assistance Network.

Thune (for Gregg) amendment No. 3672 (to amendment No. 3500), to strike a provision relating to market loss assistance for asparagus producers.

Thune (for Gregg) amendment No. 3822 (to amendment No. 3500), to provide nearly \$1,000,000,000 in critical home heating assistance to low-income families and senior citizens for the 2007-2008 winter season and reduce the Federal deficit by eliminating wasteful farm subsidies.

Thune (for Grassley/Kohl) amendment No. 3823 (to amendment No. 3500), to provide for the review of agricultural mergers and acquisitions by the Department of Justice.

Thune (for Sessions) amendment No. 3596 (to amendment No. 3500), to amend the Internal Revenue Code of 1986 to establish a pilot program under which agricultural producers may establish and contribute to tax-exempt farm savings accounts in lieu of obtaining federally subsidized crop insurance or non-insured crop assistance, to provide for contributions to such accounts by the Secretary of Agriculture, to specify the situations in which amounts may be paid to producers from such accounts, and to limit the total amount of such distributions to a producer during a taxable year.

Thune (for Stevens) amendment No. 3569 (to amendment No. 3500), to make commercial fishermen eligible for certain operating loans.

Thune (for Alexander) amendment No. 3551 (to amendment No. 3500), to increase funding for the Initiative for Future Agriculture and Food Systems, with an offset.

Thune (for Alexander) amendment No. 3553 (to amendment No. 3500), to limit the tax credit for small wind energy property expenditures to property placed in service in connection with a farm or rural small business.

Thune (for Bond) amendment No. 3771 (to amendment No. 3500), to amend title 7, United States Code, to include provisions relating to rulemaking.

Salazar (for Durbin) amendment No. 3539 (to amendment No. 3500), to provide a termination date for the conduct of certain inspections and the issuance of certain regulations.

Tester amendment No. 3666 (to amendment No. 3500), to modify the provision relating to unlawful practices under the Packers and Stockyards Act.

Schumer amendment No. 3720 (to amendment No. 3500), to improve crop insurance and use resulting savings to increase funding for certain conservation programs.

Gregg amendment No. 3825 (to amendment No. 3673), to change the enactment date.

Sanders amendment No. 3826 (to amendment No. 3822), to provide for payments under subsections (a) through (e) of section 2604 of the Low-Income Home Energy Assistance Act of 1981, and restore supplemental agricultural disaster assistance from the Agricultural Disaster Relief Trust Fund.

Wyden amendment No. 3736 (to amendment No. 3500), to modify a provision relating to bioenergy crop transition assistance.

Harkin-Kennedy Amendment 3830 (to amendment No. 3500), relative to public safety officers.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 5 minutes.

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

AMENDMENT NO. 3671

Mr. GRASSLEY. Mr. President, I wish to speak in support of a provision in the bill that the amendment before us is going to strike, the Farm and Ranch Stress Assistance Network, which is included in the underlying bill of the Agriculture Committee.

This network is a critical service to help American families, particularly rural families. I oppose the amendment offered by the senior Senator from New Hampshire that would strike this measure.

Without a doubt, farmers and ranchers face unique challenges in providing food and fuel for this country. Farming is one of the most stressful and dangerous occupations in the United States. There are environmental, cultural, and economic factors that put farmers and ranchers at a higher risk for mental health problems.

Stress in agriculture contributes to rates of depression and suicide that are double the national average. This is true even in good times for farmers. As a farmer myself, this troubles me.

It also concerns me when rural residents, especially those involved in agriculture, are disproportionately represented among the uninsured of the United States. One-third of the agricultural population lacks health insurance coverage for behavioral health conditions. With the rising cost of health care and many farmers and ranchers in business on their own, the

cost of health care can be too much to handle.

We have a long way to go to make sure there is parity in our health care system. Those suffering from mental health problems do not always enjoy the same benefits of treatment because health coverage discriminates against illness of the mind.

On top of the risk and cost to farmers and ranchers, access to behavioral health care is more limited in rural areas. There are fewer professional providers, and there is a stigma on this type of care, especially among rural Americans. This is why the Farm and Ranch Stress Assistance Network is needed. It is included in the farm bill because we need to provide better mental health care for people in rural areas.

I will be the first to admit that things are looking good for agriculture right now because prices, particularly of grain, are good. We are developing and strengthening our safety net for producers. The renewable energy progress that we have made has helped rural economies. But just because that is a reality today does not mean that it will continue forever.

Our farmers and ranchers will face challenges that are out of their control. They will face instances of terrible weather and disaster. They will see droughts and low prices. Good times do not last forever, and that is when our farmers and ranchers will need the support that this provision of the bill gives.

One of the most challenging factors that we farmers face is not being able to predict outcome. We are forced to take risk. We face severe consequences when we are wrong.

I remember the agriculture depression of the 1980s and what a toll it took on farmers in my State. I wondered if things would be different if the Farm and Ranch Stress Assistance Network had existed prior to the beginning of that depression.

This network may support a crisis telephone hotline that farmers can access. Our rural residents and family farmers should have access to confidential and highly trained professionals during these tough times. The network could provide counseling services while working with extension offices to reach farmers.

Finally, the Senator sponsoring the amendment should be aware that this network is simply authorized in the underlying bill. We are not adding mandatory money for the program. We are simply providing authority to develop this network with dollars that may be appropriated later on.

So this amendment will not save money. Rather, what the amendment will do is do away with much needed support for those who work hard every day to put food on our plates, fiber for our clothing, and fuel for our economy.

So let's not eliminate this essential program without taking into account the bad years that could lie ahead. I

strongly urge my colleagues to oppose the amendment.

I yield back the remainder of my time.

Mr. GREGG. Will the Senator yield for a question?

Mr. GRASSLEY. I have yielded back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I ask unanimous consent for 3 minutes to respond to the Senator from Iowa who referred to me in his comments.

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

Mr. GREGG. Mr. President, I find it extremely unique that the Senator from Iowa would take the position that he needs a program to be authorized but that we should not vote against it on the basis of it spending money because he doesn't ever expect to fund it. That, on the face of it, does not pass the laugh test. If you are authorizing a program, creating a program, you expect at some point to fund the program and spend money on the program. That is a totally disingenuous argument, in my humble opinion, to make that representation.

I suggest if the Senator from Iowa believes the stress program is an important program, that is fine. We will have a vote. I happen to think the stress program is a reflection of a farm bill that has gone wild in the area of spending money—American taxpayers' money. The American taxpayers are the ones who are going to be under stress.

There are a lot of industries in this country that have stress. The American farmer today is doing pretty well, as was acknowledged by the Senator from Iowa. In fact, they had a 44-percent increase in farm income just this last year. That is pretty good.

Stress may be there. I do not deny that farming is an intense and difficult process. I used to work on a farm. There can be a lot of stress in farming. But I don't think we need to set up a special program with the Federal Government to create a network and a concept for stress, and then we will authorize it, and then we will fund it. This authorization is open ended, which means any amount of money can be put in this bill in later years to fund it.

There are a lot of industries which have stress. We do not create a stress program for the capital markets industry which today is suffering from a meltdown. Are we going to have a stress program for Bear Stearns? We don't create a stress program for all the companies in this country that have basically been under stress by foreign competition. Do we have a stress program for those? Do we have a stress program for the person who runs the local restaurant? Do we have a stress program for the person who runs a local gas station? All of these are entrepreneurial undertakings, and entrepreneurship involves stress, but we

don't need to create a stress network to address it.

This is a creation of an earmark, pure and simple, in a bill filled with earmarks. And it seems to me, adding a new program—remember, there are 51 new discretionary programs put into this bill—51, and this is just 1 of them.

I recognize the Senator from Iowa is totally committed to the farmers, and there is probably nobody in this Congress who has done more for the farm community than the Senator from Iowa—both Senators from Iowa, but certainly the Republican Senator from Iowa has done an immense amount.

This is a bridge too far; this is a farm tractor too far. The simple fact is, we do not need a stress program for farmers, and we do not need an authorization which is open ended and which will be funded. There is no question, you do not put an authorization in unless it gets funded.

I have serious reservations about this from, first, the concept of creating the program and, second, the concept of funding the program. I have expressed my reservation. I offered an amendment. We will vote on it. I presume we will lose because we always lose these votes. But as a practical matter, the American people should know this program, in my humble opinion, is not of value and is inappropriate in this context.

Mrs. MURRAY. Mr. President, I have come to the floor to talk about two amendments to the farm bill proposed by the Senator from New Hampshire.

These amendments would have devastating impacts on farmers in my home State of Washington, and I urge my colleagues to oppose both of them.

The first would strike the badly needed agriculture disaster assistance trust fund and direct the money to other sources.

Under my colleague's amendment, most of that money would go to reduce the deficit, and some would help low-income residents with their heating bills.

The second would strike the Market Loss Assistance Program for asparagus growers.

Our farmers are the backbone of our Nation. But farming is a difficult business.

One bad storm can wipe out a whole crop or a whole herd—and take your livelihood with it.

That is the position that some of the farmers in my home State are in now. And that is why it is so important that we have a safety net ready to help them.

Last week, I spoke on the Senate floor about the storms that had devastated western Washington.

Winds and dangerous floods and mudslides washed out roads and homes and cut off power to thousands.

Thousands of people are still coping with the damage, and our agriculture producers in southwest Washington were hit especially hard.

We won't know the full impact of this storm for some time.

But we are already starting to hear reports about lost livestock, poultry, farm buildings, and equipment.

Some reports say that producers lost thousands of animals—and that number may still grow.

The agriculture disaster trust fund in this farm bill ensures that we have a permanent pool of money to help farmers after natural disasters, such as the storms in Washington State.

I appreciate the work of the Finance and Agriculture Committees to add this important program. And I want to thank Senators HARKIN and CHAMBLISS for their leadership on this bill.

I wish this program were already in place.

If it were, farmers in Lewis and Grays Harbor—two of the counties hit hardest by the flooding—would be able to apply for Federal aid to rebuild their herds.

For example, the Livestock Compensation Program in the trust fund would pay 75 percent of the value of the dead animal.

Without a permanent disaster assistance program, we are left to provide this kind of help on an ad hoc basis. A trust fund would ensure that money is always there when it is needed.

Our farmers shouldn't have to depend on political whim when disaster strikes.

And that is why the amendment to strike this fund would be such a bad idea.

Now I strongly support the LIHEAP program. I think it is critical, especially as we head into the winter months. But I think we can find a better solution that doesn't eliminate this trust fund.

And so I urge my colleagues to vote against this amendment by Senator GREGG.

Secondly, I would like to take a few minutes to talk about the amendment to strike the market loss help for asparagus growers, another program that is vital in my home State.

Historically, asparagus has been a major crop for Washington State farmers. In fact, it was the first crop harvested in Washington.

But our asparagus farmers are hurting now because of competition from growers in Peru.

The Andean Trade Preference Act has allowed Peruvian asparagus to flood the market.

And unlike most free-trade agreements, the act went into effect without a transition period to allow U.S. producers to prepare or adapt.

Over the Thanksgiving recess, I visited with a number of farmers in Yakima, WA, who told me about the devastating impact this trade agreement has had.

The numbers speak for themselves.

In 1990, the value of the crop was approximately \$200 million. Its value now is down to \$75 million.

Before the act, more than 55 million pounds of asparagus were canned in Washington State—roughly two-thirds

of the industry. But by 2007, all three asparagus canners in Washington had relocated to Peru.

I have fought to help our U.S. growers. I have tried to get them trade adjustment assistance and other help.

And over the past several years, I have secured funding for research on a mechanical harvester to make this labor-intensive crop less expensive to produce.

And most recently, I worked with my colleagues from Michigan and Washington to include the market loss program for asparagus growers in this farm bill.

I appreciate the leadership of Senators HARKIN and CHAMBLISS on this issue as well.

This program would provide up to \$15 million nationwide to help U.S. farmers who still grow asparagus despite foreign competition.

I hope this program will help growers in my State continue to invest in asparagus.

We modeled this after a similar program for apples and onions, which I helped add to the 2002 farm bill.

I remember hearing from apple growers about the effects of Chinese imports on our markets.

That program provided over \$94 million for our Nation's apple growers, and it has proven to be a big help to our apple industry.

I would note to my colleague from New Hampshire that his State received over \$1 million from the apple program.

Striking the market loss program from the farm bill would be a step in the wrong direction for our asparagus industry.

And it would have serious impacts on farmers in my home State.

So I urge my colleagues to vote no on this amendment as well.

“No” votes on both of these amendments will support the struggling asparagus industry.

And they will help our farmers and ranchers when disaster strikes.

These programs are too important to our farmers to be cut.

Mrs. BOXER. Mr. President, I rise in opposition to Gregg amendment No. 3672.

This amendment irresponsibly strips \$15 million in funding for an asparagus market loss program to help asparagus producers who have lost a significant amount of their market share because of the Andean Trade Preference Act.

Thanks to the great work of Senator STABENOW, along with Senators HARKIN and CHAMBLISS, the Senate Ag Committee approved this important funding to help assist asparagus producers in California, Michigan, and Washington who have lost significant market share as a result of the Andean Trade Preference Act.

The U.S. asparagus industry was and continues to be hurt by the Andean Trade Preference Act's, ATPA, extended duty-free status to imports of fresh Peruvian asparagus. The ATPA

eliminated U.S. tariffs on Peruvian asparagus imports beginning in 1990.

Unlike most free-trade agreements, the ATPA provided no transition period to allow domestic asparagus producers to prepare or adapt to a market that would be flooded with an unlimited quantity of zero tariff asparagus from Peru.

Following the enactment of ATPA, imports of processed asparagus products surged 2400 percent from 500,000 pounds in 1990 to over 12 million pounds in 2006.

As a result, domestic asparagus acreage has dropped 54 percent from 90,000 acres in 1991 to under 49,000 acres today.

Michigan has lost 20 percent of its asparagus acreage.

Washington State's asparagus acreage decreased from 31,000 acres in 1991 to 9,300 acres in 2006, and producers in the State have seen the value of their crop drop from \$200 million in 1990 to \$75 million today.

And farmers in my State of California have lost nearly half of their asparagus acreage since 1990, dropping from 36,000 acres before the ATPA, to 22,500 acres today.

Many of my colleagues may be asking what the market loss program will provide to asparagus producers. This asparagus program is modeled after a 2002 program for onion and apple producers that provided \$94 million in assistance when the apple and onion markets were flooded with cheap Chinese imports.

Market loss funds will be used to offset costs to domestic asparagus producers to plant new acreage and invest in more efficient planting and harvesting equipment.

I find it particularly interesting that Senator GREGG has put forward an antemarket loss program amendment that would help farmers in my State. As a result of the 2002 farm bill, apple producers in his State of New Hampshire received more than \$1 million in assistance.

Where was Senator GREGG and his amendment to strike when the Senate approved a market loss program for apple and onion producers as part of the 2002 farm bill?

I urge the Senate to reject this amendment.

The amount in funding for the market loss program is a small percentage of the losses incurred as a result of the ATPA and will go a long way toward maintaining domestic asparagus production and helping our producers who have lost thousands of acres.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote on amendment No. 3671, offered by the Senator from New Hampshire, Mr. GREGG.

Mr. GREGG. Mr. President, that is the stress program; correct?

The PRESIDING OFFICER. That is correct.

Mr. GREGG. I think we just had our 2 minutes of debate. I suggest both sides yield back time and go to a vote.

The PRESIDING OFFICER. All time is yielded back.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 3671. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. McCAIN).

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

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

[Rollcall Vote No. 418 Leg.]

YEAS—37

Alexander	Dole	Martinez
Allard	Ensign	McConnell
Barrasso	Enzi	Murkowski
Bayh	Graham	Sessions
Bennett	Gregg	Shelby
Bond	Hagel	Smith
Bunning	Hatch	Snowe
Burr	Hutchison	Sununu
Coburn	Inhofe	Vitter
Collins	Isakson	Voinovich
Corker	Kyl	Warner
Cornyn	Lott	
DeMint	Lugar	

NAYS—58

Akaka	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bingaman	Grassley	Pryor
Boxer	Harkin	Reed
Brown	Inouye	Reid
Brownback	Johnson	Roberts
Byrd	Kennedy	Rockefeller
Cantwell	Kerry	Salazar
Cardin	Klobuchar	Sanders
Carper	Kohl	Schumer
Casey	Landrieu	Smith
Chambliss	Lautenberg	Stabenow
Cochran	Leahy	Stevens
Coleman	Levin	Tester
Conrad	Lieberman	Thune
Craig	Lincoln	McCaskill
Crapo	McCaskill	Menendez
Domenici	Menendez	Webb
Dorgan	Mikulski	Whitehouse
Durbin	Murray	Wyden

NOT VOTING—5

Biden	Dodd	Obama
Clinton	McCain	

The amendment (No. 3671) was rejected.

AMENDMENT NO. 3672

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to the vote on amendment No. 3672, offered by the Senator from New Hampshire. The Senator from Michigan is recognized.

Ms. STABENOW. Mr. President, I thank Senator HARKIN and Senator CHAMBLISS and all those involved in putting together the bipartisan farm bill. I ask for a “no” vote on the Gregg amendment. This would eliminate \$15 million, a small amount in the farm

bill but incredibly important to asparagus growers across the country. This would eliminate the Asparagus Market Loss Program that would compensate American asparagus growers across the country for losses to their industry as a result of the Andean Trade Preferences Act that was passed back in 1990. Since that time, we have seen no transition period and imports of tariff-free processed asparagus have surged 2,400 percent. We have seen major losses for asparagus growers, and I add this was based on a program passed in the last farm bill for apples and onions, where cheap Chinese imports were harming domestic growers and, in fact, the State of the author of the amendment received over \$1 million in that program for apples. We are simply asking that asparagus growers receive the same kind of assistance.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, this is a new program. It is a new mandatory program. It is \$15 million. It is not a lot of money but I think it would be nice if the Senate would make a statement once in a while it is going to be fiscally responsible.

This asparagus program is not needed. It is the result of a 1990s trade agreement, the claim is made, but that is 20 years ago almost that agreement was reached. What has happened is the American consumer has benefited from that agreement and now, because the American consumer has benefited from the agreement, we basically want to raise taxes on the American consumer to make them pay because they didn't pay at the shop when they bought the asparagus.

It makes no sense at all. This is a brand-new \$15 million program in this bill for asparagus. The bill is replete with these types of programs. I think we ought to make a statement, at least for once, that we are going to be fiscally responsible. I hope people will vote for the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. McCAIN).

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

The result was announced—yeas 39, nays 56, as follows:

[Rollcall Vote No. 419 Leg.]

YEAS—39

Alexander	DeMint	Lott
Allard	Dole	Lugar
Barrasso	Domenici	Martinez
Bayh	Ensign	McConnell
Bennett	Enzi	Murkowski
Bond	Graham	Sessions
Brownback	Gregg	Shelby
Bunning	Hagel	Snowe
Burr	Hatch	Specter
Coburn	Hutchison	Sununu
Collins	Inhofe	Vitter
Corker	Isakson	Voinovich
Cornyn	Kyl	Warner

NAYS—56

Akaka	Feinstein	Nelson (FL)
Baucus	Grassley	Nelson (NE)
Bingaman	Harkin	Pryor
Boxer	Inouye	Reed
Brown	Johnson	Reid
Byrd	Kennedy	Roberts
Cantwell	Kerry	Rockefeller
Cardin	Klobuchar	Salazar
Carper	Kohl	Sanders
Casey	Landrieu	Schumer
Chambliss	Lautenberg	Smith
Cochran	Leahy	Stabenow
Coleman	Levin	Stevens
Conrad	Lieberman	Tester
Craig	Lincoln	Thune
Crapo	McCaskill	McCaskill
Dorgan	Menendez	Menendez
Durbin	Mikulski	Webb
Feingold	Murray	Whitehouse

NOT VOTING—5

Biden	Dodd	Obama
Clinton	McCain	

The amendment (No. 3672) was rejected.

Mr. HARKIN. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The business before the Senate is Harkin amendment No. 3830.

Mr. HARKIN. Mr. President, in consultation with the ranking member, Senator CHAMBLISS, I am going to repeat for the benefit of Senators a unanimous consent that was entered into last night and try to clarify it a little bit. There was one small change, and that was to add Senator SANDERS into this debate.

Mr. President, I ask unanimous consent that following disposition of the Gregg amendment, which we just did, that Senator HARKIN be recognized to call up an amendment, and once reported by number, the amendment be set aside; that Senators ALEXANDER, BINGAMAN, SALAZAR, and SANDERS be recognized, 10 minutes for Senator BINGAMAN, 10 minutes for Senator SALAZAR, 10 minutes for Senator SANDERS, and 30 minutes for Senator ALEXANDER; that the Senate then debate the following amendments for the time

limits specified under a previous order and in the order that is listed.

First, it would be the Alexander amendments 3551 and 3553, 60 minutes equally divided; the Gregg amendment No. 3673, 2 hours equally divided; Dorgan-Grassley amendment No. 3695, 2 hours equally divided; Sessions amendment No. 3596, 40 minutes equally divided; Klobuchar amendment No. 3810, 60 minutes equally divided; Coburn amendments 3807, 3530, and 3632, 90 minutes equally divided.

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

AMENDMENT NO. 3639 TO AMENDMENT NO. 3500
(Purpose: To improve nutrition standards for foods and beverages sold in schools)

Mr. HARKIN. Mr. President, I call up my amendment No. 3639.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself and Ms. MURKOWSKI, proposes an amendment numbered 3639 to amendment No. 3500.

Mr. HARKIN. Mr. President, under the previous unanimous consent agreement, I ask that the amendment be laid aside.

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

(The amendment is printed in the RECORD of Tuesday, November 13, 2007, under "Text of Amendments.")

Mr. HARKIN. Now we can go to the Alexander amendment.

The PRESIDING OFFICER. The Senator from Tennessee.

AMENDMENT NOS. 3551 AND 3553

Mr. ALEXANDER. I have up to 30 minutes to describe these two amendments, and then other Senators have time, I assume, to oppose the amendments. What I will do is—

Mr. SALAZAR. Will the Senator from Tennessee yield for a question?

Mr. ALEXANDER. Yes.

Mr. SALAZAR. Mr. President, I had understood that the order we were following would be to consider Alexander amendment 3553 with 10 minutes of debate time. If I can get 10 minutes before turning to the other amendments. That is how I had come here to the floor to deal with the issue of 3553.

Parliamentary inquiry: What is the order of continuing on 3553?

The PRESIDING OFFICER. The understanding of the Chair on the order is that there is an hour equally divided, of which 10 minutes is provided for the Senator from Colorado, but no speaking order has been assigned.

Mr. SALAZAR. Mr. President, if I could ask my friend from Tennessee to note the absence of a quorum for a minute so we might talk about how we might move forward.

Mr. ALEXANDER. Mr. President, 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. ALEXANDER. 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. ALEXANDER. Mr. President, I thank my colleagues from Colorado and Vermont.

I say to the Senator from Iowa, what I will do is I will use a few minutes, maybe 5 or 10, summarizing the two amendments I have offered which I talked some about yesterday. Then I will yield the floor and sit down and allow the Senator from Colorado and the Senator from Vermont to use their 10 minutes each. Then Senator HARKIN may want to use his 10 minutes. Then I will come back at the end. I probably will not use all of my time.

Mr. President, I offer two amendments. They are at the desk. The first one has to do with land grant university research funding, to try to get back on track a terrific program the Congress passed in 1998 to properly fund value-added research for our land grant universities across this country. That is No. 1.

No. 2 is to amend the amendment of the Senator from Colorado, which is a part of the bill, so that we would limit 100 kilowatt wind towers to farm areas and not residential areas. Those are the two amendments.

I wish to begin by summarizing the land grant university research amendment. What amendment 3551 does is it adds \$74 million over the last 3 years of the farm bill for agricultural research at land grant colleges.

In my opinion, having been president of a land grant university, the University of Tennessee, I believe our land grant colleges and universities are our secret weapon in value-added products; in other words, taking soybeans and turning them into milk and creating higher incomes for farmers and more jobs in the United States.

Let me take an example, one which I used yesterday. Those who live in the Southwest, which I do not, are apparently very familiar with the guayule plant. I might call it a weed. That might not be a friendly designation, but it looks like a weed to me. The University of Arizona discovered—one of our land grant universities, as a part of the program I am seeking to get back on track—that it could use this plant to develop nonallergic latex to go into rubber gloves. Why is that important? Because according to OSHA, allergic reactions from latex rubber affect 10 percent of the Nation's health care workforce. So we have not only helped health care through the land grant universities, we have helped create incomes in the Southwest where this is grown. We have helped grow jobs in the United States as well.

There are examples of that all through our country. That is why the Congress, in 1998, created a program which is called the Future Agriculture and Food Systems Program. That very simply did, through the Department of Agriculture, which we do through many other parts of government, grants of research offered to land grant

universities in a competitive way, not just doled out, not just pork, in a competitive way to try to help them create value-added products.

The program has worked for a couple of years since 1998. It didn't work so well in other years. I summarized that yesterday. The bottom line is, both appropriators and authorizers during this time got away from the idea of competitive, peer-reviewed grants and began to earmark and designate their favorite universities for some of the money. Then on another occasion in 2005, the Congress, looking for a way to bring the budget under control, saw this as a pot of money that could be used and took the money from agricultural research and used it to do a better job of balancing the budget.

There was a 2-year period, in 2001 and 2002, when under this program there were 183 grants to 71 of the 76 land grant universities, one in every State. Out of that came this research and a variety of other products.

The purpose of this amendment is to get this program back on track. It was first authorized in 1998, had a couple of problems, but here is what my amendment would do. My amendment would add \$74 million in the last 3 years of the farm bill. The House, in its version of the farm bill, has added \$600 million in those 3 years. So the conferees could look at those two amounts of money and come to a reasonable adjustment and get the program back on track, competitively awarded grants for land grant colleges and universities, our secret weapon in raising farm incomes.

How do we pay for it? The \$47 million in funding over the last 3 years of the farm bill is fully offset by striking section 302 from the tax title. I described that yesterday. I will be glad to describe it again, if I need to. But it is fully funded.

Let me go to my second amendment, No. 3553. It affects the so-called small wind tax credit. The small wind tax credit in the bill allows up to \$4,000 for someone to put a 100-kilowatt wind turbine in either a farm or rural area or residential area. Since this is a farm bill and not a residential bill, what my amendment would do is limit the ability of this subsidy to go to wind turbines to farms and rural businesses as defined in the Internal Revenue Code. If I could put it in plain English: It will be very difficult for Members of the Senate to go home and explain to their neighbors, whether they are in Tennessee or Colorado or Mississippi, why they passed a law saying we are going to take some of your tax money and give it to your neighbor so he or she can put up a 12-story tower in his or her front yard next to you. I don't think that is an appropriate use of our tax money. I don't believe it is a wise way to create electricity. It doesn't show the kind of common sense we need to show in creating clean energy.

The example I used yesterday, and which I could go into more detail later, is the \$5 million tax credit in this bill

for these kinds of towers would create only about 12 megawatts of electricity. That is a pretty puny amount of electricity. Common sense suggests it would be much wiser to use the \$5 million to buy \$2 energy-efficient light bulbs and give them to people in residential areas. That would save 8 times as much energy as these turbines would produce.

There are other reasons the turbines are not necessary. One is that the wind industry is heavily subsidized already. For example, wind energy will receive \$11.5 billion over the next 10 years from the production tax credit. By fiscal year 2009, the Federal tax subsidy for wind energy will be the largest subsidy for energy which is an astonishing figure when you take into account that wind provides less than 1 percent of the electricity we use. According to the Energy Information Administration, in the year 2020, it will provide not much more than that. Here we have billions and billions already going to subsidize wind power. That amount is half as much as all of the subsidies for oil and gas, and it is totally disproportionate to the value of the energy we get.

I stand as a Senator who is very concerned about clean air and climate change. Since I arrived in 2003, I have had in place—first with Senator CARPER, then with Senator LIEBERMAN—a climate change/clean air bill that would put caps on utilities which produce one-third of the carbon in the United States. That bill also included stricter standards than now exist in law on mercury, on sulfur, and on nitrogen. I was the sponsor in the last Congress of the solar tax credit which I believe is important. In the hearing the other day we had on climate change, I proposed and the committee adopted, a low-carbon fuel standard. I voted for, and hope to be able to vote for again in final passage of the Energy bill, the fuel efficiency standards which were in the Senate-passed Energy bill.

The Oak Ridge National Laboratory has testified that is the single most important thing we can do to reduce our dependence on foreign oil. But I believe we should use common sense. I don't believe using tax dollars to give your neighbor up to \$4,000 so he or she can create up to a 12-story tower in a residential neighborhood makes much common sense. My appeal is as much to common sense as anything else.

My hope is the Senate would agree that it will be fine if we want to subsidize the building of even such large wind turbines in rural areas, but it is not all right to subsidize the building of those wind turbines in residential areas. My amendment would also make clear that nothing we did in this bill overrode local zoning ordinances that people use to decide what sort of towers they want to permit.

That concludes my remarks. I will listen to my colleagues from Vermont and Colorado.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I rise to speak against the Alexander amendment No. 3553. I do so with some regret because he and I have worked on so many matters together in a bipartisan spirit. But on this particular amendment, he is simply wrong for two reasons. First and foremost, the amendment would strike a blow against what we are trying to do to create a new clean energy future by crippling our attempts to move forward with a new agenda on wind power.

Second, it would bring the Congress into an intruding position on matters that ought to be about land use at the local and State level, in the traditions of this country. So for those two reasons, I am going to ask my colleagues to join in opposition to the amendment.

The small wind power microturbine tax credit we are proposing as part of the farm bill brought forward in a bipartisan way from the Finance Committee is a provision that enjoys tremendous bipartisan support. On the Republican side, Senators SMITH, CRAIG, MURKOWSKI, and COLEMAN have all been champions of the small wind energy tax credit; on the Democratic side, Senator SANDERS, DORGAN, FEINSTEIN, KERRY, WYDEN, STABENOW, and JOHNSON have all been supporters and cosponsors of the underlying legislation, S. 673. That group of Senators shows the kind of bipartisan support we have for small wind power in America.

I ask unanimous consent to print in the RECORD a letter sent to Senator BAUCUS and Ranking Member GRASSLEY from a number of organizations, including the Tennessee Environmental Council, in support of this tax provision.

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

NOVEMBER 8, 2007.

Hon. MAX BAUCUS,
Chairman, Senate Committee on Finance, Dirksen Senate Office Building, Washington, DC.

Hon. CHARLES GRASSLEY,
Ranking Member, Senate Committee on Finance, Senate Office Building, Washington, DC.

DEAR CHAIRMAN BAUCUS AND RANKING MEMBER GRASSLEY: As leading farm and rural economic development organizations, we strongly support a federal investment tax incentive for small wind systems. Small wind systems offer farmers and rural Americans the ability to generate their own clean, fuel-free, and reliable power for on-site use and provide independence from unpredictable fossil fuel prices. We congratulate and support the Senate Finance Committee on recently including an incentive for small wind systems in the tax title of the 2007 Farm Bill.

There is currently no federal support for small wind systems. However, solar photovoltaics, which compete in the same market as small wind, receive a 30% investment tax credit under current law. The Finance Committee Chairman's Mark would provide for a 30% investment tax credit capped at \$4,000 per system to help provide on-site power for homes, farms, and small businesses. Small wind systems are growing

in popularity as the cost of energy and concerns about global warming continue to rise, but the high up-front cost of a system is often prohibitive to consumers. An investment tax credit would greatly help those who depend on small wind systems for personal energy independence.

The provision included in the Senate Finance Committee Chairman's Mark would cost only \$5 million over 10 years, but could spur 40% annual growth in the industry. Moreover, small wind is an American-dominated industry—98% of the small wind turbines sold in America last year were built by American companies. That means that the jobs and economic growth created by an investment tax credit will be overwhelmingly American.

We look forward to supporting your efforts to help farmers and rural Americans achieve personal energy independence. Thank you for your continued support.

Sincerely,
National Farmers Union.
American Corn Growers Association.
Nebraska Farmers Union.
Tennessee Environmental Council.
Southern Alliance for Clean Energy.
American Agriculture Movement.
Rocky Mountain Farmers Union.
Environmental Law & Policy Center.

Mr. SALAZAR. The Alexander amendment, the way it would strike out the small wind tax credit provision of this legislation, would cripple the wind power potential for our country in a way that is not healthy as we embrace this agenda. We are dealing with technology that has been around for a long time. Certainly, as we are moving forward with the hope and vision that 25 percent of our energy from this country comes from renewable energy resources, we know there are many components of that portfolio. One of them is wind. Tremendous wind power is being developed around our country, and I will speak about that. But we know we can do much more with small wind microturbines. Here is what they would look like on a farm.

This is a picture of a farm that shows an old-style windmill, windmills such as we have seen out on the plains and the prairies for generations. It used to be for many years the only way we could generate power to pump water for cattle out on the range. These windmills were converted over to become electrical generators. Now with the new technology being developed at the National Renewable Energy Laboratory through their wind technology center, we have developed new wind microturbines that can produce a good amount of energy with very small turbines in place. This picture shows some of those wind turbines in operation.

The amendment of the Senator from Tennessee would essentially say we are going to limit where we can allow these small wind microturbines to go up. For example, if you happen to have a rural residence such as this residence, which is typical of many places throughout the West, this residence which could power its domestic electrical needs off of a wind turbine in the way this house does would not be allowed to do so. The \$4,000 tax credit would not be allowed to provide the

electrical generation needs we want to accomplish for that house.

Another example is this rural residence which is out on a hillside. The rural residents of this house, out on a hillside, would not be able to take advantage of the tax credit we are providing in this legislation.

It goes beyond just rural residences out there in the country. In addition to that, when we think about industrial or business places of use, this shown in this picture is an example of a Wal-Mart, which is located outside of Denver, CO, in Aurora, CO, where Wal-Mart has embraced using renewable energy to power much of its facility. One of the sources for that wind power for this Wal-Mart in Aurora, CO, is a wind turbine, a small wind microturbine.

Our legislation would provide the tax credit to allow this kind of a wind microturbine to be incentivized to go into that place. So what my friend attempts to do here, in my view, would unnecessarily narrow what we are trying to do, which is to expand the places where we can use wind power in the form of small wind-power turbines throughout the United States. So I hope on that basis alone my friends in the Senate will vote in opposition to his amendment.

Second, what we are trying to do here is incentivize the creation of small wind-power turbines for the people and for the businesses of this country. The amendment which my friend has proposed in part is based on his concern that he does not want to see a lot of wind turbines in urban or suburban areas. He does not want us to go back to places such as Knoxville or Oak Ridge, TN, and go to those communities and say we somehow are enabling those wind-power turbines, those small microturbines, to go up in those communities. That has never been a province of the Senate. The province of the Senate has been to set out national policy. It is up to those local communities and cities and counties and States to determine what their local land use policy is going to be. Nothing we do in the Senate ultimately is going to disrupt or interrupt whatever they may be doing at the local level in terms of their local land use ordinances.

We have seen, most recently with respect to what has happened with the South phone tower dispersion, is that throughout the country it is still very much controlled by what happens at the local land use level. I urge my friends to vote in opposition to Alexander amendment No. 3553.

I would finally say, on the whole concept of wind, on which we have a genuine policy disagreement, there is indeed tremendous opportunity for us to do much more with wind. In my State alone, 2 years ago, before we passed the 2005 Energy Policy Act, there was almost zero electricity being generated from wind power. Today, my State is on the verge of producing 1,000 megawatts of power from our wind-

power facilities that have been constructed throughout the State. Now, 1,000 megawatts of power may not seem like a lot to a lot of people, but I think it is a lot. It is a lot for the State of Colorado. Mr. President, 1,000 megawatts of power is the equivalent of the amount of electrical power that will be generated from three coal-fired powerplants—that is three coal-fired powerplants. We are able to do that with our large wind-power generators in my State.

We ought to be able to deploy the technology we have for small microturbines to allow people who want these small microturbines to generate the renewable electricity for their places of business.

I ask my colleagues to vote “no” on Alexander amendment No. 3553.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont.

Mr. SANDERS. Mr. President, let me begin by concurring with much of what Senator SALAZAR has said. I have a lot of respect for Senator ALEXANDER. I have worked with him on some issues, and I look forward to working with him on other issues. But, unfortunately, on this one he is dead wrong, and the amendments on wind energy he has brought forth should be soundly defeated in a bipartisan vote.

Let me begin by quoting from an AP article that appeared on the front page of Vermont’s largest newspaper, the Burlington Free Press, this morning and in papers throughout the country. Here is what the article says: “Ominous Arctic melt worries experts.”

An already relentless melting of the Arctic greatly accelerated this summer, a warning sign that some scientists worry could mean global warming has passed an ominous tipping point. One even speculated that summer sea ice would be gone in five years.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

OMINOUS ARCTIC MELT WORRIES EXPERTS

(By Seth Borenstein)

An already relentless melting of the Arctic greatly accelerated this summer, a warning sign that some scientists worry could mean global warming has passed an ominous tipping point. One even speculated that summer sea ice would be gone in five years.

Greenland’s ice sheet melted nearly 19 billion tons more than the previous high mark, and the volume of Arctic sea ice at summer’s end was half what it was just four years earlier, according to new NASA satellite data obtained by The Associated Press.

“The Arctic is screaming,” said Mark Serreze, senior scientist at the government’s snow and ice data center in Boulder, Colo.

Just last year, two top scientists surprised their colleagues by projecting that the Arctic sea ice was melting so rapidly that it could disappear entirely by the summer of 2040.

This week, after reviewing his own new data, NASA climate scientist Jay Zwally said: “At this rate, the Arctic Ocean cold be

nearly ice-free at the end of summer by 2012, much faster than previous predictions.”

So scientists in recent days have been asking themselves these questions: Was the record melt seen all over the Arctic in 2007 a blip amid relentless and steady warming? Or has everything sped up to a new climate cycle that goes beyond the worst case scenarios presented by computer models?

“The Arctic is often cited as the canary in the coal mine for climate warming,” said Zwally, who as a teenager hauled coal. “Now as a sign of climate warming, the canary has died. It is time to start getting out of the coal mines.”

It is the burning of coal, oil and other fossil fuels that produces carbon dioxide and other greenhouse gases, responsible for man-made global warming. For the past several days, government diplomats have been debating in Bali, Indonesia, the outlines of a new climate treaty calling for tougher limits on these gases.

What happens in the Arctic has implications for the rest of the world. Faster melting there means eventual sea level rise and more immediate changes in winter weather because of less sea ice.

In the United States, a weakened Arctic blast moving south to collide with moist air from the Gulf of Mexico can mean less rain and snow in some areas, including the drought-stricken Southeast, said Michael MacCracken, a former federal climate scientist who now heads the nonprofit Climate Institute. Some regions, like Colorado, would likely get extra rain or snow.

More than 18 scientists told the AP that they were surprised by the level of ice melt this year.

“I don’t pay much attention to one year... but this year the change is so big, particularly in the Arctic sea ice, that you’ve got to stop and say, ‘What is going on here?’ You can’t look away from what’s happening here,” said Waleed Abdalati, NASA’s chief of cyrospheric sciences. “This is going to be a watershed year.”

2007 shattered records for Arctic melt in the following ways:

552 billion tons of ice melted this summer from the Greenland ice sheet, according to preliminary satellite data to be released by NASA Wednesday. That’s 15 percent more than the annual average summer melt, beating 2005’s record.

A record amount of surface ice was lost over Greenland this year, 12 percent more than the previous worst year, 2005, according to data the University of Colorado released Monday. That’s nearly quadruple the amount that melted just 15 years ago. It’s an amount of water that could cover Washington, D.C., a half-mile deep, researchers calculated.

The surface area of summer sea ice floating in the Arctic Ocean this summer was nearly 23 percent below the previous record. The dwindling sea ice already has affected wildlife, with 6,000 walruses coming ashore in northwest Alaska in October for the first time in recorded history. Another first: the Northwest Passage was open to navigation.

Still to be released is NASA data showing the remaining Arctic sea ice to be unusually thin, another record. That makes it more likely to melt in future summers. Combining the shrinking area covered by sea ice with the new thinness of the remaining ice, scientists calculate that the overall volume of ice is half of 2004’s total.

Alaska’s frozen permafrost is warming, not quite thawing yet. But temperature measurements 66 feet deep in the frozen soil rose nearly four-tenths of a degree from 2006 to 2007, according to measurements from the University of Alaska. While that may not sound like much, “it’s very significant,” said University of Alaska professor Vladimir Romanovsky.

Surface temperatures in the Arctic Ocean this summer were the highest in 77 years of record-keeping, with some places 8 degrees Fahrenheit above normal, according to research to be released Wednesday by University of Washington's Michael Steele.

Greenland, in particular, is a significant bellwether. Most of its surface is covered by ice. If it completely melted—something key scientists think would likely take centuries, not decades—it could add more than 22 feet to the world's sea level.

However, for nearly the past 30 years, the data pattern of its ice sheet melt has zig-zagged. A bad year, like 2005, would be followed by a couple of lesser years.

According to that pattern, 2007 shouldn't have been a major melt year, but it was, said Konrad Steffen, of the University of Colorado, which gathered the latest data.

"I'm quite concerned," he said. "Now I look at 2008. Will it be even warmer than the past year?"

Other new data, from a NASA satellite, measures ice volume. NASA geophysicist Scott Luthcke, reviewing it and other Greenland numbers, concluded: "We are quite likely entering a new regime."

Melting of sea ice and Greenland's ice sheets also alarms scientists because they become part of a troubling spiral.

White sea ice reflects about 80 percent of the sun's heat off Earth, NASA's Zwally said. When there is no sea ice, about 90 percent of the heat goes into the ocean which then warms everything else up. Warmer oceans then lead to more melting.

"That feedback is the key to why the models predict that the Arctic warming is going to be faster," Zwally said. "It's getting even worse than the models predicted."

NASA scientist James Hansen, the lone-wolf researcher often called the godfather of global warming, on Thursday was to tell scientists and others at the American Geophysical Union scientific in San Francisco that in some ways Earth has hit one of his so-called tipping points, based on Greenland melt data.

"We have passed that and some other tipping points in the way that I will define them," Hansen said in an e-mail. "We have not passed a point of no return. We can still roll things back in time—but it is going to require a quick turn in direction."

Last year, Cecilia Bitz at the University of Washington and Marika Holland at the National Center for Atmospheric Research in Colorado startled their colleagues when they predicted an Arctic free of sea ice in just a few decades. Both say they are surprised by the dramatic melt of 2007.

Bitz, unlike others at NASA, believes that "next year we'll be back to normal, but we'll be seeing big anomalies again, occurring more frequently in the future." And that normal, she said, is still a "relentless decline" in ice.

Mr. SANDERS. In other words, what the scientists are telling us is the problem of global warming may be even more severe than they had previously told us. It seems to me what we should be doing in the Senate is become more aggressive, more bold in combating greenhouse gas emissions and not support amendments that slow down the growth of such sustainable energies as wind. That is what, unfortunately, the Alexander amendment would do.

In contrast to the direction Senator ALEXANDER wants us to go, let me quote from a BBC article that appeared the other day. This is what that article says:

Wind "could power all UK homes." All UK homes could be powered by offshore wind farms by 2020 as part of the fight against climate change, under plans unveiled."

What they are doing in the UK, at the highest levels of Government, with support of the Tory Party—the conservative party—in the UK, is they are developing plans that would significantly increase the number of wind turbines. Some 7,000 wind turbines could be installed by the year 2020 to provide all the homes in the UK with electricity. They are going forward rapidly, boldly with wind, and we are talking about how we can cut back efforts toward sustainable energy.

I fully appreciate that my good friend from Tennessee has concerns about wind energy. He may not want a wind turbine at his home or on his property, and that is his right. We support that right. But I would respectfully request he not make that decision for the rest of America.

Wind energy is one of the fastest growing renewable technologies today and benefits families in my own State of Vermont and all across our country. I believe rural America and individual communities across this country deserve the opportunity to decide for themselves whether to pursue wind energy. Some may like it; some may not. That is a decision for them and not the Federal Government. I would hope some of our conservative friends who talk about all of the vices of a big Federal Government might want to heed that thought.

The truth is, today millions of rural Americans, in fact, want to pursue sustainable energy. They should be allowed to do so, and they should be able to utilize the support provisions in this farm bill that provide incentives for them to produce electricity that is renewable, that is cost effective, and does not emit carbon. That is what they want to do. That is what we need. We should support that effort.

Apparently, one of those people—and I applaud him for this—is the former Republican President of the United States of America, George H.W. Bush, who, in his summer home at Kennebunkport, ME, has recently installed a 33-foot tall windmill that can produce 400 kilowatts a month. I applaud former President Bush for pointing out to the country the importance of small wind turbines in providing electricity for homes. I hope all over this country people emulate what the former Republican President has done.

There is enormous potential for wind technology in the United States. We have a huge renewable resource base in our country, and yet only about 3 percent of the Nation's electricity supply came from nonhydroelectric renewable energy sources in the year 2006.

Other countries have already made significant strides toward using renewable energy. I point out that Denmark meets roughly 20 percent of its electricity needs with wind alone, while

Spain is at 9 percent, and Germany and Portugal are at 7 percent. Despite having a much more robust wind resource than any of these countries, the United States meets less than 1 percent of its electrical needs with wind power today.

We can do better. We must do better. The Federal Government, through tax credits and other incentives, including small wind turbines, must help move our country in that direction.

Today, most wind turbines are currently located on mountain tops, mountain passes, and the Great Plains from North Dakota to Texas. That is not nearly good enough. Wind is the cheapest renewable energy, and it should be growing by leaps and bounds. We have to move forward in making that happen.

As a nation, we can—in fact, we must—do a better job of exploiting the freely available renewable resources that exist across our country. Small-scale rural wind turbines should be aggressively promoted as one of the solutions. We can no longer afford to ignore the rapidly maturing renewable technologies that can help address the critical challenges of energy independence, global warming, and high energy prices.

It should be heartening to know that new investments in renewable generating capacity in the United States has been accelerating in recent years. This is largely due to tax credits from States and the Federal Government. Wind power has been at the forefront of that growth. The year 2006 was the largest on record in the U.S. for wind power capacity additions, with over 2,400 megawatts of wind added to the grid. That is a good start, but we need to go a lot further than that.

I recently talked with a manufacturer of small residential-scale wind turbines to find out about the potential of this technology. What he told me was that with support from the U.S. Department of Energy's National Renewable Energy Laboratory we are developing wind turbines all over this country where there is a reasonable amount of wind. Clearly, wind is not available all over the country. But everybody who is serious about this issue understands that the solution to global warming and the solution to sustainable energy, electricity generation, is going to require a mix of technologies. In some areas wind is strong, in some areas the Sun is strong, and so forth.

But in areas such as the State of Vermont, I am told that an average home can produce 40, 50, 60 percent of its electricity from a small wind turbine, which is becoming less and less expensive. They are now on the market for some \$12,000—\$12,000—including installation. If we can provide the type of tax credits and other incentives for these wind turbines, we can have a pay-back period in a reasonable period of time which will lower the cost of electricity for millions of Americans, break our dependency on Middle East oil, and stop the emissions of carbon

into the atmosphere, which is causing global warming.

I have a lot of respect for my friend from Tennessee, and I know his concern is aesthetics, how these things look—that is one of his concerns—but let me say a word about aesthetics. I also am concerned about how things look. I am concerned when extreme weather disturbances such as Hurricane Katrina hit Louisiana and caused massive damage. That is an aesthetic concern I have. If we do not get a handle on global warming, we are going to see more and more extreme weather disturbances which can impact hundreds of millions if not billions of people.

Drought is an aesthetic issue. Seeing lakes dry up, and the repercussions of that, of flooding, and the impact that global warming will have on the loss of clean drinking water, and the desperation people will experience as a result of that, is also an aesthetic issue.

So I can understand that people have differences of opinion about how things look. I do not like the look of global warming, and I think we should reject soundly Senator ALEXANDER's amendment.

Thank you, Mr. President.

Mr. ALEXANDER. Mr. President, how much time remains?

The PRESIDING OFFICER. Sixteen minutes.

Mr. ALEXANDER. I will take just a few of those, unless the Senator from Iowa wishes to speak now.

I appreciate the comments of the Senator from Colorado, and I know the Senator from Vermont as well has strong and deeply held views on this subject. So do I. I would only respond in these ways: I don't think it is necessary to destroy the environment in order to save the environment. I think there are more sensible ways to save the environment than to use tax dollars to encourage people to put up 12-story white towers of red lights in their own neighborhoods.

There is some talk about Congress interfering with land use. Well, what happens here is that when the Congress gives out tax money—my tax money, your tax money—and says you can use it for this purpose, people do it. So the Congress is distorting land use decisions, in effect. So it is the other side that is interfering with local land use decisions.

Maybe we have different conceptions of what the word "small" means. A 100-kilowatt tower is—can be 12 stories high. So we are not talking about your grandmother's windmill that snuggles up cozily next to the barn; we are talking about your neighbor in New Jersey or Tennessee or Vermont who comes in and says: Hey, I have a great idea. I am going to put up a 12-story tower in my front yard with your tax money. Now, if that person wants to do that and local ordinances permit that, then that is not the business of the Federal Government. We don't need to be encouraging it in residential areas. All I am

saying is this is a farm bill, and what I am trying to say is we should limit these subsidies to rural areas.

The Senator from Colorado said this would be a crippling blow to the wind effort. I believe that suggestion, if I may respectfully say, is overblown. The biggest—through the renewable electricity production tax credit alone, the U.S. taxpayer will spend \$11.5 billion on wind energy over 10 years, between 2007 and 2016. This doesn't begin to count other Federal, State, or local subsidies for wind. So without this subsidy, we are spending \$11.5 billion for wind.

According to the Joint Committee on Taxation, by the year 2009 this wind subsidy and the production tax credit that is already in the law will be the single largest Federal tax expenditure for energy in the United States. Yet it only produces seven-tenths of 1 percent of the electricity we use. To put it in a little perspective—and I mentioned this yesterday—according to the same Joint Tax Committee, all the subsidies we give to oil and gas through taxes, according to the Joint Tax Committee, are \$2.7 billion in the year 2009. The wind subsidies are \$1.3 billion. Well, we use oil and gas. We use about 25 percent of all of the oil and gas in the world in this great big economy of ours. We don't use much of it to make electricity, but we have a \$2.7 billion taxpayer investment in that, and that is debated here. But nobody seems to notice that we are spending \$1.3 billion—nearly half as much—on these large wind turbines, and they are not producing much power—not much power at all.

Just so everyone understands, half of our electricity is produced by coal. Eighty percent of our carbon-free electricity is produced by nuclear power. I didn't hear my friends on the other side say a word about nuclear power.

Climate change is an inconvenient truth, Al Gore said. I am not one of those who believe that just because Al Gore said it means it is wrong. I believe climate change is a very serious problem for our country and our world. I am working hard to change that through low carbon fuel standards, through putting caps on utilities, and through sponsoring solar energy. But why would we make such an extraordinarily disproportionate investment in wind turbines when they produce so little energy and, according to the Energy Administration, are likely to produce so little?

So the only other points I would make are these: The Senator from Vermont mentioned the relentless melting of the Arctic. We agree. We need to deal with climate change. But I would suggest that conservation and nuclear power are the way to deal with climate change in this generation. That may be an inconvenient truth as well, but that is the way to do it.

As I mentioned earlier, just spending the \$5 million that is allocated for these big residential wind turbines and

farm wind turbines, just spending that on efficiency lightbulbs would save eight times as much energy. That would make more common sense to me.

The Senator from Vermont also pointed out that the UK—the United Kingdom—might power all of its houses with wind power. I read that article too; I believe it is the same article. But they are planning to do that with large wind turbines way out in the ocean where you won't be able to see them very easily. If they do have all of their power from wind power, I don't think I would want to live there because my computer and my lights and my air-conditioner and my heater would only work when the wind blows. Wind can't be stored in any effective way today, so it only works when the wind blows. It is not possible for it to be used as a base power of electricity. It is not a good peaking power.

So what we are doing with these extraordinary subsidies for wind is we are encouraging people to build large wind turbines in areas where the wind doesn't blow just so they can make some money on it because of all of these huge generous subsidies, and we are deluding ourselves into thinking we are dealing with climate change when, in fact, we are ignoring the real solutions to climate change, which are conservation, No. 1, and—in this generation, at least—nuclear power, No. 2.

So that is my reason for making this amendment. This is a farm bill. If we are going to subsidize wind turbines in the farm bill, let's do it on farms. Let's not take my tax money and your tax money and give it to your neighbor and say: You can put up a 12-story white tower next door, and we would like to encourage you to do that in your residential neighborhood. I don't think that makes common sense. Once it starts happening, neighborhood after neighborhood after neighborhood, I think a lot of taxpayers are going to be calling their U.S. Senator and saying: You did what? You did what? Why didn't you vote for conservation support? Why didn't you vote to have clean coal technology? Why didn't you vote to build more nuclear powerplants, which are the real way to do carbon-free energy? Why are you pretending to solve climate change by putting up 12-story towers or encouraging them to be put up in my neighbor's front yard?

So I hope my colleagues will recognize that the wiser vote today is for the Alexander amendment because that will make possible new subsidies, in addition to all of the other subsidies, for wind turbines in rural areas. They call them small, but they are up to 12 stories tall. It will make it clear that there is no interference with local land use rules about what kind of towers may go up and down.

Of course, the other amendment I proposed would help get the research programs back on track at our land grant universities which have been so valuable in helping raise farm incomes and creating jobs in this country.

I thank the President, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, let me speak briefly in opposition to one of the amendments the Senator from Tennessee has offered. It is amendment No. 3551.

I think one of the most important things we can do in order to encourage development of renewable resources is to encourage construction of power lines to bring the power from where it is produced to where it is needed. Many of the best areas for development of wind and solar power are in remote parts of our country. That is in the upper midwest Plains States or in the desert southwest in particular. Lack of transmission from these remote locations is seriously hampering the great potential for the generation of electricity from these resources.

Power lines to such places are expensive and often face local opposition from landowners and residents across whose lands the lines have to be built. The farm bill, section 12302, attempts to address the problem by creating a tax incentive to encourage farmers and ranchers and landowners to allow transmission lines to be built across their property. Landowners receive a payment whenever they agree to the siting of a transmission tower on their land, and these payments are currently taxable. Section 12302 would make those payments tax exempt if the power that is carried on the lines comes primarily from a renewable generator that is eligible for the renewable production tax credit. Senator ALEXANDER's amendment here would strike that section. The cost of that section, as I have been advised, is \$91 million over 5 years—a little less than \$20 million per year.

It is clear from reports of the Western Governors' Association and many others that we are going to need substantial construction of new transmission lines throughout the West in the next several years if we are going to increase use of renewable energy. Transmission lines have more benefit than just to the generator. They enhance the reliability of the transmission system. They help break bottlenecks that make generation more expensive than it needs to be. They also can enhance local economies by opening areas that have been closed to development. My own view is that this tax exemption would help to encourage farmers and ranchers to seriously consider the siting of transmission lines in locations where it makes sense.

Senator ALEXANDER argues that wind power receives enormous subsidies under current law and under the Energy bill that is being debated. It is difficult, of course, to look into the future, but if you look at the last 5 years, according to a GAO report issued this year, the Department of Energy received \$11.5 billion in funding for electricity-related research and develop-

ment, and \$6.2 billion of that went to fund nuclear power research and development and \$3.1 billion went to fund fossil fuel generation. Mr. President, \$1.4 billion went to all renewables—not just wind but all renewables combined. GAO also estimates that during that same period, fossil fuels received about \$13.7 billion in tax expenditures, and renewables, about \$2.8 billion. When new nuclear power facilities are built—and there are some now on the verge of being built—they will receive very generous tax credits as well under current law. I have supported those tax credits.

I believe, as the Senator from Tennessee said, that nuclear power is an essential part of the solution to global warming and a central part of the solution to our future energy needs, but I believe alternative renewable power also fits in that category. For decades now, fossil fuel generation and nuclear power have received the lion's share of Federal support. If renewables are to take their rightful place in the market, we need to be providing support to them on an equal footing. I believe that an exemption extended to farmers and ranchers, who deserve adequate compensation when their land is used, is good public policy.

I know the Senator from Tennessee is proposing that the funds involved here would be shifted over to a land grant research program that Senator ALEXANDER wants to fund. That is a good program. I understand the managers of the bill are working on funding for this program to be included in—increased funding for this program to be included in the managers' amendment. I would argue that there are better places to look for paying for that program than from the incentives for farmers and ranchers to engage in such a worthwhile purpose. So I would urge a "no" vote on that amendment by the Senator from Tennessee.

Mr. President, I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Idaho?

Mr. ALEXANDER. Mr. President, I would like to conclude my remarks, if that would be all right.

Mr. CRAIG. May I ask how much time remains in opposition to the Alexander amendment?

The PRESIDING OFFICER. The Senator from New Mexico controls 4 minutes. The Senator from Colorado controls 1 minute.

Mr. CRAIG. I thank the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, just a few remarks.

I appreciate the comments of the Senator, who is chairman of the Energy Committee, and I appreciate his support for nuclear power, which is 80 percent of our carbon-free electricity in America even though it is only 20 percent of our electricity.

I will discuss briefly his point on my amendment that would seek to restore funding to the program for land grant

universities. If the managers are able to find some extra money, that would be terrific, but it ought to be in addition to the \$74 million I have proposed. The House proposes to spend \$600 million over the last 3 years in the farm bill. I am proposing to spend \$74 million.

Second, one of the problems with the section I am seeking to strike is that it appears to apply retroactively to transmission towers. I see no reason for that. A larger problem is that wind doesn't need more subsidies. The Senator talked about subsidies to other forms of energy for research and development. I have yet to hear anybody contradict the fact that the taxpayer, according to the Joint Committee on Taxation, will spend \$11.5 billion on wind energy over the next 10 years, which today produces less than 1 percent of our electricity, and only when the winds blows.

Even if you have wind turbines all over America, you still need nuclear plants, conservation, coal plants, and a base load of electricity. There is a long list of Federal subsidies for wind energy and, in addition, clean, renewable energy bonds, the Department of Defense energy incentive program, et cetera, including State programs. What is happening is that we are encouraging people to build wind turbines, as they have on Buffalo Mountain in Tennessee, in places where the wind doesn't blow, just to make the money the Federal Government provides in subsidies.

Finally, I think the greatest, most specific argument against the idea of giving tax breaks to landowners, where you are going to build new transmission lines, is this: This would mean the Tennessee taxpayer would be taxed to pay for transmission lines in New Mexico or South Dakota, or the Georgia taxpayer would be taxed to pay for transmission lines in Pennsylvania or Virginia. Transmission lines should be paid for by the utility that builds them and the ratepayer who benefits from that, not by the general taxpayers. So if all of the other reasons go to the side, the major reason in support of this amendment is that it is inappropriate for us to require taxpayers in Maryland, Tennessee, and Texas to pay for utilities' transmission lines in New Mexico, South Dakota, and Illinois. They should pay for them themselves.

Mr. President, that concludes my remarks.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I ask unanimous consent to speak for up to 5 minutes in opposition to the Alexander amendment.

Mr. HARKIN. Mr. President, reserving the right to object, how much time remains, or how much time does the Senator from Iowa have on this amendment?

The ACTING PRESIDENT pro tempore. Five minutes remains in opposition.

Mr. HARKIN. How much time does Senator BINGAMAN have?

The ACTING PRESIDENT pro tempore. That includes his time.

Mr. HARKIN. Mr. President, I yield that time to the Senator from Idaho.

The ACTING PRESIDENT pro tempore. The Senator from Idaho is recognized for 5 minutes.

Mr. CRAIG. Mr. President, it is rare that I disagree with my friend from Tennessee, especially on energy issues. We are very much in concert on how we not only deal with climate change, in many instances, but how we build a full energy portfolio for our country that makes us increasingly independent of foreign nations and oil-producing nations.

One of the ways to do it, in my opinion, is to promote all sources of energy. While there are wind turbines going up in Idaho and in locations that I don't necessarily care for, I have very much supported wind, I will continue to support wind, and I support small wind. I say that in respect to the provision within the bill and in opposition to what the Senator from Tennessee is trying to do. Not only is it important that we produce as much as we possibly can because, clearly, our Nation is rapidly growing in deficit as it relates to energy production in nearly all segments. I agree you don't produce electricity when the wind doesn't blow; but when it does, you do.

I will give you an example of a small company in Idaho that a few years ago, with little Federal assistance, built an obscure building out on the high deserts of Idaho, tapped underground water and brought in some electrolysis equipment, put up small wind turbines, exactly the kind the Senator from Tennessee is talking about. Those turbines produce 25 percent of their electrical needs. When you add that 25 percent wind turbine capability to their online use of electricity, they produce hydrogen in a profitable way that users of hydrogen in the Boise Valley are no longer trucking it in from Seattle, WA. They simply pull their truck out to the hydrogen facility and leave it there to be filled by this small hydrogen-producing company that uses electrolysis machines that are literally off the shelf, that are already being made and built into small business America. What made the difference for that company, what made it profitable, was to gain 25 percent of its energy base from wind, with the small turbine he is talking about.

If you don't want a wind turbine in your front yard in an urban area, planning and zoning will take care of that. That is a local decision to be made. If you don't want them in certain places in your State, then whether it is county planning and zoning or municipal planning and zoning, that, too, can take care of it.

America is rapidly adjusting to where the wind isn't and where the wind is. Wind isn't everywhere, but in certain segments of the Midwest, upper

Midwest, and the West there are wind troughs, if you will, where the wind blows in a sustained way to make wind turbine generation profitable, adding to our overall energy base. I hope we will oppose the Alexander amendment.

Along with many others, I have changed my mind over the years in rapidly encouraging all kinds of clean energy production. Wind certainly is clean, hydro is clean, and photovoltaic is clean. We need all of the rest, but we need to get increasingly a cleaner energy portfolio. Wind assists us in doing that. It is not the cure-all. And I agree with the Senator from Tennessee that nuclear, without question, is the base-loading generation capability that is clean, that is in our current technology base that, thank goodness, America has awakened to and we are beginning to see that happening. We are seeing the licensing of new nuclear reactors and we will be able, within the decade, to see multiple reactors coming on line to produce large volumes of energy. But there is no doubt that conservation, supplementation by wind, and all other sources remain important pieces of that total package.

I oppose the Alexander amendment. I hope we can support small wind development along with large wind development. Is it pricey? Yes, it is; it is not inexpensive. I believe right now we are spending upward of a billion dollars a day offshore to foreign nations to buy their oil. The more money we can keep onshore for America, American enterprises, and the consumer, we ought to be doing. This is one way to do it.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who yields time?

Mr. HARKIN. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. The sponsor has 2½ minutes.

Mr. ALEXANDER. We yield back our time.

The ACTING PRESIDENT pro tempore. All time is yielded back.

Mr. HARKIN. Mr. President, I thank the Senator from Tennessee and all the Senators speaking on that amendment, for or against it.

Under the unanimous subsequent request, we will turn to the Gregg amendment No. 3673. There will be 2 hours evenly divided. I say to the Senators, if you are opposed or for the Gregg amendment No. 3673, which would cap noneconomic damages in OB/GYN medical malpractice lawsuits, if Senators want to speak on that, we are on it now, with 2 hours evenly divided. Hopefully, we can reduce that time. I ask Senators to please come to the floor if they want to speak.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from New Hampshire is recognized.

AMENDMENT NO. 3673

Mr. GREGG. Mr. President, I appreciate the courtesy of the chairman of the Agriculture Committee. I will speak on our amendment dealing with

how we get more doctors to be able to care for women in rural communities. We have a real crisis in rural America today. There is a significant shortage of doctors who deliver babies. This is purely a function of one fact, and that is that the trial lawyer bar has been so aggressive in pursuing doctors who deliver babies with lawsuits, they have essentially created a cost of liability insurance for doctors who deliver babies—OB/GYNs—that is so high that a doctor practicing in a rural community who is there to help women having children, deliver those babies safely, that type of doctor cannot make ends meet. That sounds unusual, but that is a fact.

In order for a doctor to generate enough income to simply pay the liability insurance, which is generated by the large number of lawsuits filed against doctors in this country by the trial bar, it is necessary for an OB/GYN—a doctor who delivers babies—to have a very large basically urban or suburban clientele. When you get into rural America and you don't have a lot of people per square mile, where you have people who work on farms and those farms take up a fair amount of acreage, then you don't have the population base necessary for these doctors to practice and generate enough income to pay the liability insurance.

What we are proposing in this amendment is a very narrow proposal. It doesn't say that doctors who are incompetent, or doctors who, unfortunately, make a mistake won't be sued. It doesn't say that at all. It simply says that in the area of rural America where we need to attract doctors so women have adequate health care, especially if they are having children, in those parts of the country—from the standpoint of population, a small part of the country—we are going to have a special consideration that allows doctors to be able to afford their liability insurance.

We are going to follow what has happened in the law that has been set up in Texas and California, two States which have confronted this issue of liability insurance for doctors and have come up with a plan that has alleviated the cost of the insurance so doctors are able to practice in those States. It essentially says that in the area of economic recovery, you can recover every expenditure, every loss you had, if you were injured as a result of malpractice on the part of a doctor delivering a baby in a rural area.

But in the area of pain and suffering, where so much of the huge awards occur, and where you have had these real decisions that have been in the numbers that are multiple millions, that won't happen any longer. We are going to limit recovery in the pain and suffering area to what has been the standard in Texas and California, which is \$750,000 per incident. The practical effect of this is very simple. It will mean doctors who wish to practice in rural America, who wish to deliver

babies for farm families and for other families who live in rural America will be able to pursue those practices and still make a living, something they cannot do in many parts of this country today, so women in these communities will not have to drive for miles and miles to get adequate health care, especially when they are having children.

I know in my State of New Hampshire, if you get north of the White Mountains, one of the prettiest parts of this world, we have a very difficult time attracting obstetricians. In fact, right now, I don't think there is anybody practicing obstetrics up there because of the fact the population base is so small it cannot support those practices at a level that allows doctors in that region to be able to pay their malpractice insurance. So women in that part of New Hampshire often have to drive all the way to Hanover, NH, to Dartmouth-Hitchcock, which is a superb hospital, or down to Laconia, which has a superb hospital. But they literally have to drive through the mountains 2 to 3 hours to get to those facilities. It can be extremely difficult in the middle of winter to drive those roads. In the summer, obviously, it is not fair to ask people to drive those long distances.

This is a very significant issue for rural America and for farm families in America. That is why I have offered it on the farm bill.

The other side of the aisle, for whatever reason—I know the reason, we all know the reason, the trial bar—has decided to resist this amendment aggressively. They have demanded we have 60 votes before we can adopt this amendment. They have basically said: We don't care that women in America who live in rural America are not able to get adequate health care. What we care about is the trial lawyer bar, and that is unfortunate. But that is a reflection of the politics of our time.

The single largest contributing group to the Democratic Party today is the Trial Lawyers Association. Those trial lawyers contribute to the Democratic Party for a reason: They want them to support their agenda. There is a *simpatico* there. Their agenda is supported essentially by the Democratic leadership in this Congress and in prior Congresses. The trial bar agenda includes not allowing any opening on the issue of limiting liability relative to doctors—any opening. Even something as reasonable as this which is so needed from the standpoint of health care policy, which is so needed from the standpoint of good care of children and mothers in a prenatal state, so needed in the basic fairness for American citizens is resisted, not because it is not a good idea but because they see it as an opening, a slight crack in that door of their ability to bring these massive lawsuits for other people who practice obstetrics across the country or for basically against the medical community generally. They do not want any crack

in that door to occur, even if the crack in the door is meant to give American women who live in rural communities, whose families work on farms, the opportunity to be assured decent health care, especially when they are in the process of having and raising a child.

It truly is unfortunate we have reached that point in this Congress where very reasonable public policy, which is to make it possible for more doctors to practice in rural America, is resisted in a knee-jerk way which has no relationship to making our country stronger, our people more healthy, and especially giving people who work in farm America a better opportunity to live a quality life, especially if they are having children.

This is not an attempt in any way to limit the ability of women who are having children and find there is some negligent event occurring as a result of a doctor's care to get a recovery. This amendment does not have that impact. Recovery is in here. It tracks what happens if you live in Texas. It tracks pretty much what happens if you live in California. So it is not an attempt to do some draconian effort to basically shut down lawsuits against doctors who may practice and make mistakes in rural America. Just the opposite. It leaves those lawsuits on the table. It makes them possible. It gives adequate and fair recovery that is allowed for people in two of our most popular States.

What it does do and what it is almost guaranteed to do is to bring more doctors into rural America.

It is interesting to look at the Texas experience because prior to Texas passing its law, which basically tracks this language, they had a very serious, basically a crisis in the area of having OB/GYNs practice in Texas. Now they have a massive backlog of OB/GYNs who want to move to Texas to practice. They actually have the opposite situation. They now have a situation where doctors see Texas as a good place to practice. So health care, for women especially of childbearing age, is improving dramatically because there are a lot more doctors available.

Their biggest problem right now is making sure the doctors who want to come into their State have the quality and ability to do the job right. So they have a big backlog now. That is a complete shift from what happened during the period prior to their passing the law. That applies to everybody, but in the OB/GYN area, they lost 14 doctors, 14 obstetricians during the period 2003, but since they passed their law, they have gained almost 200 obstetricians in the State. That is a big difference. That means a lot of people are seeing doctors who were not able to see them before.

We ought to give that same opportunity to rural America, generally, and especially to farm families. That is why I have offered this amendment.

It is not a big amendment in the sense of dramatic health care changes

for the world or for the United States, generally, but it is a big amendment if you are a woman whose family works on a farm and you want to have a child because—hopefully, if this amendment is adopted—you are going to be able to see a doctor without having to drive 4 or 5 hours maybe through a snowstorm, and that is important. It is important to that person, and it should be something we would do as a matter of decency and fairness and especially as a matter of good public policy relative to health care in this country.

I hope people will support this amendment. I understand the other side of the aisle wants to debate a little while longer. That is fine. I understand they want 60 votes. That seems highly inappropriate to me, but that was the agreement that was reached between the leadership.

As I said, I am not trying to stop this bill. It does seem to me there ought to be 60 Members of the Senate to stand up and say enough is enough; we have done enough kowtowing to trial lawyers on this issue. It is time to do something for the women who live and work in rural America and make sure they have adequate access to health care, especially to doctors who can care for them in those important and special years when they are having children.

Mr. President, I ask unanimous consent that the following Senators be added as original cosponsors to amendment No. 3673: Senator ALEXANDER, Senator ALLARD, Senator CORNYN, Senator CORKER, Senator DOLE, Senator HUTCHISON, and Senator VOINOVICH.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GREGG. Mr. President, I ask unanimous consent to have printed in the RECORD letters of support representing the following groups: The American College of Obstetricians and Gynecologists, the American Academy of Dermatology Association, the American Association of Neurological Surgeons, the American Association of Orthopaedic Surgeons, the American College of Emergency Physicians, the American Gastroenterological Association, the American Society of Cataract and Refractive Surgery, the American Urological Association, the Congress of Neurological Surgeons, the National Association of Spine Specialists, and the College of American Pathologists.

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

OFFICE OF THE PRESIDENT, DEPARTMENT OF OB-GYN, TUFTS-NEW ENGLAND MEDICAL CENTER,
Boston, MA, December 10, 2007.

Hon. JUDD GREGG,
Senate Office Building,
Washington, DC.

DEAR SENATOR GREGG, The American College of Obstetricians and Gynecologists (ACOG), representing 51,000 physicians and partners in women's health care, strongly supports your Amendment 3673 to H.R. 2419, the Healthy Mothers and Healthy Babies

Rural Access to Care Act. We commend your continued leadership and efforts to resolve the medical liability crisis facing this nation and to protect access to health care for our nation's women and children.

As you well know, the medical liability environment is driving good doctors out of practice or out of their home states. And when ob-gyns discontinue the practice of obstetrics, refuse high-risk patients, or reduce their surgical practice, women's health care suffers. This has been a problem in the rural areas of several states—including West Virginia, Ohio, Nevada, Missouri and Michigan—which had some of the highest base rate premiums for ob-gyns in the country last year.

Perhaps most troubling is the effect of the crisis on young physicians. A 2006 survey of doctors in their fourth year of ob-gyn residency, the last year before they enter patient care, confirmed that a state's liability climate has a powerful impact on where and how they will practice. A third of residents indicated they had been warned or advised to leave their current location because of liability concerns and nearly half were already considering limiting the type and scope of their practice. Residents named 7 states they would avoid altogether: Florida, Pennsylvania, New York, Nevada, Illinois, New Jersey and West Virginia.

ACOG is deeply committed to resolving the medical liability crisis and supports federal legislation to enact reforms such as the ones that have been so effective in Texas and California. ACOG supports, in particular, provisions in your amendment which would cap non-economic damages, limit the number of years a plaintiff has to file a health care liability action, allocate damages in proportion to a party's degree of fault, and place reasonable limits on punitive damages.

Your amendment is critically important to help solve the medical liability crisis. We urge the Senate to move quickly to enact legislation that will provide relief to physicians and ensure continued availability of quality health care for our patients.

Sincerely,

KENNETH L. NOLLER,
President.

DECEMBER 11, 2007.

Hon. JUDD GREGG,
U.S. Senate,
Washington, DC.

DEAR SENATOR GREGG, The organizations below are pleased to support Amendment 3673 to H.R. 2419, the Healthy Mothers and Healthy Babies Rural Access to Care Act. Thank you for continuing to highlight the crisis created for ob-gyns and all our specialties by unavailable and unaffordable medical liability insurance.

Clearly, America's medical liability crisis does not affect just one specialty or one type of patient, but we strongly believe that every attempt must be taken to pass legislation and raise public awareness of this crisis. We are fully committed to focusing the Nation's attention on the need to solve this crisis, and to work with you to identify a successful strategy that will help get comprehensive medical liability reform legislation signed into law.

If you have any questions, or need additional information, please contact Tara Straw.

Sincerely,

American Academy of Dermatology Association, American Association of Neurological Surgeons, American Association of Orthopaedic Surgeons, American College of Emergency Physicians, American College of Obstetricians and Gynecologists, American Gastroenterological Association, American

Society of Cataract and Refractive Surgery, American Urological Association, Congress of Neurological Surgeons, National Association of Spine Specialists.

COLLEGE OF AMERICAN PATHOLOGISTS,
Northfield, IL,
December 11, 2007.

Hon. JUDD GREGG,
Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR GREGG: As the United States Senate considers S. 2302, the Food and Energy Security Act of 2007, the College of American Pathologists (CAP), representing 16,000 board-certified physician pathologists, supports your amendment based on legislation you introduced, the Healthy Mothers and Healthy Babies Rural Access to Care Act, S. 244. Your amendment addresses the medical liability crisis facing rural obstetricians and the women they serve. It also represents a good first step towards comprehensive liability reform for all physicians.

Pathologists work closely with their obstetrician colleagues in caring for women's health care needs, including providing Pap tests and laboratory tests conducted on newborns. We witness the effects of exorbitant insurance costs on obstetricians in our own communities when they are forced to scale back their practices. In fact, an estimated 1 out of 7 obstetricians nationwide have stopped delivering babies altogether.

The CAP believes the medical liability crisis requires a national solution designed to help patients, not lawyers. Your amendment's \$750,000 cap on non-economic damages, which includes a \$250,000 cap for rural obstetricians, is a thoughtful reform that will help ensure that women have access to affordable quality care while preserving their right to seek redress in the courts.

Again, the College of American Pathologists supports your amendment.

Sincerely,

JOHN SCOTT,
Vice President, Division of Advocacy.

Mr. GREGG. Mr. President, I yield the floor and yield to the Senator from Colorado on my time.

The ACTING PRESIDENT pro tempore. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I thank Senator GREGG from New Hampshire for his amendment. This is a common-sense amendment, and I think it is entirely appropriate to have it on the agriculture bill because it is one that will make a difference in rural America.

I support the amendment which is called the Healthy Mothers and Healthy Babies Access to Care amendment, that contains measures for targeted liability reform directed at curtailing the number of frivolous lawsuits that are filed every year against obstetricians and gynecologists, especially those in rural areas, such as many parts of my State of Colorado.

This amendment would help those who are in the business of protecting our mothers and children. The OB/GYN community has seen more litigation in the past few years than any other health care profession. The Medical Liability Monitor estimates that medical malpractice rates for OB/GYNs have increased as much as 500 percent between 1999 and 2004 for certain areas of the country. In 2004 alone, there was an in-

crease of about 130 percent in areas that did not have liability protection.

Every year, fewer and fewer OB/GYNs are entering the health care industry, and every year more and more of them leave their practices behind and leave their patients without access to health care or diminished access.

What does it say that OB/GYNs are afraid to practice their professions, as my constituents have expressed to me? We need to cut down on the frivolous lawsuits against OB/GYNs so they can get back to taking care of mothers and sisters and daughters and wives in rural areas.

The Gregg amendment would provide for unlimited economic damages and provide a stacked cap model that would keep noneconomic damages at or below \$750,000. The \$750,000 cap stacked model would provide that there would be up to \$250,000 from a decision rendered against a health care provider, \$250,000 from a decision rendered against a single health care institution, and \$250,000 from a decision rendered against more than one health care institution for each or \$500,000 for all.

Those of you who come out of more urban areas may say that does not seem like much. But if you are a practicing physician in a rural area or a hospital in a rural area, \$500,000 is a lot of money. If you have a large metropolitan hospital, it is chump change, but in rural America, it does make a difference.

It also provides punitive damages to be the greater of twice the economic damages awarded, or \$250,000.

This amendment also guarantees that lawsuits are filed no later than 3 years after the injury and extends the statute of limitations for minors injured before age 6.

This language also intends to maximize patient recovery of payment by focusing on attorney payment regulations. It also establishes standards for expert witness rules, promotes fairness in the recovery of health benefits, and it attempts to prevent double recovery.

This language also raises the burden of proof for the award of punitive damages and protects providers from being a party in liability suits for FDA-approved products.

Last, it keeps a focus on the patient by attempting to curtail frivolous lawsuits.

In my State of Colorado, tort reform laws were enacted beginning in 1986. At that time, I happened to have been in the State legislature and carried much of the legislation that brought about a tort reform agenda for the State of Colorado.

Colorado created caps for non-economic damages. They are considered to be among the most reasonable in the country. Frankly, many OB/GYNs see the tort reform laws in Colorado as beneficial to their practice and cite this as a reason to move their practice to Colorado.

However, although they find practicing in Colorado to be preferable,

problems for OB/GYNs still exist in our rural areas. That is why I am here to support the Gregg amendment, even though in Colorado we have done a lot to try to reduce the burden of frivolous lawsuits it has little impact because practitioners in the rural areas have to go into our neighboring States and practice in those neighboring States. As a result, they get impacted when they go over to those States, even though we have a favorable environment in the State of Colorado.

It is not always easy to get across a mountain in a snowstorm, such as we had in the last few weeks, so you go to patients in Utah, for example, or maybe New Mexico, if you are on some of the border communities.

Many physicians who serve in most rural areas of Colorado live in towns bordering other States. Because of the reduction in the OB/GYN workforce, it is now necessary for them to travel to patients to ensure mothers in rural areas receive treatment. It often involves crossing State lines so they may serve patients in rural areas of Wyoming, Nebraska, Kansas, Oklahoma, New Mexico, Arizona, and Utah. They are all neighbors of the State of Colorado. In many cases, the laws in these States do not protect the physician to the extent those in Colorado do and at the very least increase costs for physicians.

Rural patients in this country need access to care and treatment, plain and simple. If we continue to let trial lawyers create an environment where physicians cannot afford malpractice insurance, we run the risk of leaving our rural mothers without access to the doctors they need. So even though we have favorable tort reform provisions in Colorado which help reduce frivolous lawsuits, our neighbors do not, and it is having an impact especially in the rural communities of Colorado that border our neighboring States. The fact is, it makes it more difficult to attract doctors who want to practice obstetrics in those small communities.

In Texas, a good example where the legislation most recently went into effect, amazing things have happened since September of 2003. They have added nearly 4,000 doctors, insurance premiums have declined, and the number of lawsuits filed against doctors has been cut in half. I absolutely believe a focus needs to be made on liability lawsuits, especially in the area of OB/GYN practice. And we saw similar results when the legislature of the State of Colorado passed legislation reducing the liability burden that is brought by frivolous lawsuits. So I have seen it happen in my own State as well as the State of Texas.

I will continue to do my best to ensure that women and their children, especially those in rural areas, have access to quality health care and that frivolous lawsuits do not continue to line the pockets of the plaintiff's bar. For these reasons, I lend my support to Senator GREGG as we move forward on the passage of his amendment.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mrs. BOXER. Mr. President, I ask unanimous consent to have 10 minutes from the opposition's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized.

Mrs. BOXER. Mr. President, I was listening to this debate and was looking forward to these amendments on the farm bill, and all of a sudden I am hearing about pregnant women, and having babies, and suing doctors, and I am thinking: What bill are we on? Why on Earth do we have an attack on women in this farm bill? And it is an attack on women in rural areas when you say we are going to have tort reform and we are aiming it at the women in rural America because we don't like the fact that they may sue if there is malpractice.

Men often say, well, they are doing things to help women. Watch out when that happens. Men come to this floor and say: Oh, we are going to take care of the women. This doesn't take care of women. This puts them at risk. And they say: Oh, many more doctors will come to work in the rural areas if we limit liability.

But look at Texas. What my friend from Colorado mentioned about Texas is untrue. We have the statistics. There are no more doctors in rural Texas after they passed this bill. What has happened is that women have had their rights taken away from them.

Now, again, my friends on the Republican side couch this as an attack on the trial lawyers. Oh, the trial lawyers are evil, and all that. Watch out when people say lawyers are evil because when they are in trouble, the first thing they do is call the best lawyer in town. I have seen it myself, right here in the Senate. So watch out when you see a blanket attack on all lawyers. I have to tell you, when a Member on the other side gets in trouble, the first thing they do is call the best lawyer in town, but they want to take away the rights of women to sue in a tragic situation.

There are numerous examples that I can talk about, but one example came to my attention for these purposes, just to show people on both sides of the aisle some of the terrible things that do happen in these childbirths.

I am a grandmother, twice, and I have to tell you that in both cases— and even when I became a mom, twice—all very difficult; premature births, problems, long labors, concerns, breach babies. These are hard and difficult things. And OB/GYNs are my heroes. They are my heroes. Doctors are my heroes. But doctors make, sometimes, terrible errors, and they have to be held accountable or they will just go on and do it again and again.

Now, why would we, on a farm bill, attack the women of rural America and take away their rights? Let's talk about this particular case of Donna

Harnett. She happened to be in Chicago. Her doctor decided her labor was not progressing quickly enough, so he prescribed a drug to help induce more contractions. Later, when her labor was not progressing, her doctor broke her water, found it was abnormal, and rather than consider a C-section, the doctor decided to continue to administer the drugs in hopes that the labor would progress.

Six hours later she had not delivered. Her son's fetal monitoring system began alarming, indicating the baby was in serious respiratory distress. The doctor finally decided, after all those hours, it was time to perform an emergency C-section, but it was another hour before Donna was taken into the operating room. During that time, the doctor failed to administer oxygen or an IV to help the baby breathe. After the baby was born, he remained in intensive care for 3 weeks, and she later learned he had suffered substantial brain damage and cerebral palsy as a direct result of the doctor's failure to respond to indications of serious oxygen deprivation and delivery in a timely manner.

In addition to all that, her doctor told her not to have any more children because she had a problem with her DNA, indicating the fact that the child was disabled was in her DNA. And, he said: Any of your future children would similarly have mental and physical disabilities.

Clearly, he was protecting himself in that situation and putting the blame on her. Since then, Donna has given birth to three healthy sons.

She sued the doctor responsible for Martin's delivery, and she received a settlement. That settlement is helping her cover the costs associated with Martin's care that are not covered by health insurance, such as the used wheelchair-accessible van she purchased for \$50,000 and the \$100,000 she spent renovating her home to make it accessible for her loving son. Martin is now 11. He will be at risk for health complications, including a terrifying incident in August when he almost bled to death because his trachea tube had rubbed a hole through an artery. But he survived, and he is able to laugh and to love and to attend school in his community.

Now, how would she be able to afford to take care of Martin if she wasn't able to have justice? Donna said:

If there had been caps on the recovery system when my son was injured, it would have torn our family apart and Martin would be in an institution. Instead, he is able to live at home with us where we can take care of him and make sure he is happy.

Why on Earth do Senators in this body want to tell a woman like that: Too bad, no help, sorry. It is wrong. I have seen it in my own State. It is wrong. It tears families apart. Everyone here says: Oh, we are so family friendly. We have family values. Well, I would like to think we have family values that extend to a woman such as

Donna, to a mother such as Donna, to a loving family such as her family, who, yes, wanted to buy a van so it was possible for her to take her son in and to give her son a decent life.

You know, I don't want to be a party to a Senate that would tell a woman such as Donna that she is just going to have to suffer for the mistakes of a physician. And let me be clear: I am a fan of physicians. I trust doctors. But, yes, they make mistakes. And when they make mistakes, they have to be held accountable, just as we all do if we are driving and we make a mistake. To put a cap on this and tell a woman such as Donna: Sorry, your son is your problem, when, in fact, the problem was created by medical malpractice, is an outrage—an outrage.

Anyone who votes for this amendment is saying to the women in rural America: You don't matter. So they can couch it as an attack on trial lawyers, they can do that all they want, but it is about the woman, the mom, who has been mistreated in this fashion.

If we want to deal with issues such as malpractice insurance, count me in. If we want to make sure some made-up case is thrown out of court, I am with you. And, by the way, there are already laws to cover that. But don't come here and say how wonderful you are being to the women of rural America by imposing a cap on what they could collect when they are damaged, when they are made sterile by a mistake, when a child gets brain damage because of a mistake, because of a mixup. That is not right.

And don't say: Oh, it is worth doing because you will get more doctors to come into rural America. It isn't happening. The Texas statistics are there, and I will share them with you. In 2003, when Texas passed its law, 152 Texas counties had no obstetrician. Today, 4 years after passage, the number hasn't budged, with 102 Texas counties having no obstetrician. The fact that some rural counties lack OB/GYNs is not a function of malpractice premiums. It is a function of population. The doctors practice where the patients are. So anyone who stands up here and says: Oh, this is great because so many more doctors will come into rural America, the facts don't show that.

I can tell you because now that I am of the age of a grandmother, where I see so many of these births with my friends' kids, I can tell you that these births are complicated. We want the best people taking care of our women, whether they are in rural America or urban America or wherever they are. And if there is a tragic mistake, such as the one I related to you—a doctor just ignoring what is happening to the patient, refusing to do a cesarean, depriving the child of oxygen, and then turning around and telling the mother: Oh, it is your fault, it is in your DNA, it wasn't anything I did—and then going and telling a jury, well, even if you find in favor of this woman, you

cap what she can get—You are consigning that family to a life of tragedy, because the mother in the case I talked about wouldn't be able to have the people in her home to help her with her son. And she had three other healthy babies. How dare that physician try to pin his malpractice on her, tell her she better not have any more kids. She had three more healthy kids.

So I stand here, Mr. President, as a Senator but also as a mom, having had two extremely difficult births, where the doctors I had, the same practice for both my kids, were wise, they were strong, they were smart, and they handled it right. Having seen my own family experience difficult births, I can tell you that you want the best handling it. You don't want to put a cap on damages so that people who are less than the best can go into this area and think: Well, I am protected. If I make 10 mistakes, I can afford it because there is a cap on it. So big deal. Disaster.

And to do this on the farm bill, it borders on the humorous, if it wasn't so serious. Maybe we want to have an amendment about birthing calves on the farm bill or something like that. But what are we doing here? Taking an amendment that doesn't belong here and saying rural women are going to be picked on. That is what they are doing. I am just in disbelief that this is even before us. I hope we have a very strong "no" vote and put this baby to bed, because this comes up again and again.

As I say, in my own State, I have met with parents who are just at their wits' end because of this travesty and they have a one-size-fits-all cap. I have met with parents whose child was born, there was malpractice, and the child is blind, the child is deaf, the child is sitting in a wheelchair. The mother and the father love that child. They are driven into poverty because the insurance will cover just so much.

We say we are for families? How can we say we are for families and mean it and then tell the women of rural America: Too bad, you cannot get what you deserve if a doctor makes a tragic—indeed, an unbelievably tragic—mistake. You have to care for a child for the rest of that child's life in the most loving way you can, but we are going to put a cap on what you are going to be able to spend on that child.

This is not the America I know. This is not a farm bill that should be turned into tort reform, some ideological quest by some of our colleagues. This is not an attack on lawyers; this is an attack on women.

I thank you for the opportunity to speak against this amendment, and I am looking forward to voting against it.

I yield the floor and suggest the absence of a quorum and ask unanimous consent that the time be equally divided until we go to the next speaker.

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

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I rise to speak in favor of the amendment that is pending because I do believe that if we can have some malpractice reform, we can get more OB/GYN doctors, pediatricians, and doctors in general, in our rural areas.

As I travel in my State, I hear the complaints, and have for the last number of years, about lack of health care in our rural areas. It is one of our largest issues in this country today. I want to talk a little bit about our situation in Texas because the amendment before us is modeled somewhat on the law that did provide medical malpractice reform in Texas.

Before 2003, according to the Texas Department of Health, 158 counties had no obstetricians, 24 counties had no primary care physicians at all, and 138 counties had no pediatricians. Texas ranked 48 of the 50 States in physician manpower for our population. Why were we having such trouble? Because the cost of providing health care before 2003 was unsustainable, largely due to increased litigation activity which drove the medical malpractice insurance rate so high that doctors were being driven out of Texas. In fact, the insurance companies also left Texas because the claims were so high.

In 1991, Texas averaged 13 claims per 100 physicians. By 2000, Texas averaged 30 claims per 100 physicians. Of these claims, there was a disproportionate growth in noneconomic damages, damages such as pain and suffering. It was this growth, in contrast to awards of economic damages such as lost wages and medical care costs, that really spurred the increase in the medical malpractice premium. In 1991, non-economic damages averaged 35 percent of total verdicts. By 1999, they averaged 65 percent. So the noneconomic damages—the pain and suffering damages—really doubled just in that 8-year period, not even taking into account the economic damages, which are certainly warranted damages when there is any kind of malpractice.

From 1999 to 2003, the average malpractice premium increase in Texas was almost 74 percent. The Texas Medical Liability Trust, which covered about one-third of the State's doctors in 2003, increased rates by 147.6 percent between 1999 and 2003. We are talking 4 years. In the Rio Grande Valley, physicians in general surgery and OB/GYN practices ranked sixth and seventh in the Nation for the highest premiums in 2002. The impact of litigation on Texas's health care system was undeniable and unsustainable.

Medical liability reform came about in 2003. There were bold changes in the tort system in an attempt to restore access to care. We have seen a dramatic change.

According to the Texas Medical Board, physician applications for State licensure have doubled from 2003 to 2007. The Texas Medical Board reports that since passing liability reform in Texas, Texas has experienced a gain of 195 OB/GYNs, 505 pediatricians, 169 orthopedic surgeons, 554 anesthesiologists, 36 neurosurgeons, 497 emergency medicine physicians, and 37 pediatric cardiologists. Prior to reform, Texas had five liability carriers. Since reform, Texas has added 3 new rate-regulated carriers and 13 new unregulated insurers. The five largest insurers announced rate cuts in 2005, with an average premium reduction of 11.7 percent. These reductions produced \$48 million in annual premium savings.

Medical liability reform does work. We have attempted, on the floor of the Senate, for many years to have a national medical liability reform, even just focusing it on OB/GYN doctors and emergency room doctors because there are shortages all over the country of these kinds of services. There are shortages of physicians who are willing and able to perform these services because of the high medical malpractice insurance rates.

Everyone in our country, and certainly in the Senate, wants to make sure that if there is a medical error that causes an injury to a baby, to a mother, to anyone who is getting health care, certainly there should be penalties. There should be payment for economic damages. There should be payment for loss of wages and payment for pain and suffering. But if you have lawsuits where the pain and suffering start driving it rather than the economic damages and it starts to encroach on the ability of doctors, even if they have a clean record, to afford the rise in liability premiums, then I think we have to take a look.

It is particularly acute in our rural areas, where we have so many farmers, which is, I am sure, why Senator GREGG brought forward this amendment. I think it would be a great amendment to the farm bill to provide better access to health care for our farmers in this country. That is why, I am sure, Senator GREGG chose this bill, because we have not had the opportunity to address medical malpractice reform since we made the attempt last year in the Senate, which was utterly unsuccessful, to be honest.

Because the problem has gotten worse in many States and because the record in Texas after medical liability reform has caused so much better care, more access to care, and more satisfaction with care in Texas since the reform, I would like to see that model able to be reproduced around our country and especially in our rural areas, which is the subject of the bill before us today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I oppose the amendment offered by Senator

GREGG, among others. It is certainly not within the jurisdiction of the Senate Agriculture Committee, on which I have the honor to serve, but is within the jurisdiction of the Senate Judiciary Committee, which I have the honor to chair. It is something that should be looked at there. It would be like putting a Defense amendment on the Agriculture bill.

But far worse than just the question of where the jurisdiction is and why this amendment makes no sense here, it would limit the legal rights of what rural women and children are eligible to receive when they are severely injured in our health care system. It does not provide protection for rural women and children. In fact, it leads to a lower standard of care by treating them differently than all other patients in the country. I am certainly not going to vote for something like this and go home to my State, which is a very rural State, and tell the women and children: I voted to make you a second-class citizen. The amendment will overturn our State laws regarding the statute of limitations. It would limit the legal rights of our most vulnerable citizens.

I am always surprised at the other side when I hear, depending on what the issues are: We have to protect the States. We have to protect our State laws. We can't have the Federal Government trample on the State laws. However, if it is something the major insurers want: Of course we will override State laws concerning the statute of limitations, we will limit the legal rights of our most vulnerable citizens.

Nothing remotely related to this novel legal treatment of severely injured rural women or children has even been debated or discussed in the Judiciary Committee. I suspect because nobody would take it seriously if you said we have to protect insurance companies, so we have to cut the legs out from under rural women and children.

The amendment does nothing to protect rural victims of medical malpractice. It does nothing to prevent the serious injuries of malpractice in the first place. Caps on damages, such as the one in the pending amendment, would arbitrarily limit the compensation that the most seriously injured patients are able to receive. This says nothing of what it does to State legislators, which is trample State legislators by telling them that an amendment debated for a matter of minutes on the floor, in our judgment, is so much better than the laws of your State.

The central truth of the troubles of malpractice insurance is that it is a problem in the insurance system and industry, not in the tort system. High malpractice insurance premiums are not the direct result of malpractice lawsuit verdicts. There have been enough studies to prove that conclusively. Rather, they are the result of investment decisions by the insurance companies that resulted in business

models geared to ever-increasing profits, as well as the cyclical hardening of the liability insurance market.

Instead of blaming lawyers or, worse yet, blaming the victims of medical malpractice, we should look at the special treatment Federal law currently bestows on the insurance industry. They have a blanket exemption from Federal antitrust laws. Most people don't realize that. We assume the law applies to everybody in this country, but antitrust laws do not apply to these insurance companies.

Our antitrust laws for everybody else are the beacon of good competition practice, and when our antitrust laws are followed, consumers benefit. How? They get lower prices, they get more choices, and they invariably get better services. But when the insurance industry operates outside of the structure of antitrust laws, and they do not have to face any competition, then they are allowed to collude and they can set rates. When they do, our health care system, our physicians and our patients all suffer.

Earlier this year I introduced the bipartisan Insurance Industry Competition Act, S. 618, along with Senators SPECTER and LOTT and REID and LANDRIEU. It would assure that malpractice insurers and others could not artificially raise premiums and reduce benefits through collusion. This is a responsible solution to ensure competitive pricing—putting the burden on rural victims of medical malpractice is not.

If you were to try to put the burden on the rural victims, the women and children of rural America, for somebody else's medical malpractice, that is not the way to solve the problems.

Arbitrarily capping damages available to rural women and children does nothing to solve the flawed medical malpractice insurance market. It is a boon to companies that operate outside the antitrust system and can collude to set rates anywhere they want.

I would suggest we do a thoughtful, collaborative consideration in the Judiciary Committee where this discussion belongs, get a sensible solution that is fair to patients and can support those in our medical profession who want to practice quality health care.

This partisan amendment does not do this. It is not designed for a creative solution to a serious problem. Anyone who wants to vote for it, I hope they are prepared to go home and tell their State legislature: We walked all over you in hobnailed boots, you are irrelevant, we are the Senate. One hundred people here know far better than the legislatures in all your States.

That is not the way to do it. That is not the way to bring things about. So if you want real consideration of this, let's do it along with raising the issues of why should the insurance companies be able to collude, why should they be outside the antitrust laws, why should they be able to meet behind closed doors and do whatever they want to set our rates? That is what I ask.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise in support of Senator GREGG's amendment. This is a frustrating issue because there are many factors that contribute to the lack of physicians who serve rural areas of America. We cannot escape the fact that rural areas of America are hard hit by this, especially by a critical lack of OB/GYN physicians.

We have an opportunity to try to address that problem. The cost of providing service in those areas is disproportionately high, in large measure, because of the cost of our liability system.

We can argue what the best way is to address the cost of the liability system. It might be easy to blame insurance companies, but there is no question we ought to look for commonsense approaches to deal with this problem; otherwise, we are not going to increase the coverage and the number of physicians who are practicing in rural America.

We have heard about the impact of State regulation from Senator HUTCHISON, who spoke about her experience and her State's experience. Many States have taken action to put commonsense controls in place on the overall cost of the liability system, by not limiting physical or economic damages for those who are harmed in malpractice cases, but by simply putting commonsense limits on noneconomic damages.

There are many States that have taken this approach, and it is important to note this amendment would not affect those States that have enacted their own set of laws. This amendment targets States that have made no attempts to address the problem. It targets rural areas of the country where it is most needed, to help those rural areas get better access, better service, to OB/GYN physicians.

While it may be frustrating, as Senator LEAHY noted, to see an insurance company that has made a bad investment decision—I am not happy about that, he is not happy about that, that it might have an impact on insurance costs—it is far worse to look at a rural part of America, a rural county, a rural city, a rural town, that has no access to the health care physician services it needs because of spiraling liability costs in the system.

I think this amendment is a good-faith effort to begin to address that problem.

AMENDMENT NO. 3822

Mr. President, I wish to take another moment to address a second amendment Senator GREGG has offered. It is amendment No. 3822.

Mr. President, in the last few days, the morning temperature in Manchester, NH, has been about 8 degrees; home heating oil costs are \$3.27 per gallon. These are simply the cold, hard facts of winter in New England, 8 degrees and \$3.27 per gallon.

As we continue debate this week on a comprehensive energy bill, I hope we keep those numbers in mind. I hope we take a hard look at programs such as LIHEAP, low-income fuel assistance, that can make a difference for families in New Hampshire and across the country.

The Federal Government has limited power to have an immediate impact on energy prices, whether it is a gallon of oil or a gallon of heating oil or natural gas that might heat hospitals. Congress is in a poor position to have an affect on the laws of supply and demand, but we can help those who are most in need during a tough, cold winter; that program, as I indicated, is LIHEAP.

Simply put, LIHEAP funding works. It is administered by the States and local agencies that know and understand the people who need the assistance, and they deliver it in a very effective way. Congress passed the precursor bill to LIHEAP back in 1980, and in 2006, we allocated over \$3 billion for LIHEAP.

Last year, under the continuing resolution, LIHEAP funding was roughly \$1 billion less, and, unfortunately, the Department of Health and Human Services has only been able to release 75 percent of each State's allocation.

I know the Presiding Officer, Senator SANDERS from Vermont, has worked on this issue. We signed letters together in the past, letters addressed to President Clinton, letters addressed to President Bush, letters addressed to conferees and appropriators.

Now we have in front of us an amendment offered by Senator GREGG, and one offered by Senator SANDERS as well, that would try to address the problem by adding to this farm bill nearly \$1 billion in additional funds for LIHEAP.

If we look at some of the unnecessary funding in this farm bill, it becomes clear to Americans that we absolutely have the resources and the capacity to make those allocations under the current budget framework.

I am pleased to join Senator GREGG as a cosponsor to his amendment that would appropriately fund this program. This has been a bipartisan issue, both in the House and in the Senate. I have worked with colleagues on both sides of the aisle to make this kind of funding a reality, and I think it is a tribute to LIHEAP that the program has been able to maintain bipartisan support through the years.

We are pursuing a number of different ways to add these critical LIHEAP funds to this farm bill, as well as any appropriations legislation we consider in the coming week, and, quite frankly, the people at home do not care how we go about it. They understand it has been awfully cold in New England the past week, and heating oil still costs well over \$3 per gallon.

We need to get the job done. I am pleased to support the amendment and I hope it is adopted by my colleagues.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I rise today to talk about the rural access to care amendment sponsored by Senator GREGG. It is amazing in a State such as New Hampshire, that could not be more different than the State I reside in, Tennessee, that we have a very similar problem.

I commend his efforts on this agriculture bill, one that affects so much of rural America, to, in a very surgical and thoughtful way, deal with the issue of access to care.

As you might imagine, I spent an inordinate amount of time, in the 2 years prior to being here, in all 95 counties in my State. What was most stunning was to see the statistics and talk to young women as it related to their access to obstetrical care.

The fact is we have 91 of 95 counties in our State that are considered to be rural counties. The number of OBs in those rural counties from 1997 to the year 2003 dropped from 179 OBs to 103 during that period of time.

In our State, more than 30 of our 95 counties have very inadequate access to obstetrical care. In 15 of those counties, we have no obstetrical access. I know the Senator from Vermont, the senior Senator, talked a little bit about the insurance companies and the role they have played. I respect greatly his views and certainly his knowledge on this subject.

But what I found was this: We have young mothers-to-be in our State who lack the ability to access OB care because of the fact that malpractice insurance costs so much in that particular field of care, and, therefore, they have been driven out, if you will, of the rural counties in the State of Tennessee.

The fact is this amendment only focuses on rural counties. It only focuses on OB care. It does not in any way affect those States that have chosen to go ahead and address this issue themselves. I wish to applaud him in being so thoughtful and so surgical in his approach to this very pressing issue that, if you will, pits these young mothers-to-be against those who are against any kind of malpractice caps.

The fact is this only addresses non-economic damages. It does not in any way affect economic damages. It does not keep families from getting the most complete care necessary if something bad were to happen. I fully support this. I wish to thank Senator GREGG for offering this amendment. I urge my colleagues to support it also.

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

Mr. HARKIN. If the Senator would suspend, I wish to ask how much time is remaining on this amendment.

The PRESIDING OFFICER. The majority has 36 minutes 48 seconds, the minority has 20 minutes 40 seconds.

Mr. HARKIN. I assume in a quorum call the time is taken from both?

The PRESIDING OFFICER. Only by consent.

Mr. HARKIN. If the quorum call is put in now, might I ask the Chair to whom does the time run against?

The PRESIDING OFFICER. It is charged to the Senator who makes the suggestion there is an absence of a quorum.

Mr. HARKIN. Mr. President, I think it is only fair to ask unanimous consent any time under this quorum call be equally allocated to both sides.

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

Mr. HARKIN. We have a little over half an hour of time left on this side, about 20 minutes on the other side on this amendment. For those Senators, this is the medical malpractice amendment by Senator GREGG from New Hampshire. By consent, we had 2 hours of debate. The clock is running. If any Senators wish to speak on this amendment, they better hurry over here.

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

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

Mr. DURBIN. Mr. President, I rise in opposition to Gregg amendment No. 3673. He has entitled this amendment the Healthy Mothers and Healthy Babies Rural Access to Care Act. The reason it is called "rural access to care" is so he can fit it into the farm bill because it doesn't have much, if anything, to do with the farm bill. It is a bill related to medical malpractice. It is an issue which Senator GREGG dutifully brings before the Senate as often as possible. I respect him for his point of view. I disagree with his point of view. But I think it must be clear to those who are following the debate what is involved in this bill and this amendment.

This is a farm bill that comes up once every 5 years. Senators HARKIN and CHAMBLISS have worked hard to put together a bill dealing with farmers and ranchers, nutrition programs, so many other items. Some on the Republican side of the aisle have insisted that is not enough. They want to bring in a lot of unrelated issues and debate them on the farm bill. They were given permission to do so, and Senator GREGG has done just that.

This amendment is important to understand. What Senator GREGG is saying is, there is one class of people in America who will be limited if they are victims of medical malpractice. This class of people in America who will be limited in recovering for the damages sustained by them and their family, this class of people that will be limited are the women of America. Women of America will be the only ones limited in recovering in court if they or their children are injured in childbirth. What is the justice in that? No limitations on men for prostate surgery but limita-

tions on women delivering babies? I don't understand his logic, and I don't think anyone, particularly if they happen to be a woman, can understand why he decided to single out women in America and restrict their recovery in court if they are innocent victims of medical malpractice. That is what he does.

The Senator argues that we have to address the high cost of medical liability insurance and the risk of being sued. That is the reason he wants to limit the right of women in America to go into a courtroom and argue they were either hurt or their children were hurt or killed in the course of childbirth.

He claims his amendment will help ensure that rural women don't have to drive long distances to see a "baby doctor." But it is interesting, this amendment is patterned after a Texas law that did not bring more baby doctors to rural areas. I am sure the Senator from Texas, who will speak after me, will address this.

In 2003, Texas passed its law. At the time it passed, there were 152 counties in that State without an obstetrician, no doctor to deliver a baby. Today, 4 years after the passage of this Texas law limiting the right of recovery for women who were injured as a result of malpractice, the number has not changed. In Texas, 152 counties still have no obstetrician.

The fact that some counties don't have an obstetrician may not be as much about medical malpractice premiums as it is about population. According to the American Medical Association, the number of OB/GYNs nationwide has risen from around 39,000 in the year 2000 to over 41,000 in 2004. So there are more obstetricians practicing. But that hasn't changed the circumstances in rural Texas because the doctors who are practicing medicine involving the delivery of babies are practicing in cities and suburbs. The Gregg amendment doesn't even address that reality.

Supporters of proposals such as the Gregg amendment like to argue that escalating malpractice premiums justify their effort to limit the right of patients who have been injured to seek compensation. We have had this argument before over several years. There is no doubt about it—and I don't argue—medical malpractice premiums went up dramatically. But as so many States have addressed this issue, we have seen a change.

During the third quarter of 2003, malpractice premiums were 28 percent higher than the year before. But by 2004, malpractice premiums increased only 6 percent. In 2005, they did not increase at all. In 2006, they actually dropped 1 percent. In 2007, they dropped 3 percent. Malpractice premiums are going down. Yet Senator GREGG or another of my colleagues on the other side of the aisle dutifully offers this amendment or some variation of it every year without acknowledging the real changes taking place.

Despite all the talk about frivolous lawsuits being filed against medical professionals, medical malpractice payments by insurance companies have remained steady when adjusted for medical inflation. And the number of paid medical malpractice claims per physician in America has actually declined. According to the Kaiser Family Foundation, the number of paid malpractice claims for every 1,000 physicians decreased from 25.2 in 1991 to 18.8 in 2003.

Malpractice premiums are going down. The number of claims being filed per physician is declining. The number of paid malpractice claims is going down significantly.

But even if malpractice premiums were still going up—which is not the case—the Gregg amendment does not require insurance companies to lower them. The Gregg amendment says: We will deny to women the opportunity to recover in court for injuries to them or their babies, and we are hoping the insurance companies will show mercy and reduce premiums as a result. There is no linkage between the Gregg amendment and actually bringing down malpractice premiums.

This amendment limits the damages that can be recovered by victims. Keep in mind, these are victims who have legitimate claims in court. They are the ones Senator GREGG would deny recovery for the actual damages they have incurred.

Now, I will concede he allows some damages to be incurred—medical bills and the like. But he will even, I think, acknowledge there is a limitation on noneconomic damages of, I think—I read quickly through this—I think in this year's version it is \$250,000.

Now, if we want to turn this farm bill into a discussion on health care, the issue we should be focusing on is one I think we all agree has to be taken seriously. It is patient safety, medical errors. Dr. Carolyn Clancy, director of the Agency for Healthcare Research and Quality, has called medical errors by doctors and hospitals "a national problem of epidemic proportions."

Senator GREGG's amendment does not address this. He does not address one of the causes of injuries to innocent patients who go to a doctor for what are supposed to be routine medical procedures and have a very bad result. He does not address the medical errors that trigger medical malpractice lawsuits.

A far-reaching study of the extent and cost of medical errors in our hospitals was published in the Journal of the American Medical Association in 2003. The authors of the study analyzed 7.45 million records from about 20 percent of U.S. hospitals.

They found that injuries in U.S. hospitals in the year 2000—just 1 year—led to approximately 32,600 deaths, 2.4 million extra days of patient hospitalization, and additional costs of 9.3 billion. That did not include adverse drug reactions or malfunctioning medical devices.

The authors concluded that medical injuries in hospitals “pose a significant threat to patients and incur substantial costs to society.”

What does the Gregg amendment do about patient safety and medical errors? Nothing.

Here is what it does. It applies an arbitrary one-size-fits-all cap on non-economic damages in malpractice cases won by the patients. What are non-economic damages? Pain and suffering, disfigurement, physical impairment, and scarring. How do you put a price on that?

If a person is going to be incontinent for the rest of their life, if they are scarred in the face or another part of their body, if they are in pain and unable to function, is that worth something? In the mind of Senator GREGG, it is only worth \$250,000—no matter what. That is it. If your pain is going to be with you for a year, 5 years, 10 years, or 20 years—the same amount, \$250,000.

It would reduce the statute of limitations within which an injured patient can bring a lawsuit. It is more restrictive than the majority of the States in the Union, cutting off claims for injuries or diseases. If you do not file the claim on time, Senator GREGG says: Sorry. Bad luck. Sorry that this poor woman is not going to have a chance to recover, but that is the price she is going to have to pay for his reform.

It would allow a reduction of damage awards because of other health or accident insurance the patient might have. Imagine for a minute that you have been wise enough, thoughtful enough, to buy health insurance to cover yourself and your family. Your wife goes in to deliver a baby. The doctor makes a serious error. The wife is injured. The baby is injured, and the baby dies.

Now there are medical bills. Well, it turns out you had health insurance. According to Senator GREGG, we should give to the offending doctor or hospital credit for your wisdom in buying health insurance. In other words, they do not pay for the medical bills if you paid for them yourself through your own health insurance. Does that make sense? Is that fair that the hospital or doctor guilty of malpractice would profit because the victim had health insurance?

His amendment makes it harder for patients to pursue punitive damages, and it would limit how much can be awarded—even when a wrongdoer is found to have acted with malicious intent.

His amendment would allow insurers to string out damage payments over a long period of time, meaning the insurers could keep the interest on that money for themselves.

It would preempt State laws on lots of issues, including whether patients' insurance coverage affects payments, how soon victims are compensated, and, of course, statutes of limitations.

The amendment only applies to lawsuits involving OB/GYNs in rural areas.

Women living in rural areas are the ones on whom Senator GREGG has focused. They are the only group of Americans he wants to deny an opportunity in court for full compensation for their damages. I am sure the women of America will be grateful. I do not think, if they read this bill closely, they will believe it is fair or just. I do not.

Why would we want to treat rural mothers differently than those living in the suburbs or cities? This amendment is the wrong solution to the wrong problem on the wrong bill. Congress should not decide what injured patients should receive. We have a system called a justice system. We have judges, and we take an average group of people in America—your neighbors and friends—11 or 12, and they sit in the jury box to listen to the deliberations and decide what is fair.

I think that system has worked pretty well. And over the years, we have said we will allow the States to write the laws about how these lawsuits will be conducted. Over the years, there have been problems with malpractice premiums, problems with patient safety, and the States have responded to it, including my State of Illinois, by changing State law. I believe the majority of States have already changed their malpractice statutes.

That is the proper and appropriate way to approach this issue. Senator GREGG wants to federalize this. He wants to make it a Federal matter. He wants Congress to preempt the decisions of the States, and he wants his law to preempt the decisions of a jury. He believes his wisdom on what a person should be entitled to recover in a lawsuit should be trumping the wisdom of a judge and a jury.

I guess I have more trust in those judges and juries. They do not always come in and award for the plaintiff. Before I came to Congress, I used to handle these lawsuits. I spent a number of years defending doctors and hospitals, and a number of years suing them for medical malpractice.

They talk about frivolous lawsuits. I want to tell you, we fought long and hard before we took a case in my office involving medical malpractice. They are complicated and expensive and went on for a long time. I was not going to take a case that I did not think I could win. It was not fair to the doctor. It was not fair to the plaintiff. It sure was not fair to my family and my law practice. So we did not file anything we knew to be frivolous, just to make noise. We made a point of not doing that.

In this situation, for Senator GREGG to decide that a class of Americans—women in rural areas—are going to be denied their recovery in court, they are going to be treated differently—well, certainly this is a worthy topic for the Judiciary Committee and others to debate at some time about patient errors and medical safety, about malpractice and premiums. But to do it on a farm bill?

We just had a debate earlier about how much money we are going to give to people who grow asparagus. Yes, that was one of the amendments. Now we switch from that issue to a question about whether a mother who is giving birth to a child—where the doctor does not show up on time or does the wrong thing and the child is injured or dies—whether that mother can go to a court and receive compensation.

I think this is an amendment that should be defeated. I urge my colleagues to join me in voting against this amendment—to join me in supporting the basic concept that the States have been the source of statutory regulation of medical malpractice claims, to join me in saying it is not fair to pick out one class of people in America—in this case women living in rural areas—and to say they cannot have their day in court, to join me in saying we should be working together to reduce medical errors and make it safer to go to a hospital, make it safer to go to a doctor.

I respect the medical profession. I cannot tell you how many times in my life I have relied on a doctor or a hospital for care for a member of my family and was thanking God every moment that they were as good as they are, doing as much work as they do, having studied as hard as they did. But, please, this is a piece of legislation proposed by Senator GREGG which has not been thought through. It is not fair. It is not fair to the women who would be discriminated against by this legislation. It certainly is not fair to their families if a tragic consequence of medical malpractice means that a baby or a mother is going to be disfigured, face pain and suffering for a lifetime, to say that no matter how long it goes, no matter what happens, we cannot allow them more than \$250,000.

That, to me, is unreasonable. It is unfair. And it has no place on this bill. I urge my colleagues to defeat the Gregg amendment.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I express my appreciation to the senior Senator from New Hampshire for bringing this important amendment to the Senate floor.

We just heard from the distinguished assistant majority leader, who is one of the best lawyers we have in the Senate. But I want to offer a different perspective; that is, it does not do pregnant women a lot of good to be able to sue for unlimited damages if they are injured in a medical liability case if they cannot find a doctor to take their case or to deliver their baby.

Really, what this amendment goes to is, how do we increase access to health care and how do we deal in an area where I know there have been complaints that it only addresses pregnant women and their ability to find doctors? The fact is, if we could get agreement on the other side of the aisle, I think this should be extended to cover

all doctors and hospitals and all types of cases.

But, as the Senators know, there are issues of germaneness that mean there is only a limited ability to deal with a part of the universe of the problem, and that is why Senator GREGG has offered this legislation—which is called Healthy Mothers Access to Rural Care—on this particular bill.

This legislation, as Senator DURBIN noted, is modeled after recent reform efforts that have taken place in my State, my home State of Texas. I would like to talk a little bit about the dramatic improvements in access to care that this commonsense legislation has provided.

This is the subject of an interesting story in the New York Times, dated October 5, 2007. The title of the story—apropos of my comments a moment ago—is “More Doctors in Texas After Malpractice Caps.”

I would say to the distinguished Senator from Illinois, this is not about denying people access to the courts and recovery. There is unlimited ability to sue for and recover economic losses as a result of a medical liability incident. But it does place reasonable caps on noneconomic losses, specifically pain and suffering.

The good news is, we do not have to guess as to whether this approach works. We know because it has worked in that laboratory of democracy known as the great State of Texas.

As I mentioned, this article highlights some of the successes of this legislation passed a few short years ago in Texas. For example, it says:

In Texas, it can be a long wait for a doctor: up to six months.

[But] that is not for an appointment. That is the time it can take the Texas Medical Board to process applications to practice.

In other words, there have been so many doctors moving to Texas who want to get a Texas medical license because of these reforms that the number of doctors has increased dramatically, and, thus, access to care has increased dramatically throughout the State.

The article goes on to say:

Four years after Texas voters approved a constitutional amendment limiting awards in medical malpractice lawsuits, doctors are responding as supporters predicted, arriving from all parts of the country to swell the ranks of specialists at Texas hospitals and bring professional health care to some long-underserved rural areas.

This is particularly important, as the article says, in high-risk specialties such as obstetrics and gynecology and neurosurgery and other areas where it is hard to find doctors to come to practice because of skyrocketing medical malpractice rates.

Well, this reform, in Texas, 4 years ago, and what this amendment proposes are specifically designed to deal with those skyrocketing malpractice rates by providing some reasonable limits on recovery for noneconomic damages. It is fallacious to say it denies people access to the courthouse or recovery. It doesn't do that at all. This article goes on to say:

The influx, raising the State's abysmally low ranking in physicians per capita, has flooded the medical board's offices in Austin with applications for licenses, close to 2,000 at last count.

It was hard to believe at first; we thought it was a spike.

said Dr. Donald W. Patrick, executive director of the medical board and a neurosurgeon and lawyer. But Dr. Patrick said the trend—licenses up 18 percent since 2003—has held, with an even sharper jump of 30 percent in the last fiscal year, compared with the year before.

The article continues to talk about the experience of a pediatric neurosurgeon—a high-risk specialty:

Dr. Timothy George, 47, a pediatric neurosurgeon, credits the measure in part with attracting him and his long sought-after specialty last year to Austin from North Carolina. “Texas,” he said, “made it easier to practice and easier to take care of complex patients.”

Why would we want to make sure there are more pediatric neurosurgeons or specialists with that kind of ability and training and skills, to make that available to more children who need that skill? That is what this amendment would provide.

The article goes on to say:

The increases in doctors—double the rate of the population increase—has raised the state's ranking in physicians per capita to 42nd—

Up from 48th in 2001—according to the American Medical Association. It is most likely considerably higher now, according to the medical association, which takes two years to compile the standings.

The Texas Medical Board reports licensing—

More than 10,000 new physicians since 2003, up from roughly 8,000—

in the prior 4 years. It issued a record 980 medical licenses at its last meeting in August, raising the number of doctors in Texas to 44—

Almost 45,000—with a backlog of nearly 2,500 applications.

It is another example of people voting with their feet when we allow conditions to exist that allow doctors to practice their profession in a reasonable environment rather than appear as a victim of the litigation lottery. They are going to come, and more doctors—more high-risk specialties mean more patients are going to get access to the kind of health care they need.

We know the opponents of some of this have basically said: Well, people are going to be hurt if you limit non-economic caps. The fact is the people who are going to be hurt are the patients who are not going to be able to get the doctors. Of course, we can't forget our friends, the trial lawyers, who usually take 40 to 50 percent of every award in a medical malpractice case. I submit that is part of the resistance we have here, because trial lawyers who specialize in these kinds of cases don't want to get hit in the pocketbook. They don't care as much about access to health care as they do their own pocketbook.

In some medical specialties—

This article goes on to say—the gains have been especially striking.

For example, an increase of 186 obstetricians, 153 orthopedic surgeons, and 26 neurosurgeons.

This is the reason why physicians and health care providers have found it a better place to practice their profession and why access to care has increased as a result.

This article goes on to say there was an average 21.3 percent drop in medical malpractice insurance premiums, not counting rebates for renewal.

Justice requires that we embrace a national reform, particularly in light of the fact that the American taxpayer, the Federal taxpayer, pays roughly 50 percent of every health care dollar in America today. This is no longer an isolated issue that can be handled or should be handled State by State. We ought to look at the reality, and that is that we need a Federal and national solution too. We are doing fine in Texas because we passed this reform 4 years ago. But shouldn't we make sure that more Americans—particularly more pregnant women—have greater access to health care as a result of this commonsense reform?

As a matter of principle, those who have been wrongly injured deserve their day in court. No one is suggesting we ought to close or bar the courthouse door. If a doctor is at fault, he or she should be held fully accountable. But we should also at the same time take care not to destroy our health care system in order to protect unlimited damages and the lawyers who bring those lawsuits.

The Texas approach has proven successful. This bill would simply give the same boost to all Americans, particularly those most in need—particularly rural patients and more particularly pregnant women who need access to an obstetrician and gynecologist to take care of their baby. It would be a shame if our colleagues on the other side of the aisle continue to block, as they have done time and time again, commonsense reform legislation that is guaranteed and proven to give greater access to health care and doctors and to make sure all Americans have access to the best health care possible.

I urge all of our colleagues to stand up for better access to rural health care, particularly in obstetrics and gynecology, by passing this important amendment.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I wanted to speak for a few minutes on the Gregg amendment simply because I have unique personal experience with it. I am now somewhere close or over having delivered 4,000 children. The last one was an 8 pound, 9 ounce healthy baby, no problems that we know of. I also just signed a check to pay for my malpractice insurance,

which next year will come to about \$3,000 per baby I deliver—\$3,000 per baby, per case. Now, that is excessive because I don't deliver that many babies anymore. But on average, it is \$300 to \$400 to \$500 for every baby that is delivered in this country in terms of malpractice insurance.

Why is it important to fix this problem, not just for OB/GYNs but for all doctors? Well, there are a couple of reasons. The cost of defensive medicine today on the basis of the litigious aspect of medical malpractice causes us to spend \$600 per person per year on tests nobody needs, except the doctor needs to be able to say he went the extra mile in case they get sued. That comes to about \$150 billion a year of tests that were ordered. That doesn't include the cost of the malpractice insurance, which the year before last in Oklahoma rose 98 percent—a 1-year rise. There are significant problems with the tort system in Oklahoma that show the excessive costs. But more importantly, what about the women and children? The heck with the money. What about the women and children? What happens?

Well, we know we are not filling the spots for the OB/GYN residencies in this country anymore because you can't afford to pay the loans and get a job and earn enough and then pay for your malpractice to be able to pay off your loan and make a living. So people are opting not to go into obstetrics and gynecology. Why do they do that and what is the result of that? The result is we have fewer trained specialists to actually offer care. Who suffers the most—women in the large cities or women in the smaller rural cities? The reason this is offered on this bill is because it has tremendous direct application to the women who live in rural America. Access is denied. We are now talking an hour, 2-hour, 3-hour drives for OB care in Oklahoma because we don't have the available people who will do this service.

There are two other points I want to make as we consider this, thinking only about the women and children. One is that because of the tort system we have, if you are a woman who has a C-section—not because you can't physically deliver a baby, but because you had a sign that your baby may be in trouble—the next time you come to have a baby, there is an almost 80-percent chance that you could deliver that baby naturally, without having to undergo surgery. But because of the litigious environment, we now have hospitals all across the country that forbid vaginal delivery after cesarean section—not because it is that unsafe but because the risks associated with the procedure in terms of the legal consequences make it financially not a risk that hospitals want to take, let alone whether the doctor is capable of doing it and managing that patient at all.

So what does that mean? It means we expose women to a major surgical pro-

cedure, not because they need it but because the trial bar has forced them to do it. We are now making decisions not based on medical indications; we are making decisions based on legal implications. That is the wrong way to practice medicine.

Finally, the third point I will make is as we see this shortage of available obstetrical care in the rural areas, we say: We are going to give you care, but then we give you somebody who is great in terms of caring for you, and has some knowledge, and has some capability, but isn't a fully trained physician. We give you a nurse-midwife. But if you get in trouble, you are still going to have to have somebody come in. Well, what do we know about that? What we know is that time makes a significant amount of difference when we have a baby in trouble. So what we are going to do is we are going to continue to increase the costs of complicated deliveries, with children who get injured, when the whole goal of the tort bar in the first place was trying to prevent that, because we don't intercept and we don't interrupt a process that could have made a major difference in that child's life.

In my hospital, you can't deliver a baby unless you have the ability to do an operative procedure to handle every complication of obstetrics. But that is not true around the country anymore because we have decided we are going to do it in a less cost-efficient way.

Mr. President, I ask unanimous consent for 3 additional minutes.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. On both sides.

Mr. COBURN. I am happy with that.

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

Mr. COBURN. So our point is this: This isn't a perfect bill to be talking about this issue, but it truly has impact to our agricultural communities. They are the ones who live in the rural areas. What we have done is we have moved away from the ball where we now practice legal medicine, rather than medicine. We are offering a care that is not as good as what it could have been. We are putting women through procedures that they don't have to go through with a tremendous increase in cost, all because we can't say there ought to be some type of limitation so we can rebuild the medical structure.

If we really believe in women and children, we will grant the same equality in the rural areas that we grant around the rest of this country by making sure they have competent, well-qualified, certified obstetricians and gynecologists to take care of them at this great time of their life.

I yield the floor.

The PRESIDING OFFICER (Mrs. McCASKILL). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, how much time do we have?

The PRESIDING OFFICER. The majority has 17 minutes.

Mr. KENNEDY. I yield myself 10 minutes.

Madam President, I came over to speak on an extremely important issue dealing with the public safety of employer-employee cooperation.

First, I listened with interest to our colleagues talk about the issues of malpractice and the costs to the health care system. The fact is we have had in the Judiciary Committee extensive hearings on this issue, and the root cause of the increases are not so much the problems with the doctors and the patients, it is the insurance industry in and of itself that has made poor investments. As a result of poor investments, they have raised the tariff on the various doctors and communities. This has been well documented. I wish to have material printed at the appropriate place in the RECORD about these issues. It is a serious issue—malpractice insurance—but it is important that we find out the real reasons for that. It does appear to me we are not getting the full story, certainly here on the floor of the Senate this afternoon.

Today's vote on the Gregg malpractice amendment is a test of the Senate's character. In the past, this body has had the courage to reject the simplistic and ineffective responses proposed by those who contend that the only way to help doctors is to further hurt seriously injured patients. Unfortunately, as we saw in previous debates on this issue, congressional Republicans are again advocating a policy which will benefit neither doctors nor patients, only insurance companies. Caps on compensatory damages and other extreme "tort reforms" are not only unfair to the victims of malpractice, they do not result in a reduction of malpractice insurance premiums.

We must not sacrifice the fundamental legal rights of seriously injured patients on the altar of insurance company profits. We must not surrender our most vulnerable citizens—women and newborn babies—to the avarice of these companies. The idea of denying pregnant women living in rural areas the same legal rights as pregnant women living in urban areas is truly absurd. It is a transparent gimmick designed to make this amendment appear relevant to a totally unrelated farm bill.

This bill contains most of the same unreasonable provisions which have been decisively rejected by a bipartisan majority of the Senate many times before. The only difference is that previous proposals took basic rights away from all patients, while this bill takes those rights away only from women and newborn babies who happen to live in rural communities. That change does not make the legislation more acceptable. On the contrary, it adds a new element of unfairness.

This legislation would deprive seriously injured patients of the right to recover fair compensation for their injuries by placing arbitrary caps on

compensation for non-economic loss in all obstetrical and gynecological cases involving women in rural areas. These caps will hurt patients who have suffered the most severe, life-altering injuries.

They are the children who suffered serious brain injuries at birth and will never be able to lead normal lives. They are the women who lost organs, reproductive capacity, and in some cases even years of life. These are life-altering conditions. It would be terribly wrong to take their rights away. The Republicans talk about deterring frivolous cases, but caps by their nature apply only to the most serious cases which have been proven in court. These badly injured patients are the last ones we should be depriving of fair compensation.

A person with a severe injury is not made whole merely by receiving reimbursement for medical bills and lost wages. Noneconomic damages compensate victims for the very real, though not easily quantifiable, loss in quality of life that results from a serious, permanent injury. It is absurd to suggest that \$250,000 is fair compensation for a child who is severely brain injured at birth and, as a result, can never participate in the normal activities of day to day living; or for a woman who lost her reproductive capacity because of an OB/GYN's malpractice.

Caps are totally arbitrary. They do not adjust the amount of the compensation ceiling with either the seriousness of the injury, or with the length of years that the victim must endure the resulting disability. Someone with a less serious injury can be fully compensated without reaching the cap. However, a patient with severe, permanent injuries is prevented by the cap from receiving full compensation for their more serious injuries. The person with a life-altering injury may only be permitted to receive a relatively small portion of the compensation to which he or she is entitled.

The proponents argue that they are somehow doing these women and their babies a favor by depriving them of the right to fair compensation when they are seriously injured. It is an Alice in Wonderland argument which they are making. Under their proposal, a woman in a rural county whose gynecologist negligently failed to diagnose her cervical cancer until it had spread and become incurable would be denied the same legal rights as a man living in the same county whose doctor negligently failed to diagnose his prostate cancer until it was too late. Is that fair? By what convoluted logic would that woman be better off? Both the woman and the man were condemned to suffer a painful and premature death as a result of their doctors' malpractice, but her compensation would be severely limited while his would not. She would be denied the right to introduce the same evidence of medical negligence

which he could. She would be denied the same freedom to select the lawyer of her choice which he had. She would be denied the right to have her case tried under the same judicial rules which he could. That hardly sounds like equal protection of the law to me. Yet that is what the advocates of this legislation are proposing.

Consider another real world example of how this bill would work. A woman visits her OB/GYN to be treated for infertility. She is given a medication which causes her to experience severe complications. A man goes to his doctor with an infertility problem. His doctor also prescribes medication, and he too experiences serious complications. Both suffer permanent injuries as a result, and each sues the pharmaceutical company which manufactured the two drugs. The woman's non-economic compensation will be arbitrarily limited to \$250,000 no matter how devastating her injuries and she will be unable to recover punitive damages even if the court determines that the drug company acted "recklessly." In contrast, there will be no legal limitations on the compensation which the man is able to recover, and he can receive punitive damages if the drug company in his case is found to have acted "recklessly". How do the sponsors justify treating two patients with similar injuries so differently based solely on their gender?

Of course, this bill does not only take rights away from women. It takes them away from newborn babies who sustain devastating prenatal or delivery injuries as well. These children face a lifetime with severe mental and physical impairments all because of an obstetrician's malpractice or a defective drug or medical device. This legislation would limit the compensation they can receive for lost quality of life to \$250,000—\$250,000 for an entire lifetime. What could be more unjust?

This is not a better bill because it applies only to patients injured by obstetrical and gynecological malpractice. That just makes it even more arbitrary.

The entire premise of this bill is both false and offensive. Our Republican colleagues claim that women and their babies in rural areas must sacrifice their fundamental legal rights in order to preserve access to OB/GYN care. The very idea is outrageous. It is based on the false premise that the availability of OB/GYN physicians depends on the enactment of draconian tort reforms. If that were accurate, states that have already enacted damage caps would have a higher number of OB/GYNs providing care. However, there is in fact no correlation. States without caps actually have 28.2 OB/GYNs per 100,000 women, while states with caps have 27.9 OB/GYNs per 100,000 women. No difference.

And that is only one of many fallacies in this bill. If the issue is truly access to obstetric and gynecological care, why has this bill been written to

shield from accountability HMOs that deny needed medical care to a woman suffering serious complications with her pregnancy, a pharmaceutical company that fails to warn of dangerous side effects caused by its new fertility drug, and a manufacturer that markets a contraceptive device which can seriously injure the user. Who are the authors of this legislation really trying to protect.

In reality, this legislation is designed to shield the entire health care industry from basic accountability for the care it provides to women and their infant children. It is a stalking horse for broader legislation which would shield them from accountability in all health care decisions involving all patients. While those across the aisle like to talk about doctors, the real beneficiaries will be insurance companies and large health care corporations. This legislation would enrich them at the expense of the most seriously injured patients; women and children whose entire lives have been devastated by medical neglect and corporate abuse.

In the last few years, the entire nation has been focused on the need for greater corporate accountability. This legislation does just the reverse. It would drastically limit the financial responsibility of the entire health care industry to compensate injured patients for the harm they have suffered. When will the Republican Party start worrying about injured patients and stop trying to shield big business from the consequences of its wrongdoing? Less accountability will never lead to better health care.

In addition to imposing caps, this legislation would place other major restrictions on seriously injured patients seeking to recover fair compensation. At every stage of the judicial process, it would change long-established judicial rules to disadvantage patients and shield defendants from the consequences of their actions.

(1) It would abolish joint and several liability for noneconomic damages. This means the most seriously injured people may never receive all of the compensation that the court has awarded to them. Under the amendment, health care providers whose misconduct contributed to the patient's injuries will be able to escape responsibility for paying full compensation to that patient. The patient's injuries would not have happened if not for the misconduct of both defendants, so each defendant should be responsible for making sure the victim is fully compensated.

(2) The bias in the legislation could not be clearer. It would preempt state laws that allow fair treatment for injured patients, but would allow state laws to be enacted which contained greater restrictions on patients' rights than the proposed Federal law. It is not about fairness or balance. It is about protecting defendants who provide negligent care.

(3) This bill places extreme restrictions on the right of injured patients to present expert testimony to help prove their cases. It establishes arbitrary requirements that would make it virtually impossible to qualify many of the most obviously accomplished medical experts as witnesses. Without the ability to present highly relevant expert testimony, the patient's right to her day in court will in many cases be a hollow one.

(4) The amendment preempts state statutes of limitation, cutting back the time allowed by many states for a patient to file suit against the health care provider who injured him. Under the legislation, the statute of limitations can expire before the injured patient even knows that it was malpractice which caused his or her injury.

(5) It mandates that providers and insurance companies be permitted to pay a judgment in installments rather than all at once. Delaying payment amounts to a significant reduction in the award. If the patient does not receive the money for years, he in reality is getting less money than the court concluded that he deserved for his injuries.

(6) It places severe limitations on when an injured patient can receive punitive damages, and how much punitive damages the victim can recover. This is far more restrictive than current law. It prohibits punitive damages for "reckless" and "wanton" misconduct, which the overwhelming majority of States allow.

(7) It imposes unprecedented limits on the amount of the contingent fee which a client and his or her attorney can agree to. This will make it more difficult for injured patients to retain the attorney of their choice in cases that involve complex legal issues. It can have the effect of denying them their day in court. Again the provision is one-sided, because it places no limit on how much the health care provider can spend defending the case.

If we were to arbitrarily restrict the rights of seriously injured patients as the sponsors of this legislation propose, what benefits would result? Certainly less accountability for health care providers will never improve the quality of health care. It will not even result in less costly care. The cost of medical malpractice premiums constitutes less than 1 percent of the Nation's health care expenditures each year. For example, in 2003, health care costs totaled \$1.5 trillion, while the total cost of all medical malpractice insurance premiums was \$8.2 billion. Malpractice premiums are not the cause of the high rate of medical inflation.

A study by the Institute of Medicine at the National Academy of Sciences determined that as many as 98,000 patients die in hospitals each year as a result of medical errors. That is more than die from auto accidents, breast cancer, or AIDS each year. These disturbing statistics make clear that we need more accountability in the health care system, not less. In this era of

managed care and cost controls, it is ludicrous to suggest that the major problem facing American health care is "defensive medicine." The problem is not "too much health care," it is "too little" quality health care.

Republicans in Congress and other supporters of caps have argued that restricting an injured patient's right to recover fair compensation will reduce malpractice premiums. But, there is scant evidence to support their claim. In fact, there is substantial evidence to refute it.

Caps are not only unfair to patients, they are also an ineffective way to control medical malpractice premiums. Enacting malpractice caps has not lowered insurance rates in the states that have them. There are other much more direct and effective ways to address the cost of medical malpractice insurance that do not hurt patients.

The claims regarding the recent malpractice reform in Texas has also been misleading. Prior to Proposition 12, 152 counties reported having no actively practicing OB/GYN doctors and 2 years after implementation, 152 counties still remain without doctors. In fact, it has not made care available to women residing in rural counties. Even more disturbing, the quality of care has diminished in urban areas and according to the Texas Medical Association, the physician organization of the state, the practice of "defensive medicine" has not diminished and is likely on the rise.

If a Federal cap on noneconomic compensatory damages for rural obstetrics and gynecological patients were to pass, it would sacrifice fair compensation for injured patients in a vain attempt to reduce medical malpractice premiums. Doctors will not get the relief they are seeking. Only the insurance companies, which created market instability, will benefit.

Doctors and patients are both victims of the insurance industry. Spikes in premiums have much more to do with the rate of return on insurance company investments than with what is actually taking place in operating rooms or in courtrooms. Excess profits from the boom years should be used to keep premiums stable when investment earnings drop. However, the insurance industry will never do that voluntarily. Only by recognizing the real problem can we begin to structure an effective solution that will bring an end to unreasonably high medical malpractice premiums.

I want to quote from the analysis of Weiss Ratings, Inc., a nationally recognized financial analyst conducted an in-depth examination of the impact of capping damages in medical malpractice cases. Their conclusions sharply contradict the assumptions on which this legislation is based. Weiss found that capping damages does reduce the amount of money that malpractice insurance companies pay out to injured patients. However, those savings are not passed on to doctors in

lower premiums. Weiss is not speaking from the perspective of a trial lawyer or a patient advocate, but as a hard-nosed financial analyst that has studied the facts of malpractice insurance rating. Here is their recommendation based on those facts:

First, legislators must immediately put on hold all proposals involving noneconomic damage caps until convincing evidence can be produced to demonstrate a true benefit to doctors in the form of reduced med mal costs. Right now, consumers are being asked to sacrifice not only large damage claims, but also critical leverage to help regulate the medical profession—all with the stated goal that it will end the med mal crisis for doctors. However, the data indicate that, similar state legislation has merely produced the worst of both worlds: The sacrifice by consumers plus a continuing—and even worsening—crisis for doctors. Neither party derived any benefit whatsoever from the caps.

Unlike the harsh and ineffective proposals in Senator GREGG's amendment, these are real solutions which will help physicians without further harming seriously injured patients. Doctors, especially those in high risk specialties, whose malpractice premiums have increased dramatically over the past few years do deserve premium relief. That relief will only come as the result of tougher regulation of the insurance industry. When insurance companies lose money on their investments, they should not be able to recover those losses from the doctors they insure. Unfortunately, that is what is happening now.

This amendment is not a serious attempt to address a significant problem being faced by physicians in some states. It is the product of party caucus rather than the bipartisan deliberation of a Senate committee. It was designed to score political points, not to achieve the bipartisan consensus which is needed to enact major legislation. For that reason, it does not deserve to be taken seriously by the Senate. It should be soundly rejected.

Public safety workers are on the front lines of our efforts to keep communities in America safe. They are on call 24 hours a day, 7 days a week doing back-breaking, difficult work. They never blink, they never falter. They do their duty and they do it well.

When the devastating fires raged in southern California, they battled the blazes. When the I-35 bridge collapsed in Minneapolis, they were the first on the scene. When the massive tragedy hit New York City on 9/11, their heroic work inspired the Nation and restored our spirit.

Just last week in Everett, MA, a tanker truck hauling 10,000 tons of fuel suddenly exploded on the highway. Forty cars caught fire.

It took more than 3 hours to put out the flames. But because the police, firefighters, and emergency medical technicians responded so quickly, no one was killed in the accident. Words cannot begin to express our gratitude.

These heroic men and women have earned our thanks and respect, and

they have also earned the right to be treated with dignity. That is why it is a privilege to join with Senators HARKIN and GREGG on this bipartisan public safety cooperation amendment to the farm bill, to guarantee that all firefighters, police officers, emergency medical personnel, and other first responders have a voice at the table in the life-and-death discussions and decisions about their work. It will ensure that they are treated fairly. It will help them keep our communities safe. It is no wonder that this amendment has received such strong, bipartisan support. It passed the House of Representatives with 314 votes.

The amendment guarantees that every first responder will have the same basic right that most other workers in the public sector already enjoy—the right to collective bargaining. Many first responders already have this fundamental right.

Every New York City firefighter, emergency medical technician, and police officer who responded to the disaster at the World Trade Center on 9/11 was a union member under a collective bargaining agreement. So were the 7,000 firefighters who responded to the crisis in California. They were able to respond more efficiently and effectively to the crisis because they had a voice on the job. Many other first responders, however, are not so fortunate. Twenty-nine States and the District of Columbia guarantee all public safety workers the right to collective bargaining. But 21 States—this chart reflects it—still deny some or most or even all such workers this fundamental right. Their first responders don't have a voice in policies that affect their safety and livelihoods. That is both illogical and unfair.

We see all too often how dangerous these jobs can be. In 2005, 80,000 firefighters were injured in the line of duty; 76,000 law enforcement officers were assaulted or injured; and almost 300 of these public safety employees paid the ultimate price. First responders face chronic long-term health problems as well. The brave men and women who responded at Ground Zero now suffer from crippling health problems, such as asthma, chronic bronchitis, back pain, carpal tunnel syndrome, depression, and post-traumatic stress disorder.

These men and women are profiles in courage. They walk into the fires, wade into floods, and put their lives on the line to protect our homes and families. They know what they need to have to be safe on the job. They deserve the right to have a say in the decisions that affect their lives.

The amendment grants these basic rights in a reasonable way that respects existing State laws. States that already grant collective bargaining to public safety workers are not affected by the bill. States that don't offer this protection can establish their own collective bargaining systems or ask the Federal Labor Relations Authority for

help. That amendment sets a standard. Each State has full authority to decide how it will provide these basic rights.

These rights for first responders are not just important for the workers, they are key to the safety of our communities and our Nation. In the post-9/11 era, first responders have an indispensable role in homeland security. It is vital to our national interest that the essential services they provide are carried out as effectively as possible.

As study after study shows, cooperation between public safety employers and employees improves the quality of services and reduces fatalities. That is why strong, cooperative partnerships between first responders and the communities they serve are essential to public safety. As Dennis Compton, the fire chief of the city of Phoenix, has said:

When labor and management leaders work together to build mutual trust, mutual respect, and a strong commitment to service, it helps focus [a] fire department on what is truly important . . . providing excellent service to the customers.

Our families, communities, and farms, deserve the best public safety services we can possibly provide. It starts with the strong foundation that collective bargaining makes possible.

We cannot call these brave men and women heroes in a time of crisis but turn our backs on them today. We need to act now to make these basic rights available to all of America's first responders. It is a matter of fundamental fairness, an urgent matter of public safety.

The best way to give our heroes the respect they deserve is by supporting this amendment. I urge them to do so.

How much time do I have remaining?

The PRESIDING OFFICER. Nine minutes.

Mr. KENNEDY. Madam President, let me go through some charts.

This chart is on California wildfires, farmland, crops, and livestock. This is Riverside County. I think all Americans remember these extraordinary fires that dominated the national news and newspapers and were so devastating to scores of families out West not many weeks ago. Riverside County lost \$15 million in crop and farm products. The fire scorched over 900 acres of farmland. There was between \$10 million and \$15 million in damages to the avocado farms in Ventura County.

These men and women who fight these fires understand how to be effective and how to preserve both life and the farms in those communities. That is what this is all about—that they have a voice in the development of the policies, about how they are going to proceed. Nobody who watched and listened to those extraordinarily brave firefighters doubted the extraordinary competency and commitment these individuals have. They serve, and serve our country very well.

This is an indicator that firefighter fatalities are on the rise. All of us have seen the growth of fires. This is a rath-

er awesome chart. Firefighter fatalities are on the rise. The red line indicates this. So we are asking more and more of them each year. This chart says that every year firefighters put their lives on the line to ensure our safety. In 2005, 80,000 firefighters suffered injuries and 115 died in the line of duty. This year, approximately 100 firefighters will pay the ultimate price while on duty.

Again, the point we are underlining here is that firefighters must have a voice in the development of policies, whether it is in the agriculture area or other areas. We need to give the first responders a voice in the development of safety measures and how to use equipment and use it effectively. You will have a more efficient kind of effort in terms of controlling fires, and it increases the safety and productivity of the firefighters.

These law enforcement officers are at risk on the job. In 2005—this legislation would apply to first responders here—76,000 law enforcement officers were assaulted or injured on the job and 157 died in the line of duty. Injuries and assaults have increased by 21 percent in the last 10 years. These jobs are becoming more hazardous. We have a responsibility to do everything we can to work with these first responders to help them do the job they can do and should do.

This chart shows that 9/11 firefighters enjoyed collective bargaining rights. I don't think any American who witnessed that extraordinary tragedy of 9/11 and witnessed those extraordinary men and women, those firefighters who lost their lives in the line of duty on September 11—they were union members with collective bargaining rights. They were prepared to do their jobs, and they did it like no others. They inspired a nation with their courage. Many are faced, as I mentioned, with many of the lung diseases, carpal tunnel syndrome, and bad backs. They need to be able to have those particular health care needs met and attended to.

Finally, the Cooperation Act protects the rights of dedicated public safety workers. This is a chart that tells what this legislation does and what it doesn't do.

First, it establishes the right to form a union and bargain over working conditions. It gives workers a voice in the working conditions, which is so important in terms of both the efficiency and effectiveness of their work. They would have the right to sign legally enforceable contracts and resolve stalled disputes through mediation or arbitration. There is a specific prohibition in terms of striking, but they can solve this through mediation. That is how disputes will be solved. It doesn't take away the authority of the State and local jurisdictions. It doesn't require any specific method to certify unions. It doesn't interfere with State right-to-work laws. It doesn't infringe on the rights of volunteer firefighters.

This is legislation which has been carefully considered and reviewed.

There are, at last count, more than 60 Members of our body, Republicans and Democrats, who have indicated support for the legislation. As we have seen and mentioned earlier, when we saw these devastating fires that went across the country and ravaged the farmland of this Nation and we saw the extraordinary work of so many first responders, it reminded us of our responsibility to make sure these extraordinary men and women who exhibited such extraordinary courage will be treated fairly and equitably. By doing so, they will be able to do their job and protect America's families and the farmland in our country more effectively.

Madam President, I withhold the remainder of our time.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. BARRASSO. Madam President, I ask unanimous consent for 5 additional minutes.

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

Mr. BARRASSO. Madam President, today I join my colleagues to address an issue that is crippling America's health care system; that is, out-of-control medical malpractice costs.

Wyoming, my home State, has been listed by the AMA as one of 19 medical liability crisis States. A few years ago, one of at the time only two companies selling liability insurance in the State decided to leave, leaving over 300 physicians scrambling for liability coverage. Wyoming is losing obstetricians and gynecologists, emergency room doctors, and even general practitioners, and we are losing them because they cannot afford to pay the high cost of their liability premiums.

You may ask what is special about Wyoming in the sense that they pay exorbitant malpractice premiums and why is it so different from all of the doctors in the neighboring States. It is because all of the States bordering Wyoming have enacted liability insurance reform. Wyoming is the only State that has not. It is the "hole in the doughnut," surrounded by the other States that have reform.

Providers in Wyoming fear being sued, and to compensate they spend millions and millions of dollars on what is called defensive medicine, ordering tests each year, and patients and taxpayers pick up the tab.

This liability crisis is especially unfair to rural women and children, and it is so much unfair to them because they are losing access to local doctors when they need them the most.

Rural and frontier States such as Wyoming are disproportionately impacted when a local physician who delivers babies decides to leave the State. We lost our only obstetrician/gynecologist in Wheatland, WY. He delivered babies in three counties. Wyoming is a very large State. There are only 23 counties. Many of the counties are larger than some of the States on the east coast, and he delivered babies in three counties. He left when his mal-

practice premiums went over \$100,000 a year.

Pregnant women in Newcastle, WY, needed to travel over 80 miles to have babies delivered when practicing physicians in that community were not able to afford the cost of their liability insurance. In my own community in Casper, Dr. Hugh DePalo, who was born and raised in Casper, WY, and loved the community and wanted to live there and give back to all the people in the community, had his premiums increased 300 percent in 1 year.

Some Wyoming hospitals are paying malpractice insurance premiums that exceed the amount they receive for delivering a baby. Wyoming gynecologists/obstetricians and family physicians who deliver babies pay \$20,000 to \$30,000 more each year for their insurance than their counterparts in surrounding States, and that is because the State to the south, Colorado, has instituted a \$250,000 cap on non-economic damages.

This is not just a financial issue, it is a recruitment issue as we try to recruit physicians in the State. We set up the Wyoming Family Practice Program, where we train young physicians to deliver babies. They are very capably trained, and yet they leave the State. The No. 1 reason people decide where they want to practice is based on where they train, but still they leave because the malpractice premiums are so much lower in the surrounding States. Why? Because the surrounding States have passed liability reforms that are so needed and are part of this bill.

This body has a responsibility to act immediately to protect access for women who are having babies in rural communities. We should set reasonable limits on noneconomic damages, we should provide for quicker reviews of liability cases, we should assure that claims are filed within a reasonable time limit, and we should educate people that frivolous lawsuits only add to the overall cost of their health care.

That is why I support Senator GREGG and the position he has taken today. His amendment would adopt a new liability model for obstetricians and gynecologists based on the highly successful stacked-cap approach. One might say: How successful is it? A large, full-page story says:

After Texas caps malpractice awards, doctors rush to practice there.

Of all the specialities of the physicians rushing to practice in Texas, the No. 1 speciality represented in new applicants was obstetrics and gynecology, those very people who are so needed in rural communities to deliver babies.

I thank Senator GREGG for his efforts. I encourage Members to vote for the amendment. We need to help ease the struggle rural women face, rural women who are seeking access to capable physicians, not just for themselves but also for their babies.

AMENDMENT NO. 3695

The PRESIDING OFFICER. There will now be 2 hours of debate equally

divided on the Dorgan-Grassley amendment.

The Senator from Iowa.

Mr. HARKIN. Madam President, I ask unanimous consent to proceed for a couple minutes for informational purposes without taking away time from either side.

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

Mr. HARKIN. Madam President, we are about to begin 2 hours of debate on the Dorgan-Grassley amendment No. 3695. I have been in discussion with my ranking member, Senator CHAMBLISS, about getting a couple or three votes stacked. I hope sometime during this debate my colleagues will yield me a little bit of time to announce we might have a consent agreement for two or three amendments that would occur as soon as the debate has ended on the Dorgan-Grassley amendment or time is yielded back. That is what we are working on right now. Hopefully, in the next several minutes, we will have some information about when those votes might occur.

We are trying to work out this agreement. I am certain either Senator DORGAN or Senator GRASSLEY, one of the debaters, will yield us a minute at some point during the debate to line up two or three amendments.

I ask unanimous consent that at the end of the debate on the Dorgan-Grassley amendment, or time being yielded back, the Senate proceed to vote on or in relation to Alexander amendments Nos. 3551 and 3553.

Mr. CHAMBLISS. Madam President, I think the issue is as to what time those votes will take place. As I understand the unanimous consent request, it is following the debate on the Grassley-Dorgan amendment that we go to votes on the two Alexander amendments.

Mr. HARKIN. That is right.

Mr. CHAMBLISS. At whatever time that might be.

Mr. HARKIN. If we use all time, those two votes will occur, obviously, at about 6:20 p.m. If time is yielded back, it could be a little bit earlier than that.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. Reserving the right to object, so we can give our colleagues further information about where we are going, is it the chairman's intention to move ahead then with debate on additional amendments, hopefully maybe the Coburn amendments and the Sessions amendment that might be voted on tonight, along with the Gregg amendment?

Mr. HARKIN. I say to my friend, yes. In speaking with the majority leader, the majority leader said this is going to be a late night. We have a number of amendments on both sides that I think we can debate and we can vote on this evening. I say to my friend, yes, I hope we can vote on the Coburn amendments, the Sessions amendment, the Gregg amendment, and the Alexander

amendments, and there may be a couple on our side we are trying to get cleared for short debates and votes yet this evening.

Mr. CHAMBLISS. I have no objection.

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

The Senator from North Dakota.

Mr. DORGAN. Madam President, I rise with my colleague from Iowa, Senator GRASSLEY, and others who will be here to discuss the Dorgan-Grassley-Ben Nelson, et al, amendment we put together to this bill. Let me make a couple points. First of all, I don't think there is anybody in this Chamber who can claim they have a stronger record for farm programs than I do, having been in Congress a good long while. Family farms are very important to me. I believe it is an important element of this country's economy and culture to have the yard lights dotting the landscape of America, people living on the land trying to raise a family, raise a crop, and produce some livestock. That is very important. I have spent a lot of time supporting family farming in this country.

The legislation brought to us by the Agriculture Committee is a good bill. I applaud my colleagues, Senator HARKIN and Senator CHAMBLISS, and my colleague, Senator CONRAD, for his work, and so many others. This is a good piece of legislation. It improves slightly the safety net so when there is trouble and tough times, family farmers understand there is a safety net. It provides a disaster title for the first time in a long time, so when there is a natural weather disaster or natural disaster hitting family farmers, they can rely on this disaster title.

There are a lot of provisions that are good in this bill, including some improvement with respect to the issue of payment limits. They eliminated the three-entity rule. That is a step forward. I appreciate that. I like what has been done, and I want to improve it because there are a couple things that can be done that should improve it, in my judgment. These deal with the issue of payment limits.

Let me start with this proposition: Does anybody in this Chamber believe and want to stand up and say: Do you know what we ought to do with the farm program? Let's give farm program benefits to people who don't farm. Does anybody want to stand up and say, yes, that is our policy, that makes a lot of sense? Let's provide farm program checks to people who don't farm.

It is happening today. It will happen under this bill unless we make this correction. My colleague from Iowa and my colleague from Georgia missed all the applause I was giving them. They have done a great job. I have applauded this bill coming out of the committee. I said I want to improve it because this committee didn't finish the work on payment limitations.

Two things: No. 1, we ought to limit farm program payments to those who

are farming. We ought not be sending farm program checks in the mail to people who never farmed and will never farm. Yet that is happening and will continue to happen. No. 2, there ought to be some reasonable limit on payments.

My colleagues, Senator GRASSLEY and Senator NELSON from Nebraska and others, have joined me in saying that limit ought to be \$250,000 per farm. That is a reasonable limit, a very reasonable limit.

Let me describe how it works. We still have some holes we need to patch. The Houston Chronicle described it—cowboy starter kids they called it. We have a situation in which if land had certain base acres for a crop, you didn't have to raise that crop or produce that crop. You didn't have to plant the crop at all in order to get a check. Down in Texas, they have what are called cowboy starter kits. You can have 20 acres of land or maybe 10 acres of land that were used to produce rice 20 years ago and divide it up—have a house on an acre, run a horse on the other 8 or over 10, hay it once a year, and you get a farm program payment, despite the fact you have never farmed and never will farm and that land hasn't produced a rice crop for 20 years.

Is that reasonable? I don't think it is reasonable. It will give rise to the kind of stories we have heard repeatedly, stories that describe who is getting the benefits of the farm program payments we thought were supposed to be going to help family farmers through tough times. Then we have someone with a cowboy starter kit on 10 or 20 acres who gets a payment who has never farmed and never will farm on land that isn't producing a crop.

The proposal Senator GRASSLEY and I offer today says let's not do that. Let's say, if you get a payment, you have to be farming, No. 1. And No. 2, there ought to be a limit. I normally wouldn't use a name such as this, but I am doing it because this was in the San Francisco Chronicle. This was a story in the San Francisco Chronicle, and it shows payments. This is California. We could do this for a lot of areas. This shows payments to 20 individuals and farm businesses, among the top 20 finishers from 2003 to 2005. Constance Bowles from, San Francisco, \$1.21 million; George Bowles, same family, \$1.190 million. That is \$2.3 million to these folks.

As I indicated, this is a San Francisco Chronicle story and is an example of what is happening to undermine this farm program. Let me read from the San Francisco Chronicle:

A prominent San Francisco patron of the arts, Constance Bowles—heiress of an early California cattle baron, widow of a former director of UC Berkeley's Bancroft library—was the largest recipient of federal cotton subsidies in the state of California between 2003 and 2005, collecting more than \$1.2 million, according to the latest available data.

Bowles, 88, of San Francisco, collected the \$1.2 million in mostly cotton payments through her family's 6,000-acre farm, the

Bowles Farming Co., in Los Banos [California]. She could not be reached for comment.

Another family member, George "Corky" Bowles, who died in 2005, collected \$1.19 million over the same period. George Bowles once ran the farm but lived on . . . Telegraph Hill. A collector of rare books and 18th century English porcelain, he served as a director of the San Francisco Opera and trustee of the Fine Arts Museum.

The farm is now run by Phillip Bowles, who also lives in San Francisco. He told KGO television that he's no fan of subsidies, but if the big cotton growers in Texas get them, so should he. Many of these businesses are getting 20 to 30, sometimes 40 percent of their gross revenues directly from the government, Phillip Bowles told KGO. I don't have a good explanation for that. Somebody else might, but it beats me.

Well, if we want this sort of thing to continue, then let's not pass this amendment. This is a very simple amendment Senator GRASSLEY and I offer, which says, A, you ought to be a farmer if you are going to get a farm program payment. That is, you ought to have some active involvement in the farm. Our definition doesn't require you to live out there, but it requires you to have some active involvement. That is No. 1.

That is so reasonable that I guess I would like somebody to stand up and say, you know what, we don't think the farm program is just for farmers. We give educational loans here in this country. We appropriate money for them. We won't let you get an education loan if you are not going to go to college. There are subsidized home loans. You don't get a home loan unless you are going to buy a home. We are going to give assistance in the form of farm program paychecks, or checks to people who don't farm? That doesn't make any sense at all.

Now, some will say, well, we have corrected all that. No, they haven't. They haven't. Let me explain why. They intended to, or they wanted to correct it. There was going to be an amendment passed that would correct it, but it was not offered and not voted on. But one of my colleagues said, we have a \$200,000 limitation on payments and Senators GRASSLEY and DORGAN are saying \$250,000. Well, that is a little too clever. The payment limitation means you still get the loan deficiency payment under the commodity loans—you still get unlimited payments for all of the production, for the largest farm in America, you get a price support in the form of an LDP under every single bushel of product you produce. It doesn't matter how big you are. You can farm in four States, if you want to, but you are going to get a support price under everything you produce.

Does that make any sense to anybody? You have a payment limitation without a limit? That is not a payment limitation. That is unlimited payments in the LDP for the biggest farms in America, for every single thing they produce.

Senator GRASSLEY and I offer a very simple proposition, and that proposition is a \$250,000 payment limit and

that you have to be involved in farming in order to get it.

Now I showed this San Francisco article. This is California, but I could show this for many States. But when one operation gets over \$35 million in 5 years, I say that is farming the farm program. When 75 percent of all payments go to 10 percent of the farmers receiving commodity subsidies, you know what is happening. Much of that is going to the biggest farmers, the biggest corporate farms in the country, big agrifactories, and it is producing the revenue by which they buy out the land and bid against family properties for their property right next door. It is happening all over the country.

If one believes that is what we should do, then God bless you, you should not vote for this amendment of ours. But I believe this country has benefitted by the network of family producers out in the country. Some say, well, that is hopelessly old fashioned. You don't understand that in our part of the country we have people who have millions and millions of dollars of revenue and they are important to the economy as well. If you want to farm two or three counties, you ought to be able to do that. I just don't think the Federal Government has the responsibility to be your banker.

I believe, and when I came here I believed it and I still believe it, that a farm program ought to be a safety net that says to family farms, when you run into trouble, you have a safety net—a bridge over troubled times. We want to do that because farming is different. But providing a safety net for families is very different than providing a set of golden arches for the biggest corporate agrifactories in this country.

I don't need four reasons or three reasons or even two reasons, just give me one good reason we ought to collect taxes from hard-working Americans and say we are going to transfer that money to some corporate agrifactory that gets \$30 million in 5 years. Give me one good reason to do that. I don't think it exists.

Let me end where I began. I am a strong supporter of family farming, a strong supporter of agriculture. I like what this committee has done. I appreciate very much the work of Senator HARKIN and Senator CHAMBLISS. I want to improve this bill.

Let me conclude with something a rancher and a farmer just west of Bismarck, ND wrote once. He is a guy who is a terrific writer and he asked the question—and I have asked it before on the floor of the Senate, and it describes why I support family farming and why this amendment is necessary—What is it worth? What is it worth for a kid to know how to weld a seam? What is it worth for a kid to know how to teach a calf to suck milk from a bucket? What is it worth for a kid to know how to grease a combine? What is it worth for a kid to know how to butcher a hog? What is it worth for a kid to know

how to plow a field? What is it worth for a kid to know how build a lean-to? What is it worth for a kid to know how to pour cement?

You know something, farm kids know all of those things, and the only university in America where they teach it is on the family farm. Fortunately, in World War II, we sent millions of them from American farms all across the world. They could fix anything. What is it worth to have all that knowledge? You learn that on family farms across this country. That is why family farming is so important. I say, today let's stand up for a good safety net for family farmers. Let's not ruin the farm program. And we will, as sure as I am standing here, ruin the farm program and ruin the opportunity to enact a good farm program in the future, unless we do what we know is necessary.

We have a farm program that is designed to be a safety net and to help family farmers through tough times, but we cannot do that by pretending this circumstance doesn't exist, whereby in the current farm program we give farm program benefits to people who have never farmed and never will, and we provide farm program benefits to the tune of millions of dollars to the biggest corporate agrifactories in this country. That is not what I came to Congress to do.

I hope we can stand up today on behalf of family farmers and say you matter, and we are going to manifest that in the vote on this amendment.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

Mr. GRASSLEY. Madam President, what time do we have on Dorgan Grassley?

The PRESIDING OFFICER. The proponents have 46 minutes, and the opponents have 60 minutes.

Mr. GRASSLEY. I yield myself 14 minutes, as Senator DORGAN did.

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. GRASSLEY. Madam President, I think everybody in this body would agree we need to provide an adequate safety net for our family farmers, and I think I ought to be totally transparent with the taxpayers who might be listening, as well as my colleagues. I want you to know that I farm in a crop share—in Iowa, we call it a 50-50 arrangement—with my son. If we get farm payments, I get 50 percent of those payments. So I have received farm payments and presently do. That is assuming prices are low enough so you do receive those payments. Right now, they aren't that low.

We are talking about an adequate safety net. In recent years, however, assistance to farmers has come under increased scrutiny by urban communities and the press. The largest corporate farms are getting the majority of the benefits of the farm payment program, with 73 percent of the pay-

ments going to 10 percent of the farmers. With a situation such as that, we could lose urban support for the safety net for farmers.

Government payments were originally designed to benefit our small-and medium-sized farmers, but instead, now, as you can see, the vast majority of them are going to the smallest percentage of the farmers—the biggest farmers. Unlimited farm payments have placed upward pressure on land prices and have contributed to over-production and lower commodity prices. Increased land prices and cash rents are driving family farmers and young farmers from the business of farming. I have mentioned this before in other debates. Land in Iowa generally, but I will use as an example land near my farm in New Hartford, IA, has skyrocketed and is selling anywhere between \$4,000 and \$6,000 an acre. In my home county, the value of an acre is up 64 percent since 2000.

Anybody listening might say, well, why is that bad for farming? Well, family farmers don't buy land one day and sell it the next. You buy it for the long haul. Sometimes farms have been in what we call century farms, for well over 100 years. So this doesn't put income in farmers' pockets. It does give them value. And if they were to die, I suppose their heirs would get a lot of money.

Across the State of Iowa, the average land value per acre rose 72 percent in the last 6 years. All these figures I am citing have something to do with the inability of young people to get started farming. When the average age of farmers is 58 in my State, we ought to start thinking about what we can do to make sure that young people, the next generation of farmers, can get started.

My State isn't the only one where this is occurring, an increase in land values. In a report published by two agricultural economists at Kansas State University, land values have increased 64 percent since 2002. This trend is occurring in many other States as well. The average of typical cash rents per acre in Iowa rose 25 percent in the same period of time. Because if you can't buy land, and you want to farm, you rent land. How are family farmers and young farmers going to survive with prices like this? How can they even get started?

This brings to mind a conversation I had within the last week with a young farmer near my home. He knows who gets these big payments in the State of Iowa, and he said, so-and-so—and I am not going to give the names out—just bought 600 acres of land. Why don't you guys do something about subsidizing these big farmers to get bigger? Now, this same young farmer would say to me, any farmer can get bigger all they want to. That is their business. That is entrepreneurship. But should we be subsidizing the biggest farmers to get bigger? He says, if you want to do something to get young people started—this young farmer said to me—put

a cap on what they are getting paid from the Federal Treasury. In other words, 10 percent of the biggest farmers getting 73 percent of the benefits out of the farm program is just plain bad policy.

I have been hearing directly from producers for years what former Secretary Johanns heard in his farm bill forums held across the 50 States. Young farmers can't carry on the tradition of farming because they are financially unable to do so because of high land values and cash rents. If that was the market, okay. But if it is being influenced by subsidies for big farmers to get bigger, they would say it is wrong. They would also say it is wrong when you have 1030 exchanges, when it is cash free, as having something to drive up the value of land as well.

Professor Terry Kastens, of Kansas State University, came out with a report on this subject. The report states that since the 1930s, government farm program payments have bolstered land values above what they otherwise would have been. Dr. Neil Harl, an Iowa State University emeritus professor, worked with Professor Kastens on this subject, and he determined that:

The evidence is convincing that a significant portion of the subsidies are being bid into cash rents and capitalized into land values. If investors were to expect less Federal funding—or none at all—land values would likely decline, perhaps as much as 25 percent.

That would give young farmers better opportunities to buy or cash rent for less in order to get started farming. And that is necessary, because the average age of farmers in the Midwest is about 58 years.

The law creates a system that is clearly out of balance. If we look at the results posted here, it emphasizes what I have already said: Ten percent of the farmers get 73 percent of the benefits out of the farm program, and the top 1 percent gets 30 percent.

Senator DORGAN and I have offered this payment limits amendment which I believe will help revitalize the farm economy for young people across this country. This amendment will put a hard cap on farm payments at \$250,000. For a lot of farmers in my State, they say: Grassley, that is ridiculously high. But we have to look at the whole country, so this is a compromise.

No less important, we tighten up the meaning of the term "actively engaged," a legal term in the farming business. What that means is that people have to be farming, because if we are providing a safety net to someone in farming, I think they should be required to actually be in the business of farming, sharing risks and putting their money into the operation.

I wish to make a very clear distinction here. Some Members of the Senate have advocated that the Dorgan-Grassley amendment is not as tough as what is in the Senate Agriculture Committee bill or some say it might be too tough. I want to say why this is not

true, and I have a chart here to bring this to your attention. We have to compare apples to apples. That is what my chart does. Saying that the committee has a hard cap on payment limits of \$200,000 is not accurate. They only have a hard cap on direct payments and counter cyclical payments. Let me remind my colleagues, we have direct payments, we have loan deficiency payments, and we have counter-cyclical payments. Out of those three, the bill before us that we are amending has a hard cap on direct payments and countercyclical payments, not on loan deficiency payments. The Dorgan-Grassley amendment actually caps direct payments and countercyclicals at \$100,000.

In addition, the amendment will cap marketing loan gains at \$150,000. While the committee—this is the loophole, this is the weakness of the argument that this bill tightens things up—it leaves loan deficiency payments unlimited. This actually weakens current law. So while the committee took some correct steps by closing the loopholes I have advocated against by including the "three entity rule" and by including direct attribution, it also takes a step in the wrong direction by making payments virtually unlimited. This whole debate is about good policy. Fixing one problem but leaving other doors open does not do any good.

I also wish to make a clarification for some of my colleagues. I have gotten quite a few questions about how the payment cap will actually work. We set nominal limits at \$20,000, \$30,000, and \$75,000 respectively, then we allow folks to double. So a single farmer who would get \$20,000 in direct payments can actually double to \$40,000. We set it at \$20,000, so if they want to attribute the payments to a husband and wife separately, they can. So a husband can have \$20,000 attributed to him and \$20,000 to the wife, for a total of \$40,000, just like a single farmer. One more clarification: If a farmer is working with his two sons, each would be eligible for the \$40,000 individually.

I wish to address some of the falsities my colleagues have raised since the payment limit debate. They have argued that this is not reform because it targets crops but not the Milk Income Loss Contract Program or conservation. To say that we do not have payment limits on these two programs is hogwash. The Milk Income Loss Contract Program has probably the strongest payment limits of any program. What came out of the Agriculture Committee includes caps on programs such as EQIP, the Conservation Reserve Program, and Conservation Security Program. Whether those caps are at appropriate levels is something that can legitimately be debated but should not detract from what we are doing on commodities through Dorgan-Grassley.

Now, our amendment produces some considerable savings. We think there is money needed in some programs that

are not adequately funded to help small businesspeople, conservationists, and low-income people through commodity programs. We support beginning farmer and rancher programs and the rural microenterprise program. We also provide funds for organic cost share programs and the Farmers Market Promotion Program.

A large priority of mine has always been seeing justice is done for the Black farmer discrimination case against the U.S. Department of Agriculture. This will double the amount provided by the committee for late filers under the Pigford consent decree who have not gotten a chance to have their claims heard. It is time to make these farmers right who were discriminated against.

We support the Grassland Reserve Program, the Farmland Protection Program, and finally, while the Agriculture Committee makes significant contributions to the nutrition and food assistance programs, they were not able to go far enough in light of the tight budget constraints. So Dorgan-Grassley adds money in those areas.

The 2002 bill has cost less than expected. But this was not because of the payment limit reform in 2002. In actuality, we increased the nominal payment cap, and it continued the generic certificate loophole. Instead, what has happened is that we have had some good years in agriculture and prices have been high. That is why it cost us less to have a safety net over the last 5 or 6 years, not because reforms were put in, in 2002. I worked with Senator DORGAN on a similar measure in 2002, and it passed with bipartisan support, 66 to 31. Unfortunately, it was stripped out in conference. I voted against the farm bill because of that.

Let me remind this body that the Senate Agriculture Committee, out of conference, set up a commission called the Commission on the Application of Payment Limitations for Agriculture. That is this report right here. They did this during conference as a sop to DORGAN and me.

Is my 14 minutes up? I ask for 2 more minutes.

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

Mr. GRASSLEY. This Commission was set up as a sop to DORGAN and myself. We didn't get what we wanted, and consequently, you know, let's have a commission study it.

The Commission ended up, in this report, recommending the very measures which we have included in this bill. So they want a study? The study says what we said in 2002 that the conferees didn't think we ought to do. And we have had all the eggheads and farmers in this country study the problem we presented in 2002, and they gave us the results we have here.

The report said also that the 2007 farm bill is the time for these reforms. You might remember the last time we had a vote on payment limits was in a budget bill a couple of years ago. Many

of our colleagues said they agreed with what we were trying to do, but they said the budget was not the right time; it needs to be done on the farm bill. To all of our colleagues who said: Wait for the farm bill, we are waiting. You have your opportunity. It is 2007. We have the farm bill here.

By voting in favor of this amendment, we can allow young people to get into farming and lessen the dependence on Federal subsidies. This will help restore public respectability for the Federal farm program and keep urban support for the farm program so we can continue to have a stable supply of food for our consumers.

I call upon my colleagues to support this commonsense amendment, and I reserve the remainder of time for our side.

I yield the floor.

Mr. CHAMBLISS. I yield 15 minutes to the Senator from Arkansas, Mrs. LINCOLN.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 15 minutes.

Mrs. LINCOLN. Madam President, I rise today in opposition to the Dorgan-Grassley amendment before us. But before I explain why, I do want to say I have tremendous respect for my colleagues from North Dakota and Iowa. They are hard-working men who are interested in working hard to get things done. I very much appreciate that. I hope they can see the success they have already had from the hard work they have put in since 2001 and what has come to fruition—the underlying bill that came out of the Senate Agriculture Committee.

We worked very hard on that bill in the Senate Agriculture Committee. We came out with a very balanced bill. It is a bill that, frankly, has more reform, more substantive reform than any farm bill we have ever done. I hope those two Senators—as I said, I have tremendous respect for them and the hard work they bring to this body—I hope they do recognize the success they have had since 2001 in moving forward in reform.

I also come to the floor here to oppose this amendment because, unfortunately, it is going to probably have some very dire unintended consequences from the remaining part of this amendment that is not included in the underlying bill.

I just have to answer a couple of the questions my colleagues have brought forward.

The Senator from Iowa, Mr. GRASSLEY, mentioned land values. I have approached almost every Member in this body to discuss the farm bill. It is critically important to a small rural agricultural State such as the one I represent, Arkansas. Agriculture is the basis of our economy. In my discussions with Senator GRASSLEY, he mentioned his concern about land values. I went back to do my research, and I found a study done by Iowa State University that gives us six reasons why

those land values are out of whack, and not one of those top six reasons is farm payments. So I have a little concern in terms of blaming land values on farm payments. There are multiple things there that we can see that would cause concern.

I also would like to touch on a few of the realities for the hard-working men and women who produce our food in this country, to respond to some of the other criticisms I have heard and dispel a few of those misrepresentations of farming that are out there.

The most often used—and it was used by my colleague here today—the most used misrepresentation I encounter is the argument that a disproportionate share of farm payments go to the top 10 percent of farms in terms of size. I have heard it reported at 75 percent of the payment, 80 percent—sometimes they even use the number 90 percent. Honestly, it seems to change depending on the day or the source, and that is why I thought I would bring a few charts of my own to clarify the issue and set the record straight.

My first chart includes excerpts from a speech by the famed agricultural economist from Kansas State University, Barry Flinchbaugh. Here is what he has to say about the distribution of farm payments according to farm size: These programs are designed for the medium-size farmers. They have done what they were supposed to do. We have 2.1 million farms. Small farms make up 84 percent of that, “small” being defined as gross sales of less than \$100,000. They produce 21 percent of the food supply, but they receive 30½ percent of the payments. Medium-sized farmers, on the other hand, make up 12.2 percent of the farms, and they produce 28 percent of the domestically grown food supply, and they receive 42.7 percent of the payments. Big farms with sales of more than \$500,000 make up more than 3.8 percent of the farmers. They produce half of the food supply, and they receive 27 percent of the payments.

I think if we just look at this we will realize those that are producing 78 percent of the commodities are only getting 58 percent of the payments.

My second chart brings this point home a little bit more and certainly in living Technicolor. As you can see, my source here is the Department of Agriculture’s Economic Research Service. We are pleased to bring this. I know the pie chart Senator GRASSLEY used probably uses the definition of a farmer which even Senator LUGAR earlier—I think today or even yesterday, perhaps—agreed is completely out of whack. If we are going to include an FHA student who earns \$1,000 or more selling a calf as a farmer, then we have a problem in terms of the definition of a farmer. Unfortunately, that puts us out of whack in some of the statistical dealings that we have to get a good, clear picture of what we are up against.

I am going to go into some details on this chart, but I will first point out

that the chart shows farmers today receive a portion of farm bill benefits that closely matches their percentage of total production. As you can see here by the red line, which indicates the percentage of Government payment, and the green line, which represents the percentage of production, they are almost identical in many ways. In fact, you will see the only discrepancy that exists is that the farmer who produces 78 percent of the products, combining the nonfamily farmers and the large family farms, receives only 58 percent of the total farm program.

Now, remember, those are family farmers who are producing not just food source but a safe and abundant and affordable food supply and fiber, not to mention the fact that they are doing it in an environmentally responsible way, respectful to all of the different regulations that we impose. Other countries do not do that.

I will be the first to say I think that is a good deal. I think in this country, to be able to be reassured that we are going to get a safe food supply, that it is going to be done with respect to the environment, that it is going to be done with respect to water and water resources and clean water and clean air, all of those things, that is very reasonable. It is a good investment. It is a good return on that dollar.

When you see, in that blue line—and that represents the percentage of farmers in a certain category, the percentage of farmers that accounts for the 78 percent of that production in this country, who are, in fact, that mythical and demonized 10 percent of the farmers our critics like to refer to.

So if 10 percent are producing 78 percent of the food source that we take for granted so often, then why should we not want our program to follow the crops? As you can clearly see, 10 percent receive only 58 percent of the total farm program payment. I think all of these numbers and certainly the charts make this point very well.

The bottom line is, the payments follow production. That is what we want to see. We want to see an efficiency in that what we are striving to do—and that is to provide a domestically produced, safe, abundant and affordable supply of food and fiber—is done.

That is what the insurance of our farm program is there for. And this reflects the fact that is exactly what those dollars are doing. They are a good investment, and they are returning on that investment to the American people.

Now, the other issue that was brought up in terms of my colleagues about the marketing loan cap, I am still a little bit confused on what the Dorgan-Grassley proposal does in terms of doubling those payments. I am not sure if that means they are capped at \$250,000 or if it is at \$500,000 if your wife or spouse is considered actively engaged in farming. But I think many of us have asked those questions, and we are still a little bit confused.

But when we talk about the cap, I would simply remind my colleagues, the current law marketing loan is uncapped. The President's proposal is uncapped. And the reason is, because we understand that in some of our crops they cannot use the disaster assistance, which we have plussed up about \$5 billion, the crop insurance program is not as detailed to their needs and concerns because, quite frankly, it is hard to find a reasonable crop insurance plan that will, at a reasonable cost, protect you against the kind of risks that you have.

So that marketing loan is key. It is key because it allows them to remain competitive. So when they hit those troubled shoals they can use that marketing loan to buy themselves time in the marketplace to be able to market their crops.

We have found in years past that when we tried to cap the marketing loan, what happens is particularly farmers in my area who do have difficult times with crop insurance and have a very difficult time being able to access disaster assistance end up forfeiting their crops. So it goes to Government forfeiture and then the Government gets left holding the bag. The taxpayer gets left holding the bag. That is not what we want to see happen. We want these farmers to use the market, and we want to provide them the kind of tools that allow them to use the market, and that is what the marketing loan does, particularly for growers of southern commodities.

So it is not capped in underlying or existing law. It is not capped in the President's proposal. I think that is because people realize that Government forfeiture of those crops is unreasonable.

I feel as if I have come down here and spoken so many times. I have addressed the issue, particularly, of the Dorgan-Grassley amendment and the overall farm bill numerous times recently because I believe so strongly that the reforms already incorporated in the underlying bill are more significant than any reform effort that we have ever undertaken in farm policy.

We have made huge strides. I think both of these gentlemen will recognize that. They certainly have to me in some circumstances. But as a consequence of enacting the provisions of the Dorgan-Grassley amendment, it is going to be devastating to some.

The amendments that are not already included in the underlying bill that are in this amendment would be devastating to the hard-working farm families, particularly in my State but in other Southern States where we grew those commodities that are grown in the controlled environment, which results most devastatingly in the outsourcing of a significant amount of America's agricultural production. Eighty-five percent of the rice that is consumed is grown in this country. Over half of that is grown in my State of Arkansas. If we outsource those jobs

in rural America, if we outsource the production of that unbelievable staple commodity, it is not going to go somewhere else in this country. It is going to go to our two biggest competitors more than likely. It is going to go to Vietnam and Thailand.

When you look at the lack of restriction and the techniques that are used in their growing processes, you are going to realize it is not something we want to do, to outsource what we already have, and that is, a safe production of a staple food source, not just for us but also in terms of what we do globally.

Let me reiterate what outsourcing would mean. It means importing rice from those places like I mentioned, where there is no environmental regulation between sewer water or regular water on crops that are grown there. Is that what American families want? Is that what American mothers want in terms of looking at what they are going to do when they serve that rice cereal to that new infant who is just learning to eat solid foods?

Are they going to want to be reassured that what they are dealing with is a domestic product that has been regulated in how it was grown by American standards? Are they going to want to give that up and just look to the consequences of what might happen in terms of imported commodities?

I would argue that is a price far too high for us to pay. I think the American people are very serious about wanting a safe and affordable food supply. We should be very grateful for the wonderful bounty that our farmers and ranchers provide this Nation. We should support them with a modest safety net so they can continue to provide this Nation and the world with this incredible safe, abundant, affordable supply of food and fiber on the globe.

It is disappointing to me that some in the Chamber and those in the media and special interest groups would take this for granted. You know, if we look at what this costs us, the investment it makes, 15 percent of this bill is in the commodity's title. One-half of 1 percent of the entire budget goes to this insurance policy of assuring America's families they are going to get a safe food supply.

It is also disappointing that some in this Chamber would speak about the dangers of poisoned food entering the country and jobs leaving the country and not make the connection to this vital piece of legislation providing this great country of ours with both safe food and jobs in rural America.

Now, I know agricultural policy is not the most glamorous issue to some Members. I know I probably bored some of my colleagues to tears discussing the intricacies of this farm bill, and the ramifications of this amendment particularly. So if my colleagues take nothing else away from my remarks today—

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

Mrs. LINCOLN. Madam President, I ask unanimous consent for an additional 2 minutes.

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

Mrs. LINCOLN. If the Senators take nothing else away from my remarks today, please hear this: We have included the most significant reform in farm program history in the underlying bill. In the great balance and the productive piece that we produced out of the Senate Agriculture Committee that was passed by unanimous consent, not one dissenting vote, and I challenge anyone to say that is not the case, that this is not the most significant reform that we have ever provided in a farm bill. It is.

We also were very cautious not to get so close to the line that we end up outsourcing our food supply. I think that is very important to America's families across this great country. No American wants our country to rely on foreign sources of food like we do foreign sources of oil. We did not get there overnight, but we are there.

We depend on foreign oil right now. And, unfortunately, if this happens, we are going to see 10 to 15 years from now that we are becoming dependent on foreign countries for our food source. If we do not have the courage to inform the American people of that fact, then we should be ashamed of ourselves.

I urge each of you and your staffs to take a moment and look at this bill and the reforms that we have made. They are significant, and they should be enough for critics of farm policy, who, I suggest to you, will never be satisfied. Those who condemn us, those who condemn us for not taking the extra amount in terms of the reform that Senators Grassley and Dorgan want to take, will never be happy with any amount of reform. They will only be happy when we eliminate the safety net that we provide farmers, but in a slightly different way.

A vote against the Dorgan-Grassley amendment is still a vote for the most significant farm program reform in the history of our country.

I would like to take a moment and walk through the reforms included in the bill. I will wait for a later moment to do that. I certainly want to encourage my colleagues to vote against the Dorgan-Grassley amendment.

Mr. CHAMBLISS. Madam President, earlier the Senator from Iowa, Chairman HARKIN, announced a unanimous consent on two votes on amendments of Senator ALEXANDER following the debate on this particular amendment.

I ask unanimous consent, as we have agreed, that after the two Alexander votes, that Gregg amendment No. 3673 come up for a vote, and that prior thereto there be 15 minutes of debate equally divided.

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

Mr. CHAMBLISS. I would add to that, that the Gregg vote on amendment No. 3673 requires a 60-vote margin.

I yield 5 minutes to the Senator from Alabama, Mr. SESSIONS.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 5 minutes.

Mr. SESSIONS. Madam President, I want to thank Senator LINCOLN for her articulate and effective explanation of the difficulties in the Dorgan-Grassley amendment. I absolutely am confident that it will undermine the traditional agricultural safety net for farmers in the Southeast.

There are a lot of reasons for that. I cannot say for sure what it is like in other areas of the country. Apparently, the amendment would not have the same effect in every area, at least in the same percentage of farmers. But since the 2002 bill, input costs to produce agricultural products have increased, particularly in the Southeast and particularly for cotton, one of our most significant cash crops.

The cost of nitrogen, potassium phosphate, and diesel fuel have risen dramatically. I do not mean a little bit; some of them have doubled during this time. However, support payments have remained level.

As a result, the safety net already has, in effect, been cut in half. The committee-passed bill essentially continues the 2002 structure of having a safety net that is half of what it was a few years ago.

Producer groups in the Southeast understand the Federal budget reality is not something they want to deny. And the lack of availability of new funding impacts our ability to provide increases in the safety net as we would normally expect to occur. But they are united in their concern and opposition to any effort to further reduce the safety net. The Grassley-Dorgan amendment would not impact producers in the Midwest, it appears. Crops such as corn and wheat are not expensive commodities to produce. As a result, payments do not have to be as high to support farmers in those areas when prices fall.

Crops grown in the Southeast, such as cotton and peanuts, are high-value commodities that cost a great deal to produce. For example, cotton currently costs approximately \$450 to \$500 to plant and harvest per acre. That is a lot of money. In Alabama, the average Statewide yield is approximately 700 pounds per acre from year to year. However, with current market conditions, producers are barely able to break even with the safety net currently in place. Any further attempt to limit payments will practically destroy agricultural production of high-value commodities in the Southeast.

I suggest our colleagues take note of what the farm bill did. Before, when you actually compute the support payment levels, they were \$360,000. Now, with the changes in amendments and loophole closings that have occurred, it has dropped to \$100,000. Multiple payments are no longer effective, and a decreased limit has the potential to be very harmful.

Let me share this thought with my colleagues. My family on my mother's and father's sides are farmers. They have been in rural Alabama for 150 years. I know something about farming, but there is more to farming than just the farmer. My father, who had a country store when I was in junior high school, purchased a farm equipment dealership. There are a lot of other people who support agriculture than just the farmers. To be effective, make a living, and farm in agriculture in Alabama and throughout the Nation, you have to be engaged in a large-scale operation with expensive equipment. You have to invest a tremendous amount of money in bringing in a crop. If crop prices fall, you can be devastated. As Senator LINCOLN said, who is going to fill the gap? It is not going to be somebody here. It is going to be somebody else around the world who is receiving far more subsidies than our people.

There is the farm equipment dealer. There is the fertilizer dealer. There are the seed people. There are the people who labor at harvesting and the people who process the cotton, the soybeans, the peanuts and convert them to marketable products. That whole infrastructure, the bankers who loan the money, the businessman in town, the hardware store that supplies their needs, is dependent on the farmer. In Alabama, as in most areas of the country, farmers are larger. They have far more at risk. If they go under, not only do they go under, but entire industries go under. We have cut this to effectively reduce the abuses in the system. I thank the committee for doing so, and I oppose the Dorgan-Grassley amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Georgia.

Mr. CHAMBLISS. Earlier, I asked unanimous consent to include the Gregg amendment to be voted on following the two Alexander amendments. In my request, I asked for 15 minutes of debate equally divided. I now ask unanimous consent that 15 minutes be withdrawn.

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

Mr. CHAMBLISS. I yield to the Senator from Louisiana, Ms. LANDRIEU, 5 minutes.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I am pleased to come to the floor today to join my colleagues, the Senator from Alabama and the Senator from Arkansas, in a strong appeal to our colleagues to vote against the Grassley-Dorgan amendment. As Senator LINCOLN so eloquently stated, this underlying bill is the single largest reform to the farm program practically in the last two decades, if not forever. We have made significant underlying reforms to try to limit and streamline subsidies and to make it fair. But as the Senator from Alabama said, our rural areas, particularly in the South

and Southeast, need this bill to continue to grow and prosper. There are parts of the country that are doing very well. But in rural America, there are still difficulties. We have over 200,000 farmers in Louisiana.

I respect the two Senators offering this amendment. They truly are two of the most respected in this Chamber. But I have to say, perhaps it would be easy for me to support an amendment such as this if the crop in my State was getting two or three times the price it once did.

The fact is, rice and cotton are not in the best shape. We are being pressed by imports. We have different rules and subsidies. With all due respect to other Senators, corn has done very well lately. A couple of years ago it was selling on the market for \$2.10 a bushel. Today the commodities rate is \$4.33. So people growing corn are doing very well. I have some of them in my State as well. But because of the ethanol subsidies, because of what we have done on the fuel business, corn is doing well. We are happy for that. But rice, soybeans, and cotton fighting for markets, fighting against unfair trade practices. This amendment will do them great harm.

Senator LINCOLN has done an excellent job representing Southern farming on the Agriculture Committee. She has, with our support, put forward some reforms to reduce the cost to taxpayers. But we can't do anymore. Asking us to do it is not right. For Georgia and for Alabama and for Louisiana and parts of Texas, this is as far as we can go. I am saying to our farm guys, we help you with subsidies for ethanol. We know farmers growing corn are making a boatload of money. We are happy for that. But we cannot accept this amendment. I urge our colleagues to reject it. Let's move forward together on reform for the taxpayers and for our rural areas.

On another note, our sugar farmers have not had a loan increase in 25 years. Now with this administration supporting huge imports from Mexico, we are at a great transitional time for sugar. This is not the time to cut them anymore. For rice farmers, which Senator LINCOLN spoke about—she is from a rice farming family herself; she most certainly knows what it means to walk the rice rows—the current this amendment would unfairly penalizes producers of rice. Any further cuts to our rice industry would be detrimental.

I am pleased that with Senator LINCOLN's assistance, we were able to put in extra help for some of our specialty crops. Sweet potatoes we grow a lot of, and we are proud of that crop and others. But this is not insignificant business. This is billion-dollar business. It is important to Louisiana. We need to hold the line with the reform.

I urge my colleagues to vote no on Dorgan-Grassley. We have given enough from our region. We want to support reforms. We have supported reforms. But enough is enough.

I am happy corn is now at \$4.33 a bushel. I wish my sugarcane farmers

and rice farmers were getting two or three times what they were getting a couple years ago, but they are not. Let's hold the line and vote no on the Grassley-Dorgan amendment.

Mr. CHAMBLISS. I yield 5 minutes to my colleague from Georgia, Senator ISAKSON.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. I thank my colleague, Senator CHAMBLISS.

Mr. President, I have great respect for Senator GRASSLEY and Senator DORGAN. But I have respect for a lot of other people. One of them was my predecessor, a guy by the name of Zell Miller. From doing a little research about the 2002 farm bill, Zell stood on this floor and spoke. He made a statement I think is worth repeating. He said: This amendment says to those of us in the South one thing—hold on, little catfish, while we gut you.

It should not go without notice the two sponsors of this are from the Midwest. Everybody on the floor talking right now is from the greater Southeast. This is a punitive amendment to a bill they contend on the one hand doesn't constitute reform, but it is probably the most remarkable reform in farm policy in the United States in the history of the Senate. We are moving in the right direction, but we are moving there without destroying family farms. We are moving there without playing favorites in agriculture.

Supporters of this amendment say these payments go to the few and to the big. I couldn't disagree more. This amendment punishes the farmer and his family who depend solely on the farm for their livelihood. Why should we take the greatest, most abundant food supply in the world and try to mess it up. That is exactly what this amendment would do. Don't let these big numbers fool you. These farmers each year take risks equal or greater than those of their brethren in any other business. In fact, just alone, the equipment a farmer buys today in most cases exceeds the cost of the home that most other Americans buy.

Some argue it is wrong for these payments to go to a small number of big farms. But it is these very farms that are producing the vast majority of our agricultural products. We should be supporting those who are fueling the economic engine of our country. Why should anyone want to punish family farmers who have made very large investments in order to become competitive in an international marketplace? Why are we going to hurt farmers who are trying to provide a decent living for their families in the face of tremendous challenges and soaring costs of production? They do not deserve this kind of treatment. With much of our Nation's farmland in a drought and input costs at record highs, why should anyone want to limit assistance during this time, at a time when our farmers need our help and need it most?

I urge my colleagues to oppose the Dorgan-Grassley amendment. Let's

unify America in our ag policy, not have sectional differences, certainly not have sectional penalties. Let's not allow one part of the country to be gutted to the benefit of another.

I yield the floor.

Mr. CHAMBLISS. Mr. President, I thank my colleagues from Louisiana, Alabama, Arkansas, and Georgia for stepping up and making a lot of common sense in their comments. All of us are appreciative of the work Senator DORGAN and Senator GRASSLEY have done over the years in this body. They have both been very supportive of agriculture. I particularly am appreciative of that as the ranking member of the Senate Agriculture Committee. I have been to Iowa. I know the kind of farming they do there. It is different from the way we farm Georgia. I have been to North Dakota. I have seen the way their farms operate in North Dakota. It is different from the way we operate in the Southeast. There are reasons why policies have to be different for different sections of the country.

I wish to talk for a minute about this claim that all these farmers getting payments are big farmers. The proponents of the Dorgan-Grassley amendment claim that 10 percent of the farmers are getting 70 to 80 percent of the program payments. They characterize these farmers as megafarmers and corporate farmers. Both Senator GRASSLEY and Senator DORGAN talk about megafarmers and corporate farmers as opposed to family farmers they want to assist with farm programs. I wish to explain that the farmers in the States of all my colleagues fall within this 10-percent category, and they are ordinary farmers with average size operations. They have families to support, and they are a vital component of rural communities. Most of all, those 10 percent feed this country.

I wish to make it clear, particularly to those who are considering supporting Dorgan-Grassley, why an overwhelming majority of the farmers in your State would fit within the category of being in the top 10 percent of payment recipients. In order to compare apples to apples, I asked USDA to provide me with the attribution data for the 2005 direct payments. I asked for the data in an attributable form because I wanted the information to reflect what the universe of payees would look like based upon the committee-supported bill which requires direct attribution. The data from USDA is pretty interesting. It provides clarity as to the size of farming operations that comprise the top recipients.

In 2005, if a farmer received 1 penny more than \$10,000 in direct payments, they would have been considered to fit within the largest 12 percent of producer recipients, exactly the category Senator GRASSLEY referred to. Some of you might ask: How many acres does a farmer have to farm to reach \$10,000? Critics consider them to be megafarmers, but the facts do not support this claim and here is why.

According to the USDA attribution data, direct payments average \$23.02 per acre nationally, which means if a farmer has 511 base acres, they reach the \$10,000 level. Now, I will be honest with you. Maybe it is a good bit different in the Southeast from the way it is in the Midwest. But if you try to farm 500 acres in the Southeast and feed a family of four, you simply cannot do it. In areas where covered commodities are produced, there are few farmers who would consider themselves anything but a small farmer with this amount of acreage. Yet the critics are not interested in telling you these small farmers fit within the category Senator GRASSLEY referenced on the floor recently, when he claimed we have 10 percent of the large farmers in America getting 70 percent to 80 percent of all the money.

To better understand how so many typical farmers fall within this small percentage of payment beneficiaries, you must understand the entire universe of program participants. If one operator rents seven separate tracts from seven separate landowners, on a 75 percent-25 percent crop share arrangement, we end up with eight individuals receiving program benefits—one operator and seven landowners.

Each of these eight individuals counts as a program recipient. But since the operator is on a 75-25 percent crop share arrangement, he or she ends up with 75 percent of the acres and production, while all seven landowners account for 25 percent of the acres and production on their respective farm. Or another way to look at it, the individual operator accounts for 75 percent of the program payments but only 12 percent of the universe of individuals represented in that scenario. I fail to see why this is being represented as inappropriate or unfair. It is only logical that the operator, as a program recipient, who accounts for 75 percent of the acres and production, receives more than any of the other seven individual landowners, who each account for only 25 percent of the acres and production on their respective farm. This simply reflects the one individual operator receives payments in a higher proportion than the other seven individuals due to his level of production and risk.

Now, there has been conversation and statements made tonight about the fact we did not make real reforms.

Let me tell you where the heart of the difference is between the Grassley-Dorgan proposal and the underlying bill. The heart of the difference is in what we call the definition of an "actively engaged farmer."

Under current law and under the language in the base bill, individuals or entities must furnish a significant contribution of capital or equipment or land and personal labor or active personal management in order to be actively engaged in farming. So a farmer who qualifies for payments must put at risk money, he must furnish land, he must furnish equipment or he has to be

directly involved in the management of the operation.

Under the Grassley-Dorgan amendment, that definition is changed so that for an individual to be considered actively engaged in farming, they must furnish a significant contribution of capital or equipment or land and personal labor and active personal management.

So what that means is any young farmer—as Senator GRASSLEY referred to—who has a difficult time getting into the farming business, if he wants to come in and start farming, that young farmer, in order to qualify for payments—remember, this is the person who is going to be out there driving the tractor; this is the person who is going to be getting dirt under his or her fingernails—they have to come up with money, they have to come up with equipment or he has to come up with land, and he has to be the guy who is making all the decisions on the ground out there. He cannot have anybody helping him with it, so to speak, who gets payments that help that young man along.

Which young farmer in America today can step right out of school, step right out of high school or college, for that matter, who has the ability to come up with capital, who can come up with the \$250,000 combine, who can come up with a \$150,000 tractor, who can come up with even a used planter that is going to cost several thousand dollars? Who has the ability to do that?

Well, the arrangement we have that is available to a young farmer under the base bill and under current law is that when a young man or a young woman wants to get involved in farming—a lot of the time it is with their family, sometimes it is without—they have the ability now to enter into a crop share or a landlord-tenant arrangement with a landowner who oftentimes is in the retiring years of wanting to slow down his farming operation or maybe completely get out of it and let someone else get into it. But if he has land, he has equipment he is willing to put into a partnership, a landlord-tenant arrangement, then that young farmer has an opportunity today he simply would not have if the Dorgan-Grassley amendment passes.

It is pure and simple. So when we say we are going to be taking care of young farmers by putting a \$250,000 cap on the payment limits any farmer can receive and, thereby, we are going to allow young farmers to come into an agricultural operation, we are kidding ourselves, and we are not being straightforward because that simply is not giving that young farmer any additional advantage.

Now, there has been conversation about abuses of the program and that a lot of people who are not farmers—who may live in Los Angeles or may live in Washington or may live in New York—are getting payments. That is true.

This is my third farm bill. I have tried in every farm bill to try to make

sure that young man whom we talked about who is getting dirt under his fingernails, whether it is a young farmer or an older farmer, is the one who gets the benefit—I emphasize that, the benefit—of these safety net programs.

We have sought to do that again. We have modified the language in this bill. For example, Senator DORGAN has referred to what we commonly call the “cowboy starter kit,” where we have base acres on a piece of farmland that all of a sudden is turned into a subdivision or into a development of some sort, and payments are made on those base acres.

Well, we have taken those base acres out of eligibility for farm payments with language we have directly put into the bill because what we say is that in order for base acres to qualify, a farmer has “to use the land on the farm, in a quantity equal to the attributable base acres for the farm and any base acres for peanuts for the farm under part III, for an agricultural or conserving use, and not for a non-agricultural commercial, industrial, or residential use. . . .”

So when we talk about the ability of somebody to own base acres and to take that land and develop it or maybe carve a 10-acre tract out of there and still get payments on those base acres, you are not going to be able to do that under this farm bill.

We went a little bit further because in the committee I had a dialog with Senator NELSON and Senator SALAZAR relative to an amendment which they had designed to prevent commodity program payments on land that is no longer a farming operation or used in conjunction with a farming operation. We have agreed to accept some additional language relative to the amendment they proposed and we took in the committee.

The amendment requires the Secretary to reduce base acres for covered commodities for land that has been developed for commercial or industrial use, unless the producer demonstrates that the land remains devoted exclusively to agricultural production, or for land that has been subdivided and developed for multiple residential units or other nonfarming uses, unless the producer demonstrates the land remains devoted exclusively to agricultural production.

So we are taking the ability away from a commercial developer to ever get any farm payments. I do not know who these particular individuals are who have been referred to as the examples of who ought not to get payments who have gotten payments, but I do recognize there have been abuses, and we have sought to correct that. We have sought to correct that, and we are going to make sure any payments that go on base acres under the bill go to a farmer or an individual who is using that land for agricultural purposes and not for any commercial development or residential development purposes.

Are we going to cure all the problems? Look, I wish I thought we could.

I know with any program that is of this size there is going to be some abuse somewhere along the way. We do not have a Federal program in place today that is not being abused and that you cannot single out 1 or 2 or 10 individuals, particularly where we have an expenditure of billions and billions of dollars. But we are certainly doing our best to address the issue, to try to correct the abuses that have taken place.

In this particular instance, we truly have made real reforms that I think are going to close every loophole we know is out there today when it comes to making sure payments go to folks who deserve the payments and that the payments are at a level that is reasonable when it comes to making sure we have a close watch on the taxpayer dollar.

I wish to close this portion of my comments by saying we will detail, as Senator LINCOLN said earlier, some of the specific reforms. But I will highlight one.

I was involved in the writing of the 1996 farm bill, as was Senator GRASSLEY, as was Senator LINCOLN. In that farm bill, which was enacted 5 years ago, we had a payment limit cap of \$450,000. In the last 5 years, from 2002 to the language that is included in the base bill we are talking about today, we have reduced that \$450,000 down to \$100,000. Now, that is a \$350,000 reform. Senator GRASSLEY takes it up to \$250,000, but that is not apples and apples. But the fact is, we have made real reforms in the dollar amount that folks are eligible to receive from \$450,000 down to \$100,000.

We have also made other significant changes, such as elimination of three entity, as well as the requiring of attribution to every farmer in America who is going to be receiving payments under this farm bill.

With that, I will reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 3825 WITHDRAWN

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the pending second-degree amendment to Gregg amendment No. 3673 be withdrawn.

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

Mr. GRASSLEY. Mr. President, I yield myself a few minutes.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I will do it for the sole purpose of commenting on a couple things the Senator from Arkansas brought up. One was the statement where if our amendment is adopted, Senator DORGAN and I would be working to eliminate farm program payments altogether. I wish to make clear I am a believer in a safety net for farmers. We are going to maintain that safety net. So I hope people will ignore that suggested goal.

I think it is important to understand that farm programs have been around since the 1930s. They have been around

as a safety net because farmers are at the beginning of the food chain or, you might say, at the bottom of the food chain. We have a situation where farmers for input, for producing a crop—producing the food our consumers eat—pay what is charged for those imports. They might bargain a little bit, but they don't have control; they have to buy the imports or they aren't in farming. When they sell their products, they have to sell what the market bears for the day they choose to sell. They might choose a different day to sell, but eventually, whatever they sell for is what the market is there; a farmer is not bargaining for that market. So smaller farmers don't have the ability to withstand things beyond their control, such as a natural disaster or domestic policy such as, let's say, Nixon freezing beef prices, ruining the beef farmers, or stopping the exports of soybeans so that they fall from \$13 a bushel to \$3 a bushel. Those are things a farmer doesn't have anything to do with. So we have a safety net to help medium- and small-sized farmers get over humps and things they don't control, whereas larger farmers, the farmers whom we are putting a \$250,000 cap on—the larger the farmer, the more staying power they have. Now, I admit they are affected by the same policies I have referred to, but they have the ability to withstand that to a greater extent than smaller farmers. Also, as I stated in my opening remarks, when you subsidize big farmers, it helps them to get bigger, and it makes it more difficult for people to stay in farming.

A second thing I wish to give a retort to is the use of quotes from an article that says the largest farms in America produce 78 percent of the commodities, but only get 56 percent of the farm program payments. Well, the safety net wasn't set up to match the food source. It wasn't developed to follow the crowd. It was set up to protect small- and medium-sized farmers from things beyond their control, and to maintain the institution of the family farm because it is the most efficient food-producing unit in the entire world. I would compare it to corporate farms on the one hand; I would compare it to the political State farms of the old Soviet Union as an example. The family farm has a record of being the most productive. That is to the benefit of the farmer and the entire economy. It is to the benefit of the consumer.

I am not advocating that there is anything wrong with large farms or large farms expanding; we just shouldn't subsidize them to do it.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. How much time remains on the two sides?

The PRESIDING OFFICER. There is 25 minutes 50 seconds on your side, and 10 minutes 42 seconds on the other side.

Mr. DORGAN. Mr. President, my intention would be to use some time and

then perhaps yield to my colleague from Georgia, and then I would prefer that we be able to close since it is our amendment, and then we would be done with the time. If that would be satisfactory to my colleague from Georgia, the ranking member, I would proceed on that basis.

Mr. CHAMBLISS. Certainly, Mr. President. That is fine.

Mr. DORGAN. Mr. President, let me begin, as a couple of my colleagues have—more specifically, my colleague from Arkansas—I have great respect for Senator LINCOLN, Senator PRYOR, Senator CHAMBLISS, and others here who may disagree with Senator GRASSLEY and myself. I very much respect their position and do not in any way denigrate a position or a philosophy or a policy choice they have made. I do think, however, this is a real choice and an important choice, and I come at it from a different perspective. I believe very strongly if we do not do the right thing, one day we won't be talking about a farm program because there won't be a farm program.

The fact is most people in this country don't farm. Only a small percentage of people live out in the country, out on the farm, under a yard light, trying to raise a family, trying to raise a crop against all the odds. They put a seed in and in the spring they hope it grows and they hope it doesn't rain too much, they hope it rains enough; they hope it doesn't hail; they hope crop disease doesn't come; and they hope that at the end of the summer, perhaps during the harvest season, they get in and harvest that land and they have a crop that comes out of the ground. Then they hope if they were lucky enough to get through all of that and get a crop and drive it to the country elevator, that they might get a decent price for it. They live on hope. The only way people living on a farm in the country can exist is living on hope. They are eternal optimists, believing that if they put a crop in in the spring, that putting that seed into that soil is going to somehow sprout into something bigger, and that at the end of the growing season, they have an opportunity to make a decent living. That is what it is about—because farmers live on hope—but because, in most cases, when international wild price swings occur and the bottom falls out of the grain market, if we don't have a safety net across those price valleys, so those family farmers get economic leverage, the opportunity to make it from one side to the other, they get wiped out. The same is true when a natural disaster comes along.

There are some big enterprises that have the economic strength to get through it. Perhaps when price declines, when disasters hit, they can get through it, but the family farmer doesn't. They get washed away, completely washed away. Then you have the auction sale. You have the yard sale, the auction sale, and that family farmer is gone. It goes on all across this country.

This country decided to do something very important. It decided to say it matters that when you fly across this country tonight, that you are able to look down and see people populating the prairies, populating the rural areas with yard lights and family farms. Look down sometime and see where they all live. Fewer and fewer of them live out in the country. There are fewer and fewer neighbors. But we are trying and struggling mightily to say to family farmers, when you are out there trying to run a family farm and raise a family and raise a crop, if you run into trouble, if you run into a tough patch, we want to help you. That is what this safety net is about.

Now this safety net has grown into a set of golden arches for some. Some of the biggest corporate agrifactories in the country suck millions of dollars out of this program. Some of them are farming the farm program—millions and millions of dollars. Is that what we believe this safety net should be about? Is it, really? Does anyone here believe that those who have never farmed and are never going to farm should receive a farm program payment? Is there anybody who believes that? Because that is what is going to happen. It is what is happening now.

According to some pretty good research that has been done on who receives and would receive the payments under the current system, there are what they call “down south cowboy starter kits.” I described that before. It is somebody who subdivides some land that used to produce a crop and still gets a direct payment on a crop that is not produced anymore. So they subdivide it and build a house on part of it and run a horse on another and hay it once a year, and lo and behold, someone who has never farmed and never will, living on ground that has not produced a crop for 20 years, is going to go to the mailbox some day and open up an envelope from the Federal Government and it is going to say: Congratulations. You get a farm program payment. That is exactly what happens today, and it is what is going to happen with this bill.

I support the farm bill that came out of this committee, but I want to improve it because there is a glaring hole. The hole is that under this bill, non-farmers could get farm program payments, and the hole that is there is an unlimited opportunity to get loan deficiency payments on the LDP or the marketing loan portion. My colleague will say: Well, we have a \$200,000 cap on farm program payments. But that is not true; they don't have a \$200,000 cap. They have a \$200,000 cap on the direct payment and the countercyclical payment, but the third piece, the marketing loan and the loan deficiency payment, is unlimited—no cap at all. The biggest farm in the country, on every single bushel of commodity they produce, will get a price protection in the form of a safety net from the American taxpayer. I don't think that adds up.

I described a few moments ago a wonderful—apparently a wonderful woman in San Francisco, a patron of the arts. I had a picture I decided not to use because I don't think it is fair to her, but she was in the San Francisco Chronicle; they did run a picture of her. Her name is Constance Bowles. She was the largest recipient of farm program funds in San Francisco. She received \$1.2 million, her husband received \$1.1 million. Another fellow still runs the 6,000 acres. He is receiving money. He says: Well, I don't know why I am getting this money, but if they are—if cotton and rice folks in Texas are going to get it, then I think I ought to get it as well. I don't know. Do people think this is what we ought to be doing? Do you think this represents a safety net? It doesn't look like it to me. It looks like a glaring loophole.

The committee made some improvements. I said that when I started. The three-entity rule is gone. That was something that was abusive, and that is gone. I think that is progress. But I am telling my colleagues more needs to be done, because if we pass this bill as is, people who have never farmed and never will, will still receive farm program payments. For land that hasn't produced a crop for 20 years, they will still be able to get farm program payments. In my judgment, that is not reform.

I believe when we read stories—and we will—when we read stories that operations—the big corporate agrifactory gets \$35 million in 5 years, I think a lot of the American people reasonably will ask the question: What does this have to do with the safety net to help family farmers through tough times? Again, if we are for change and reform in a constructive way that says let's do the right thing, then we will pass the amendment I have offered with Senator GRASSLEY, Senator BEN NELSON from Nebraska, and others, because we think it is the right thing to do.

Someone said during this debate: This will injure the safety net. No, no. Exactly the opposite. This is the one thing we can do that will preserve and strengthen the safety net. If we don't do this, we won't have a safety net at some point in the years ahead. It will all be gone because the American people will say: If you can't do it right, we are not going to let you do it at all. That is why I believe this is important.

I yield the floor.

Mr. CHAMBLISS. Madam President, I yield 5 minutes to the Senator from Arkansas, Mr. PRYOR.

The PRESIDING OFFICER (Mrs. LINCOLN). The Senator from Arkansas is recognized.

Mr. PRYOR. Madam President, as many others have said today, it is difficult for me on a personal level to speak against this amendment because I have such great respect for the two sponsors of the amendment. However, let me say this to my colleagues who are here, or the staff watching on C-SPAN 2 right now, for the Senators and

staff who are looking at this amendment and thinking about previous votes they have made on this same subject and wondering what the differences might be between this and other votes they have cast, there is one major difference and that is the context of this vote. The context of this vote is in a reform bill. Previous votes have been, as we have talked about earlier, in budget bills, et cetera, et cetera, et cetera. This one is in an agriculture reform bill.

The farmers in our section of the country have given up a lot. What we have given up goes into nutrition programs, goes into conservation, goes into energy, rural development, and new programs for specialty crops. When we talk about adjusted gross income, the hard cap in this bill that came out of committee, the three-entity rule reform, all are major gives by farmers in our section of the country.

Quite frankly, if this amendment is adopted, I believe it will destroy the American cotton and rice industry. We will continue to use cotton and rice, but it will increase our trade deficit. We will import it from other parts of the world. Our food and fiber will be grown in countries that do not have our same standards on the environment or on labor or in many other areas. So I have to ask my colleagues: Do we think that is good public policy?

I called a friend of mine this weekend. In fact, it was on December 9. I called him and I said: Hey, are you all set up to go duck hunting, because I want to take my 13-year-old down there and go duck hunting. He said: Not yet, because we are still working the fields. They are still working on December 9 in the rice fields in Arkansas. Now, the rice is gone, but they have to maintain the levees. They have to do all kinds of things. I don't even know what they do. But the truth is my friend, and farmers all over this country, cotton and rice farmers, have huge investments they have made. They have business plans. They have bought combines. They have bought other very expensive pieces of farm equipment. They would have to totally reconfigure their fields. They would have to destroy a very elaborate and very expensive levee system.

It is not fair for us to go through these reforms we have already done and now to ask our rice farmers to do this.

So when I think about my friend, I think about what he would have to go through—in fact, he is the hardest working person I know—I think about the impact it is going to have on rural communities and about the fact that we are talking about food security and protecting the integrity of the American food supply, and we are talking about importing more rice and cotton, et cetera.

It is hard for me to understand why the Senate would want to do that. I have to remind my colleagues of a quote that our colleague in the House made, MARION BERRY. He said:

If you like importing your oil, you will love importing your food.

I hear the arguments my colleagues are making about the so-called cowboy starter kit. I have heard about that. It is a funny story, but it makes you mad as a taxpayer. The fact is, the USDA today can fix that problem. It should have already been fixed, but for whatever reason, they have not fixed it. They have the authority to fix that today.

Now, I have heard the other side say they are concerned about money going to people who don't farm. There is one key thing that my other colleagues need to understand, and that is that they may not be farming, but the land is being farmed. The land is being farmed. They share the risk in that crop. And I heard Senator GRASSLEY say a few moments ago that he and his family, and folks all over his State, enter into these rent-type agreements. Well, so do we. But the way this amendment is structured would absolutely destroy our cotton and rice farmers in our part of the country.

In closing, this is difficult for me, but I am telling you, if this amendment is adopted, I cannot support this bill. It is very hard for me to come to the Senate floor and say I cannot support a farm bill, which is so critical to our State. If this amendment is adopted, I cannot support the farm bill.

With that, I ask my colleagues to look at this very closely. I thank Senators CHAMBLISS and LINCOLN for their leadership.

The PRESIDING OFFICER (Ms. CANTWELL). Who yields time? The Senator from Georgia is recognized.

Mr. CHAMBLISS. How much time remains?

The PRESIDING OFFICER. We have 5 minutes remaining under the control of the Senator from Georgia.

Mr. CHAMBLISS. How much on the other side?

The PRESIDING OFFICER. There are 17 minutes.

Mr. CHAMBLISS. Madam President, I yield half of the 5 minutes to the Senator from Arkansas, Mrs. LINCOLN.

Mrs. LINCOLN. First of all, I want to correct something. Senator GRASSLEY had some concerns about my comments earlier, and they may have been misinterpreted. Senator GRASSLEY is a champion for his farmers, no question about it. I have no doubt about that. I didn't say it would eliminate the subsidy program. What I said the amendment would do is eliminate our ability as farmers in southern States in terms of being able to mitigate our risks without that marketing loan, uncapped as it is in current law. I wanted to make sure he knows.

Madam President, I want to take a few minutes to walk through some of the reforms in this bill that people should be proud of. Over the past 5 years, I ever consistently heard press accounts unfairly characterizing farm programs. All too often, the accounts are very misleading—and that is a nice

way of saying it. However, as members of those States, we rely on a strong farm safety net. I paid close attention to that criticism. I have taken it personally because I believe it unfairly calls into question the character and integrity of my farmers, the hard-working farm families I am proud to represent in the Senate. Largely because they are hard working, they are salt-of-the-Earth people, and they go by the rules. The fact is, they may farm something different, and they may farm a little differently than others, but they are still the hard-working farm families of this country.

We have eliminated today in the underlying Senate Agriculture Committee bill some of the often cited loopholes, the so-called three-entity rule, and banned the use of generic certificates, which producers use to make their entire crop eligible for the marketing loan cap in less transparent ways. We have been asked to be transparent, and that is what we have done.

For reformers, the underlying bill also creates direct attribution of program benefits to a "warm body" by requiring the Secretary to track payments to a natural person regardless of the nature of the farming operation earning these payments.

Folks also wanted to dramatically lower the overall level that an individual farmer can receive. That is what we have done.

I thank you for the opportunity to be here and represent those great farmers. I want to say to all of my colleagues that a vote against the Dorgan-Grassley amendment is still a vote for the most significant reform in the history of our farm bill.

The PRESIDING OFFICER. Who yields time? The Senator from Iowa is recognized.

Mr. GRASSLEY. Madam President, how much time is left on our side?

The PRESIDING OFFICER. There is 17 minutes remaining.

Mr. GRASSLEY. I yield myself 5 minutes.

Madam President, one of the things I think we have to remember is there is reform in the bill that the committee has presented to the Senate—reform that probably should have been done a long time ago.

I pointed it out in my opening remarks and in closing I want to kind of emphasize that there are limits put on in the bill that sound very reasonable. But I have to tell you there is one gigantic loophole you have to consider, and out of the three forms of payments—direct payment, loan deficiency payment, and countercyclical payment—the caps that are in the bill, adding up to \$200,000, are for countercyclical and direct payments.

So if you don't have a cap on loan deficiency payments, that means the payments farmers can receive are unlimited and, from that standpoint, when loan deficiency payments are considered, there is not a hard cap. Now, the adjective, "hard," is applicable to Dor-

gan-Grassley, and it is very important because we have had caps on farm programs for, I will bet, three or four decades. They have been ineffective caps because there has been legal subterfuge to get around it.

The underlying bill, as well as our amendment, takes care of some of that legal subterfuge. But we maintain one for loan deficiency payments within this bill. So you, consequently, don't have a hard cap. Some people would say you don't have a cap at all. I will not go that far. But it is one gigantic opportunity for people to get payments that are really not limited. And it is particularly important for big farmers because the loan deficiency payment is paid out so much per bushel for what the market price is under the target price. So the more bushels you produce, the larger the farm, the more deficiency payments you are going to get. Consequently, we are trying to stop subsidizing farmers from getting bigger.

But when the loan deficiency payment is left out, you are going to give these farmers the same opportunity they have under existing law to use a legal subterfuge that basically makes the limits less meaningful. So I hope you will consider whether you think, when we have a cap, it ought to be an effective cap and, in the words of Dorgan-Grassley, a hard cap. It is very important that we do that.

Remember the background for the farm safety net. It is to help medium- and small-sized farmers, to protect them against things beyond their own control. And natural disaster is a natural one to speak about because floods and hail and windstorms and inability because of a wet spring to get the crop in, et cetera, et cetera, are all natural disasters that a farmer cannot do anything about. Only God can do something about natural disasters.

Then there are political decisions. I keep mentioning them because they ruined so many farmers in the 1970s. Nixon put a freeze on beef prices, and the President also put a limit on exports of soybeans so the price would plummet when it was very high in the early 1970s. And there is international politics: the cost of energy, what OPEC does—all of that is beyond the control of the small- and medium-sized farmers.

But the larger you get, the more staying power you have in it, and we don't need to have a safety net so strong that it subsidizes big farmers to get bigger, and 10 percent of the biggest farmers are getting 73 percent of the benefits out of the farm program.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Madam President, how much time remains on our side?

The PRESIDING OFFICER. There is 1½ minutes remaining.

Mr. CHAMBLISS. Senator GRASSLEY said a little earlier that the payment limit provision increased the land

prices or contributed to the increase in land prices in his State. I simply say that I understand they have risen 64 percent from 2000. I remember very well, in 2002, when we were drafting the farm bill, the price of corn was \$1.90 a bushel. Today, the price is \$3.16 a bushel in Iowa, and in Texas it is about \$3.85 a bushel. It is pretty easy to see why the price of land in the midwestern part of the United States increased. It has nothing to do with payment limits and everything to do with crops.

By contrast, in the mid-1950s, cotton was selling at 55 cents a pound. Today, a pound of cotton is selling somewhere in the range of 62 cents, and it is up. That is a pretty drastic contrast.

My colleagues have said it is their position that farmers simply get too much money, and we need to cap payments. I think it is interesting to note that we tried to put a cap on conservation payments, and we were stymied from doing it in the committee.

There is nothing in the Grassley-Dorgan amendment to put any payment limit on the conservation payments that are made. The conservation payments that are made, I daresay, are virtually all of the payments to which the Senator from North Dakota referred. I urge colleagues to vote no on this amendment.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. How much time remains?

The PRESIDING OFFICER. There is 12 minutes remaining.

Mr. DORGAN. Madam President, to suggest that perhaps we believe that farmers were getting too much money, nothing could be further from the truth. A whole lot of farmers are not getting enough help when they need it. The reason is because we don't have enough money in the farm program to provide a decent safety net. We have money leaking out the back door in the form of millions of dollars of payments to big corporate agrifactories. I have some examples. We have all heard these and read about them.

Constance Bowles, a prominent San Francisco art collector, from 2003 to 2005 received \$1.2 million. Her husband received an equivalent amount during that period. Mark Burkett, a bonafide farmer, received payments for corn, wheat, cotton, peanuts, and sorghum from 2003 to 2005 totaling \$1.8 million. Tommy Dildine collected \$1.04 million. By the way, his wife Betty received exactly the same amount down to the penny. That is just over \$2 million for that couple. I could go on.

Is this a safety net helping family farmers? I don't think so. There is nothing, as I indicated previously, in this legislation that stops some of the practices I described earlier.

My colleague said this issue of cowboy starter kits—I am tired hearing about cowboy starter kits. The USDA can shut that down. Yes, they can, but they won't. Why wouldn't we shut down a loophole that says somebody

who has never farmed and never will farm and living on land that hasn't produced a crop for 20 years ought to open the mailbox and get a check from the Federal Government, a farm program payment? Why wouldn't we close that loophole? Why? Because this bill doesn't go far enough and won't close it and those who are opposing us on the floor of the Senate today don't want it closed.

There are a lot of reasons to support family farming. Some say it is hopelessly old-fashioned, that farming has gone a different direction; it is mechanized, it is big, these are big operators farming from California to Maine. I believe it is not hopelessly old-fashioned to think we can keep families on the farm putting in a crop and contributing more than a crop, but contributing to building communities. They are the economic blood vessels that flow into our rural communities in our country.

There is a songwriter, a farmer, a rancher from North Dakota named Chuck Suchy. He sings a song about "Saturday Night at the Bohemian Hall," where all the neighbors, all the farmers in the region gather and talk about the weather, they talk about their crops, and they talk about their families. It is an unusual culture and one that is important to this country. Some say that is yesterday, it is certainly not tomorrow. I, for one, hope we can construct a farm bill that is about tomorrow and that says to family farmers living on the land: We care about you. You are out there alone trying to make it against the odds. So we have a safety net. But some of my colleagues believe that safety net should be a set of golden arches, providing millions to the biggest agrifactories in this country. That is not what the farm program was designed to do.

When we do a program here, it doesn't mean it has to be perverted. We don't need snow removal in Hawaii, we don't need beachfront restoration in North Dakota, and we don't need to pervert a farm program by allowing millions of dollars—and, by the way, since the year 2000, \$1.3 billion has been spent by this Federal Government in crop subsidies to people who are not farming—\$1.3 billion. What might that have done in the form of health care for children who don't have health care or strengthening education so that when kids walk through a classroom door, we can believe they are walking into one of the best classrooms in the world? What might that have done in a whole range of areas where we could have improved life? What might that have done had that money gone in to strengthening the farm program itself or providing a disaster provision 2, 3 years ago for a farm program that doesn't have it?

Madam President, how much remains on my time?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. DORGAN. Again, I know some think it is hopelessly old-fashioned to

talk about family farms. I don't. I know some farms have been very successful and they have grown, and I don't mean at all they should be penalized. That is not my intention. We only have a certain amount of money, and we ought to provide the best safety net and farm program we can up to a certain amount of production because that is the money we have. But we ought not dissipate our energy, strength, and money on people who are not farming and they go to their mailbox and open a check, and they get a farm program payment even if they don't farm. That does not make sense to me.

Let me tell a story about a young man named Waylon. I was invited to the White House to the East Room some while ago when they brought in some youngsters who were heroes and the President presented these youngsters with medals. One of them was a North Dakotan. Twelve-year-old Waylon was on the farm with his brother and sister. His parents went to a neighbor farm for a moment to see the neighbors. It was winter, and in North Dakota in the winter, the stock pond was frozen. They were playing on the ice. This 12-year-old boy and his brother and sister were playing on the stock pond ice and his sister fell through the ice. It cracked and she fell through the ice and was drowning.

Waylon, age 12, sent his brother to go 1 mile to fetch his parents. His 6-year-old brother went off to fetch the parents. Waylon, age 12, meanwhile lay on his belly with his winter clothes on and cowboy boots toward the edge of the hole on the ice where his sister was drowning.

Some while later, about 20 minutes later, his parents came rushing into the yard, driving into the yard. What they saw was a 12-year-old boy in this area where the ice had broken who couldn't swim, who broke into that ice trying to find his sister who was drowning. What his parents saw was a young 12-year-old boy with his sister's head in the crook of his arm. He was treading water as fast as he could tread still 20 minutes later.

He was given a medal for heroism at the White House along with some other boys. I asked young Waylon: How did you do that? He said I watched "GI Joe" and I learned safety tips. He said: I kicked as hard as I could. He kicked so hard that his cowboy boots came off. On that day, a 12-year-old boy who couldn't swim reached out his hand for his sister who was drowning.

That same type of love, that kind of commitment, that outreach of a hand, not just from that 12-year-old boy, but from a country to farmers all across this country to say, let us help you when you are in trouble—that is the instinct of this country and why we created a safety net in the first place, to reach out our hands to say we want to help, you are not alone when prices collapse, when disease comes, when it hails, when it rains, when it rains too

much, when it doesn't rain enough. This country has said we want to help because we believe family farmers are important to this country. We want people on Saturday night to come to the Bohemian Hall and swap stories about the weather, the crops, and their neighbors. We want that. The way you get that, it seems to me, is to preserve a safety net. We will not preserve a safety net for family farmers by deciding we ought to give millions and millions of dollars to the biggest agrifactories in this country that are farming the farm program.

When we give \$1.3 billion in farm program payments to people who are not farming—let me say that again—when we send checks to the mailboxes of people who are not farming to the tune of \$1.3 billion and call it a safety net in a farm program, I am saying it is a perversion of what we ought to do as a government to help family farmers in the future.

This ought not be a difficult choice. The committee made some improvements in this bill; yes, they did. But without this amendment, we will still have people who are not farming now and have never farmed in the past and will never farm in the future living on land that has not produced a crop for 20 years, and they are going to continue to get farm program payments. If you don't believe that is wrong, then vote against this amendment.

Senator GRASSLEY and I believe there is a much better way. We don't do it by suggesting anybody at all should ever be penalized. We just believe we should use the resources we have to provide the best safety net we can to those family farms out there struggling to try to make ends meet during tough times. That is why we have a farm program. It is why we designed a safety net. It has not worked as well as any of us would have liked.

I would like to improve the safety net, but we can't improve the safety net if we are using this precious money to send it to Telegraph Hill in San Francisco to somebody who gets \$2.4 million with her husband, a patron of the arts, who gets money from the farm program and whose brother now runs the farm and says: I don't know why we get this money, but if they get it down in Texas, we ought to get it here in San Francisco.

I am telling you, the American people expect more from us. Let me finish by saying this again. I deeply respect my colleagues who disagree with me. I respect my colleagues who have spoken in support of their bill and against this amendment. But I say to them, if they are for constructive change, if they are for reform that the American people understand makes sense, then they have to support this amendment and believe let's at least do the right thing.

This is a good bill that came out of the committee, but it needs to have this hole plugged. To have a bill come out of the committee and have loan deficiency payments or the marketing

loan be totally unlimited for the biggest farm in America for everything they ever will produce, that is wrong. It is a hole big enough to drive a truck through. If we can fix that, I say we have done a good day's work and done something very important for family farmers in the future.

One of my colleagues says, if we do this, he won't vote for the bill. I am going to vote for the bill one way or the other because this bill is an advancement in public policy. But Senator GRASSLEY has said it well, my colleague BEN NELSON and others believe as I do that we should do this, we should have done this 6 years ago. And by the way, we had 66 Senators vote for this approach the last time we wrote a farm bill, and it got dropped in conference. My hope is we will at least have 60 votes tomorrow in support of change, constructive reform that the American people want. If you went to a cafe anywhere in this country, set this out and said: What do you think we should do? I tell you it will be 99 percent saying fix this, fix this, do this in support of the American taxpayers, and do this in support of family farmers.

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

AMENDMENT NO. 3551

The PRESIDING OFFICER. Under the previous order, there is now 2 minutes for debate equally divided prior to vote on amendment No. 3551, the amendment offered by the Senator from Tennessee, Mr. ALEXANDER.

Who yields time?

The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I ask the manager of the bill if he wishes us to begin our 1-minute discussion?

Mr. HARKIN. Go ahead.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, this is a wonderful opportunity to take wasteful Washington spending and turn it into higher farm family income by using our secret weapon, land grant universities' competitive grants to create value-added agricultural products to get that program back on track. It is fully paid for, \$74 million, by striking a provision that uses taxpayers' dollars so taxpayers in Virginia and Georgia, for example, will pay for transmission lines in Tennessee and other States. Those should be paid for by utilities.

The group that hopes Senators vote "yes" includes the National Association of State Universities and Land Grant Colleges, the National Coalition for Food and Agricultural Research, the National Association of Wheat Growers, and the National Cattlemen's Beef Association.

I urge a "yes" vote.

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

Who yields time in opposition?

The Senator from Iowa.

Mr. HARKIN. Madam President, I hope the Senate will reject these Alexander amendments. The first one on

transmission easement payments, again, if we want to encourage the building of renewable energy resources, they are going to take place in rural areas. These easements they have to get have to take place on farms and rural areas.

I was pleased the Finance Committee in their tax package provided this income exclusion for transmission easement payments because it can help support transmission access development and it does it for renewable energy. So this is part of the tax package that came from the Finance Committee supported both by the Finance Committee and the Agriculture Committee.

If you want renewable resources built in rural America, then this amendment should be defeated because it will slow it down and stop it from happening.

The PRESIDING OFFICER. All time has expired.

Mr. ALEXANDER. 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. 3551.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. MENENDEZ) would vote "nay."

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. McCAIN).

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

The result was announced—yeas 19, nays 75, as follows:

[Rollcall Vote No. 420 Leg.]

YEAS—19

Alexander	Dole	Snowe
Allard	Graham	Specter
Bennett	Hutchison	Sununu
Bond	Kyl	Voinovich
Bunning	McConnell	Warner
Burr	Sessions	
Cochran	Shelby	

NAYS—75

Akaka	Cornyn	Johnson
Barrasso	Craig	Kennedy
Baucus	Crapo	Kerry
Bayh	DeMint	Klobuchar
Bingaman	Domenici	Kohl
Boxer	Dorgan	Landrieu
Brown	Durbin	Lautenberg
Brownback	Ensign	Leahy
Byrd	Enzi	Levin
Cantwell	Feingold	Lieberman
Cardin	Feinstein	Lincoln
Carper	Grassley	Lott
Casey	Gregg	Lugar
Chambliss	Hagel	Martinez
Coburn	Harkin	McCaskill
Coleman	Hatch	Mikulski
Collins	Inhofe	Murkowski
Conrad	Inouye	Murray
Corker	Isakson	Nelson (FL)

Nelson (NE)
Pryor
Reed
Reid
Roberts
Rockefeller

Salazar
Sanders
Schumer
Smith
Stabenow
Stevens

Tester
Thune
Vitter
Webb
Whitehouse
Wyden

NOT VOTING—6

Biden
Clinton
Dodd
McCain
Menendez
Obama

The amendment (No. 3551) was rejected.

AMENDMENT NO. 3553

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate prior to a vote on amendment No. 3553, offered by the Senator from Tennessee, Mr. ALEXANDER.

The Senator from Tennessee is recognized.

Mr. ALEXANDER. Madam President, the words I would like my colleagues to remember are "farms, yes; residential, no." If the Alexander amendment is adopted, there would be subsidies for wind turbines up to 12 stories tall in agricultural areas, but there would be no subsidies for wind turbines in residential areas. This is called "small wind." Twelve stories is not very tall, but I would not want to go home and explain to my constituents why I took their tax dollars and helped a neighbor build a 12-story-tall wind turbine with flashing lights in a residential neighborhood.

Farms, yes; residential, no. I ask for a "yes" vote.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Madam President, I ask my colleagues to vote no on the Alexander amendment. The Alexander amendment would essentially strip out what came out as a bipartisan supported amendment from both the Finance Committee and the Agriculture Committee. It is a step in the right direction in terms of moving forward with small wind microturbines that are very essential to our renewable energy future. This is something which is part of our whole renewable energy agenda.

I urge my colleagues to vote against the Alexander amendment.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3553.

Mr. ALEXANDER. Madam 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 bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. MENENDEZ) would vote "nay."

Mr. LOTT. The following Senators are necessarily absent: the Senator from Arizona (Mr. McCAIN) and the

Senator from North Carolina (Mr. BURR).

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

The result was announced—yeas 14, nays 79, as follows:

[Rollcall Vote No. 421 Leg.]

YEAS—14

Alexander	DeMint	McConnell
Bennett	Dole	Sessions
Bond	Domenici	Shelby
Bunning	Kyl	Warner
Cochran	Lott	

NAYS—79

Akaka	Feingold	Murkowski
Allard	Feinstein	Murray
Barrasso	Graham	Nelson (FL)
Baucus	Grassley	Nelson (NE)
Bayh	Gregg	Pryor
Bingaman	Hagel	Reed
Boxer	Harkin	Roberts
Brown	Hatch	Rockefeller
Brownback	Hutchison	Inhofe
Byrd		Salazar
Cantwell	Inouye	Sanders
Cardin	Isakson	Schumer
Carper	Johnson	Shelby
Casey	Kennedy	Snowe
Chambliss	Kerry	Specter
Coburn	Klobuchar	Stabenow
Coleman	Kohl	Tester
Collins	Landrieu	Webb
Conrad	Lautenberg	McCaskill
Corker	Leahy	Whitehouse
Cornyn	Levin	Mikulski
Craig	Lieberman	Wyden
Crapo	Lincoln	
Dorgan	Lugar	
Durbin	Martinez	
Ensign	McCaskill	
Enzi	Mikulski	

NOT VOTING—7

Biden	Dodd	Obama
Burr	McCain	
Clinton	Menendez	

The amendment (No. 3553) was rejected.

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote on amendment No. 3673 offered by the Senator from New Hampshire, Mr. GREGG.

Mr. GREGG. Mr. President, parliamentary inquiry: What is the proper order for the 2 minutes? Is there a tradition or an order on the 2 minutes?

The PRESIDING OFFICER. There is no order of speakers. There is 2 minutes equally divided.

Mr. GREGG. Thank you.

The PRESIDING OFFICER. Who yields time?

If no one yields time, the time will be charged equally to both sides.

Mr. DURBIN. Mr. President, obviously the Senator from New Hampshire does not want to explain his amendment. I will. This is a medical malpractice amendment on a farm bill. This amendment picks a class of Americans who will be denied their day in court and restricted in what they can recover if they are victims of medical malpractice.

The people who will be denied their day in court, a class, women, women living in towns of 20,000 of population or less, and their children, those are the only people who will be denied the right to go to court.

If you think this is wise policy for America, to say to victims of medical

malpractice who live in small towns they cannot go before the court and jury for fair compensation for their injuries, then I assume you will support this amendment.

But if you believe the medical malpractice does not belong in the farm bill, should not specify one class of Americans to be discriminated against and that we should give those victims a chance for their day in court, please vote no.

Mr. GREGG. Mr. President, I appreciate the courtesy of the Senator from Illinois in going first. Let me simply make this point. This is not a complicated amendment. In rural America today, there is a distinct lack of obstetricians. Women who are going to have children are having a very serious problem finding doctors who can take care of them.

That is because of the cost of malpractice insurance. This bill tracks the Texas experience and the California experience and is a very reasonable approach. You have a simple choice in this bill on this amendment. You can vote for women who need decent health care when they are having children or you can vote for trial lawyers. That is the choice. I would appreciate it if people voted for women. Thank you.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 3673.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) and the Senator from New Jersey (Mr. MENENDEZ) would each vote “nay.”

Mr. LOTT. The following Senator is necessarily absent: the Senator from Arizona (Mr. McCAIN).

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

The result was announced—yeas 41, nays 53, as follows:

[Rollcall Vote No. 422 Leg.]

YEAS—41

Alexander	Craig	Lott
Allard	DeMint	Lugar
Barrasso	Dole	McConnell
Bennett	Domenici	Murkowski
Bond	Ensign	Roberts
Brownback	Enzi	Sessions
Bunning	Grassley	Smith
Burr	Gregg	Stevens
Coburn	Hagel	Sununu
Cochran	Hatch	Thune
Coleman	Hutchison	Vitter
Collins	Inhofe	Voinovich
Corker	Isakson	Warner
Cornyn	Kyl	

NAYS—53

Akaka	Graham	Nelson (FL)
Baucus	Harkin	Nelson (NE)
Bayh	Inouye	Pryor
Bingaman	Johnson	Reed
Boxer	Kennedy	Reid
Brown	Kerry	Rockefeller
Byrd	Klobuchar	Salazar
Cantwell	Kohl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Shelby
Casey	Leahy	Snowe
Chambliss	Levin	Specter
Coburn	Lieberman	Stabenow
Coleman	Lincoln	Tester
Collins	Martinez	Webb
Conrad	McCaskill	
Corker	Mikulski	Whitehouse
Cornyn	Murphy	Wyden

NOT VOTING—6

Biden	Dodd	Menendez
Clinton	McCain	Obama

The PRESIDING OFFICER. On this vote, the yeas are 41, the nays are 53. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

Mr. REID. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, the managers have made a lot of progress on this bill today. The end is in sight. We are going to have a couple more votes tonight. There will be a little more debate tonight.

So I ask unanimous consent that the following amendments be debated tonight for the time limits specified in the order listed and that all other provisions of the previous order remain in effect regarding time division and intervening amendments: Sessions amendment No. 3596, 20 minutes evenly divided; Coburn amendment No. 3632, 20 minutes evenly divided; that the Klobuchar amendment be debated tonight for whatever time she may consume of her 30 minutes—she has 30 minutes; whoever opposes the amendment will have 30 minutes; they are going to debate part of that time tomorrow—Senator KLOBUCHAR will use whatever time she feels appropriate tonight within her 30 minutes but the vote occur in relation to the amendment during Thursday's session; that upon the conclusion of the debate with respect to the Klobuchar amendment, the Senate proceed to vote in relation to amendment No. 3596 and then amendment No. 3632—I am sorry, the debate on the Klobuchar amendment will begin after we complete the votes tonight on the two amendments I mentioned—that the following two amendments be debated during tomorrow's session: Senator BROWN will have 60 minutes on amendment No. 3819, evenly divided; Senator TESTER will have 60 minutes evenly divided on amendment No. 3666.

So in effect, we are going to have debate for a relatively short period of time, and they will yield back their time if they wish. We will have two votes. Senator KLOBUCHAR will start her debate tonight and use whatever of her 30 minutes she desires, and then tomorrow we will have a number of

amendments, but locked in is the Brown amendment and the Tester amendment, as I outlined.

I have spoken to Senator HARKIN. He, of course, is in touch often with Senator CHAMBLISS. There is every possibility we could finish this bill tomorrow. As everyone knows, we have some votes in the morning on the Dorgan-Grassley amendment and on cloture on the Energy bill.

After that, we will have to see what happens and try to get back to this bill as quickly as we can.

The PRESIDING OFFICER. Is there objection?

Mr. CHAMBLISS. Mr. President, reserving the right to object, if I could ask the distinguished majority leader to add the other unanimous consent request we have agreed to.

Mr. REID. Yes. I did not have that.

AMENDMENT NO. 3803 TO AMENDMENT NO. 3500

Mr. President, I ask unanimous consent that amendment No. 3803, which is at the desk, be considered and agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Without objection, it is so ordered.

The amendment (No. 3803) was agreed to, as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to provide for the tax treatment of horses, and for other purposes)

At the appropriate place, insert the following:

SEC. 1. ASSET TREATMENT OF HORSES.

(a) 3-YEAR DEPRECIATION FOR ALL RACE HORSES.—

(1) IN GENERAL.—Clause (i) of section 168(e)(3)(A) of the Internal Revenue Code of 1986 (relating to 3-year property) is amended to read as follows:

“(i) any race horse.”.

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service on or after the date of the enactment of this Act.

(b) REDUCTION OF HOLDING PERIOD TO 12 MONTHS FOR PURPOSES OF DETERMINING WHETHER HORSES ARE SECTION 1231 ASSETS.—

(1) IN GENERAL.—Subparagraph (A) of section 1231(b)(3) of the Internal Revenue Code of 1986 (relating to definition of livestock) is amended by striking “and horses”.

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 2. ELIMINATION OF PRIVATE PAYMENT TEST FOR PROFESSIONAL SPORTS FACILITY BONDS.

(a) IN GENERAL.—Section 141(a) (defining private activity bond) is amended by adding at the end the following new flush sentence: “In the case of any professional sports facility bond, paragraph (1) shall be applied without regard to subparagraph (B) thereof.”.

(b) PROFESSIONAL SPORTS FACILITY BOND DEFINED.—Section 141 is amended by adding at the end the following new subsection:

“(f) PROFESSIONAL SPORTS FACILITY BOND.—For purposes of subsection (a)—

“(1) IN GENERAL.—The term ‘professional sports facility bond’ means any bond issued as part of an issue any portion of the proceeds of which are to be used to provide a professional sports facility.

“(2) PROFESSIONAL SPORTS FACILITY.—The term ‘professional sports facility’ means real property and related improvements used, in

whole or in part, for professional sports, professional sports exhibitions, professional games, or professional training.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act, other than bonds with respect to which a resolution was issued by an issuer or conduit borrower before January 24, 2007.

The PRESIDING OFFICER. The majority leader is recognized.

ENERGY INDEPENDENCE AND SECURITY ACT OF 2007

Mr. REID. Mr. President, I ask that the Chair lay before the Senate the message from the House on H.R. 6.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 6) entitled “An Act to reduce our Nation’s dependency on foreign oil by investing in clean, renewable, and alternative energy resources, promoting new emerging energy technologies, developing greater efficiency, and creating a Strategic Energy Efficiency and Renewables Reserve to invest in alternative energy, and for other purposes,” with amendments.

MOTION TO CONCUR WITH AMENDMENT NO. 3841
(Purpose: In the nature of a substitute.)

Mr. REID. Mr. President, I move to concur in the House amendment to the Senate amendment to the text with the amendment that is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to concur in the House amendment to the Senate amendment to the text of H.R. 6, with an amendment numbered 3841.

(The amendment is printed in today’s RECORD under “Text of Amendments.”)

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3842 TO AMENDMENT NO. 3841

Mr. REID. Mr. President, I have a second-degree amendment at the desk I wish to have reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 3842 to amendment No. 3841.

The amendment is as follows:

At the end of the amendment add the following:

This section shall take effect one day after the date of this bill’s enactment.

CLOTURE MOTION

Mr. REID. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid motion to concur in the House amendment to the Senate amendment to the text with an amendment, with reference to H.R. 6, Energy.

Jeff Bingaman, Barbara Boxer, Ben Nelson, Dick Durbin, Debbie Stabenow, Kent Conrad, Maria Cantwell, Ken Salazar, Tom Carper, Joe Lieberman, Daniel K. Akaka, Daniel K. Inouye, Robert P. Casey, Jr., Mark Pryor, Dianne Feinstein, B.A. Mikulski, Sherrod Brown, Jim Webb.

Mr. REID. Mr. President, I ask unanimous consent that the live quorum under rule XXII be waived and that the Senate resume consideration of the farm bill, H.R. 2419.

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

FARM, NUTRITION, AND BIOENERGY ACT OF 2007—Continued

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, parliamentary inquiry: What is the order before the Senate at the present time?

AMENDMENT NO. 3596

The PRESIDING OFFICER. Under the previous order, 20 minutes of debate, evenly divided, on the Sessions amendment No. 3596.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, I will attempt to complete my remarks in less than the 10 minutes I have.

MODIFICATION TO AMENDMENT NO. 3596

Mr. President, I ask unanimous consent that I be allowed to amend my amendment. We got a score today that indicated it would cost \$1 million over 10 years. This would be an offset for that. So I send this modification to the amendment to the desk and ask unanimous consent that I be allowed to amend the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Mr. President, reserving the right to object, we have not seen the modification.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. 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. SESSIONS. Mr. President, I renew my unanimous consent request that I be allowed to modify my amendment to allow for an offset for the \$1 million cost over 10 years.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The modification is as follows:

At the end of the amendment, add the following:

(j) OFFSET.—Notwithstanding any other provision of this Act or an amendment made