

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 13, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JON TESTER, a Senator from the State of Montana, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. TESTER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, this morning the Senate will immediately resume consideration of the farm bill and conduct a period of debate until 9:15. This debate time is equally divided between the leaders or their designees.

At 9:15 the Senate will conduct two back-to-back rollcall votes. The first vote will be in relation to the Dorgan-Grassley payment limitations amendment. That amendment is subject to a 60-vote threshold.

The second vote will be a cloture vote on the motion to concur to an amendment to H.R. 6, the Energy bill.

Mr. President, we will continue with other amendments and votes with respect to the farm bill today, so Members can expect other votes.

I would remind all Members that we will likely be in recess from 2 to 3 p.m. because Admiral McConnell and Attorney General Mukasey will conduct a secret briefing in room 407. This is prefatory to the debate that will take place soon on the FISA bill.

We are going to do our very best to finish the farm bill today. We have 23 amendments left on the farm bill. We have a lot to do. We are going to do everything we can do so that we do not have to be in session this weekend. It will take cooperation from Members because there are a number of issues that we have to deal with.

We are going to try to finish the farm bill and the Energy bill today. We have a lot of other things to do today. Hopefully, we can get agreement.

I would also say this to all Senators: We are past the point where you can just have your staff call the cloakroom and say: I have a Senator who objects. If somebody wants to object, we are not going to take cloakroom calls during these last few days of the session. We are not going to accept that.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

FARM, NUTRITION, AND BIOENERGY ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2419, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2419) to provide for the continuation of agricultural programs for 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) modified 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 golf courses, jackets, 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.

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

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

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.

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.

Harkin/Murkowski amendment No. 3639 (to amendment No. 3500), to improve nutrition standards for foods and beverages sold in schools.

Harkin amendment No. 3844 (to amendment No. 3830), relative to public safety officers.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 9:15 a.m. shall be equally divided between the leaders or their designees and shall be for debate only.

Mr. REID. Mr. President, I designate 5 minutes to Senator BINGAMAN and 5 minutes to Senator CANTWELL, two Senators who have been instrumental in bringing this bill to where we are today on energy.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank the majority leader for yielding me 5 minutes to discuss this bill we are going to vote on, the cloture vote we are going to have in relation to the energy legislation a little later this morning.

One of the objections that has been raised to this legislation is that it still contains a so-called energy tax package. It is very different from what the House passed.

Senator BAUCUS has worked with Senator GRASSLEY to take out provisions that were objectionable to Members, particularly on the Republican side, but it is still a tax package.

Now, what does it do? What it does is extends the tax incentives and credits we put into law in 2005. Those are the tax incentives, the tax credit for the production of electricity from wind, biomass from our clean energy sources. It provides the extension of the solar energy investment tax credit. It provides an extension of residential solar credits to encourage people to use solar heating and energy generation in their own residences. It provides an extension of existing credits for biodiesel.

It creates a new credit for producing ethanol made from nonfood cellulosic material. It tries to extend into the future and expand upon the incentives we put into law in 2005 to encourage the

transition to more of a clean energy technology.

At the beginning of the week, I had the view or the understanding that the disagreement about the tax package centered around the question of which offsets should be used to pay for it. I thought there was general consensus that we ought to have an extension of these tax provisions but that there was disagreement about how we went about paying for them.

It is clear to me that at least for the administration, it is not a question of which offsets should be used to pay for it, the real issue, from their perspective, is they do not consider these tax incentives very important, and they do not believe they are important enough to be paid for.

They believe if they are going to be extended, they should be extended without any increase in revenue anywhere else in the Tax Code to offset that. This is a very unfortunate view on the part of the administration as I see it because it sets up a circumstance where, if we are not able to get the votes to pass this tax package as part of the overall energy package this morning, then we are in a circumstance where the administration says: We will not support—the administration will not support—a tax package that is paid for, and the Congress, under our pay-go rules, most likely will not be able to muster the votes to pass a tax package that is not paid for.

So we have a checkmate situation that is particularly bad for the country and cuts short the effort we tried to begin in 2005 to encourage more development of energy from renewable sources and more energy efficiency through these tax provisions.

There are some in the Congress, in the Senate, who are going to say, well, they support doing something on taxes but not here, not now. We should not do it as part of this bill. We ought to do what we can. It is nearly Christmas, and then we will come back next year and deal with taxes.

The problem is, it does not get any easier next year to deal with this situation. We have already made dramatic changes in this tax package to accommodate concerns of the administration, concerns of Republican Members. But the truth is, we need to go ahead and extend these tax provisions as part of this bill. We need to do so in a way that is paid for. Clearly we need to comply with our pay-go rules and not just add this to the deficit and say it is up to the next generation to worry about finding the revenue to pay for the tax provisions.

I believe it is essential that we pass this, that we go ahead and invoke cloture on the energy package. This energy package that Senator REID is now bringing before the Senate does not have a renewable electricity standard in it. He dropped that again because of opposition from Republican members, opposition from the administration.

But it does have CAFE improvements, it does have renewable fuels

standards, it does have energy efficiency standards, it does have this tax package. I urge my colleagues to support it.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Washington.

Ms. CANTWELL. Mr. President, I too rise in support of the cloture motion this morning and ask my colleagues if we are going to pass the Energy bill before the end of this year. I know the American consumer has gotten a wake-up call because they are paying higher gas prices at the pump. But the question is whether Congress and the White House have gotten the same wake-up call.

Fortunately, thanks to the hard work of Members on both sides of the aisle and many staff members we are within grasp of a very important solution. I am not even going to spend my time this morning talking about the important details of this bill because many of my colleagues, including the chairman of the Energy Committee, has extolled its virtues. Perhaps, if I have a minute at the end, I might elaborate on some of these. But it is time to get to the heart of the matter. And that is, the American people need serious relief from a future of high oil prices by making a transition this legislation would provide. That is we need to make sure we have an energy package that starts investing more aggressively in renewable energy and will actually get us competition at the gas pump and on our electricity grid.

I know some are saying the tax title in this bill must go. And some have even been bold enough to say that it's an increase in taxes. That is an interesting position because these are really tax subsidies for the oil industry. They are not a tax increase on consumers. When we passed similar tax provisions in the 2005 energy bill no one on the other side called that a tax increase.

In fact, when the President put broader subsidies in his budget this year, reducing some of the same subsidies, it was called a modification. So do not tell us now that cancelling a subsidy for the oil industry is somehow raising taxes on consumers. What we are really doing is continuing to make consumers pay more at the gas pump because we are not giving them true competition. At the heart of the matter is the fact that of the energy subsidies and investments that our country makes—that is, using American tax dollars to invest in energy strategies that will help our country—right now 75 percent of them is going to the fossil fuel industry. Only about 15 percent is going to clean energy.

Now, I ask my colleagues, when the United States only has 3 percent of the world's oil reserves, is it smart to continue to have the 75 percent investment in fossil fuels? I would say that we should pass this legislation and make more investments in renewable and energy efficiency.

If someone says that somehow this is going to impact the oil industry, I

would like to refer them to a quote from Lee Raymond, the former ExxonMobil CEO who said on "Fox News" when asked whether Exxon was taking advantage of the new legislation that became law to speed up the development of refineries and capacity here in the U.S., he said "it will not have a major impact."

So I do not know why we are so concerned about keeping these subsidies when the industry itself, the big five oil companies are saying it has had a negligible impact. What it has had an impact on is consumers. And even the Joint Economic Committee has pointed out that the removal of these tax breaks are going to have very little impact on consumers. In fact, another third party observer, the Joint Tax Committee, basically said this \$300 million in subsidies from the big five oil companies in 2008 that would be taken away would be less than 1 percent. In fact, it would have only a one-quarter of 1 percent impact on their profits.

That is right. They made \$120.8 billion in profit in 2006, so taking this subsidy away from them it will have a negligible impact. So what are we holding this up for? Why are we going to hold up the Energy bill because someone does not want to take more subsidies away from the oil industry and put them toward clean energy?

Even President Bush recognized that the oil industry does not need more subsidies. President Bush, in April of 2005, said:

I will tell you with \$55 oil we don't need incentives to oil and gas companies to explore. There are plenty of incentives.

I couldn't agree with the President more. He said that at \$55 a barrel. Now that we are at \$90, we need to move faster in changing these incentive programs. We all know that fossil fuels will continue to be a big part of the energy mix for decades and that there is a great deal of economic benefit from the incentives in oil and gas today. But what we have to realize is we cannot continue in this same direction. We have to change course. We have to level the playing field and take away subsidies from very mature, very profitable industries and make investments in renewables instead.

I know the President also agrees with that because when he signed the 2005 bill, he said:

The bill offers new incentives to promote clean, renewable geothermal energy . . . When you hear us talking about less dependence on foreign sources of energy, and one of the ways to become less dependent is to enhance the use of renewable sources of energy.

Again, I couldn't agree with the President more. But this is about getting a package that will help us give consumers the confidence that they are going to have true competition over the price at the pump.

The Energy and Finance Committees had hearing after hearing talking to the experts. I know some people on the other side of the aisle would say that

some of these tax incentives don't expire until the end of 2008. But this is about giving predictability to energy investment strategies. We heard in the Finance Committee testimony after testimony from experts saying: If you want to get more investment in renewable energy, you need to have more predictable energy tax credits. That is why we can see from our failed policies in the past that countries such as Denmark have made more headway, because they made more investment in renewables. Countries such as Japan have made more headway in solar energy because they made the investments. If we want to get beyond petroleum, we have to stop subsidizing it.

The impact of this morning's vote is that our colleagues are going to say we should take out the Finance package and that somehow will be a completion of an energy strategy. I tell my colleagues, nothing could be more important than getting the long-term fundamentals right for investment so that America can get off our dependence on foreign oil.

This legislation does represent nearly a 20-percent reduction in our current CO₂ output and a 35-percent reduction in our foreign oil dependence. But to get those savings, we not only have to pass CAFE, we also have to pass incentives for renewable energy and do it for more than just 1 year so that we have predictable investment in these energy strategies and reap the economic benefits in jobs for America.

I thank the staff and all Members who have worked so hard on this legislation.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise to urge my colleagues not to vote for this bill and to insist that we have an energy bill that will create more energy for our country.

The Energy bill before us today for a cloture vote will not increase the supply of energy. There are some good parts of this bill. The House and Senate could pass a bill that would do major things for renewable energy sources, for clean energy sources, and for an increase in the supply of energy sources, but the bill that is being brought up today—and I hope it will not get cloture—is a bill that will not increase supply.

We have two problems we need to address in an energy policy. One is the cost of energy. We need to provide more supply in order to bring the cost down. The second is, we are 60 percent dependent on foreign sources for our energy needs, which is an economic and security risk for America.

I cannot imagine the Congress trying to continue to pass a bill that will decrease supply and increase our dependence on foreign sources for our energy needs. We are the greatest nation on Earth. We should be addressing this aggressively to increase supply.

The good part of this bill is the CAFE standards which have been agreed to in

a bipartisan way. That will go a long way toward conservation and beginning to make our automobiles more efficient and environmentally friendly. But the \$20 billion in taxes on oil supply takes away the increase in supply that is so important to bring down prices.

We are a country that ought to be the model for the world in stability in oil and tax policy. Instead, our country has the reputation for not being stable in tax policy, for changing tax policy every 2 years or every 4 years, so businesses sometimes would rather do their exploration, their production, their refining, their manufacturing overseas because they know they can count on stability in tax policy and regulatory policy. That is absolutely the opposite of what people should be saying about America. America should be the one that our businesses say they can rely on for stable policy. Yet the bill before us will change the incentives we gave for refineries to increase just 2 years after we gave them.

It was beginning to work. Big oil companies that had not invested in refinery capacity for 20 years, because of the regulatory hurdles, were willing to go in and have already announced expansions. I know a big expansion would be going on in Mississippi, a big one in Texas that would add to our refinery capacity so that we would have more supply more cheaply. We would have more dependence on ourselves for our energy needs, and we would bring prices down. This takes away those incentives for refinery capacity to increase. It also will drive overseas the production of oil because we are penalizing our oil companies with this \$20 billion in taxes.

What this will do is decrease supply and increase price. I cannot think of a worse message to send and a worse tax policy that would say to the world and to any business that wants to do business in our country that you can count on tax policy for a year or two, but you cannot make long-term plans in America because we may change policy if we change Congress.

We have changed Congress, all right. What we are seeing is a tax-and-spend Congress that we haven't seen in 15 years. Once again, we are going to increase spending and we are going to increase taxes. That is not what we should be doing in an environment in which our economy is fragile. Raising taxes in this economy is going to increase the price of energy, which has a ripple effect throughout our economy. It means every farmer is going to have to pay more for fuel. It means every businessperson, especially small businesspeople, is going to have to pay more for fuel.

I urge my colleagues to vote no on this piece of legislation that the President has said he will veto. Let's stop the games in Congress. Let's do something that will help our energy supply, that will bring prices down. Let's take the good parts of this bill, such as the

CAFE standards and the incentives for renewable energy and clean energy. All of those things are very good.

I want clean energy. I want solar power. I want wind power. I want biofuels. I want cellulosic ethanol and corn-based ethanol. But to take one segment of our energy, which happens to be the biggest source today, and increase the price on that, decrease the incentives for the refinery capacity which we must have—these companies do not have to invest and go through all of the regulatory procedures and millions of dollars off their bottom line to go into refinery expansions. They don't have to do it. They had tax incentives to do it 2 years ago. Taking that away pulls the rug out from under those who have already made those investments. It is counterproductive for the economy.

I hope we will provide adult leadership in the Congress. Let's not pass cloture on this bill. Let's do an energy bill that the President will sign, that will have bipartisan support, that will make CAFE standards much more environmentally friendly, and that will increase our supply of renewable and environmentally friendly energy needs. Let's keep the bread-and-butter energy supply we have by increasing refinery capacity so that we bring the cost down to consumers and keep our economy on a more even keel.

I hope my colleagues will vote no today so we can pass an energy bill that will have the support of a bipartisan majority in Congress and get the President's signature. That should be the goal, not political game-playing, which we are seeing this week at the very last minute in Congress. It is not going to do what is right for the country.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

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

The ACTING PRESIDENT pro tempore. The Senator has 11 minutes 45 seconds.

Mr. DOMENICI. Are there any other commitments to speak on this?

Mrs. HUTCHISON. No, Mr. President.

Mr. DOMENICI. I don't need the entire time, but I will speak a while and see what happens.

I am here because there is a misunderstanding somewhere about the CAFE bill that is coming before us. We all acknowledge the CAFE standards bill that is before us is long overdue. We all understand that it is very good legislation. We all understand that the cellulosic provisions—the postcorn ethanol—are very important. It is here, although it has some problems. The President finds some problems with it. So do many on our side find problems with it. But it is in here.

But the issue is not whether that is a good package. The issue is what is going to happen if we decide we are going to pass this bill with the taxes that are in it as it sits before us at the

desk, \$21 billion worth of taxes. What is going to happen to the bill if we pass it with those taxes in? It is very simple: It is going to get vetoed. We have heard it. The President has said it. The only thing we could do would be to get a tape recorder and ask him to say it and bring that down here and make it legal and let him tell us. He has said he doesn't want those taxes on this bill.

We still have people voting for this, as I talked to them, because they want this bill. They say it is great; it is a wonderful bill. I ask you, how are you going to get a bill if you leave the taxes on and send it to the President when he has already told you in advance he was going to veto it? What we should do is, if you want the bill, produce a bill the President will sign.

We have already taken one giant step. We took out the mandatory wind for electricity production. A percentage was mandated, and we took that out. Now, today, the issue is, Are we going to take out the taxes? That is the vote when we come to a vote on the Energy bill.

Some people think that is a nice vote; I like the taxes; I am going to vote for them. But the point is, you are not going to get the taxes and you are going to lose with it the energy portion of the bill because the President is going to veto it. I can't answer any more than to repeat what he has said. I am not his spokesman on the floor; I am merely repeating what has come up Pennsylvania Avenue from down there where he lives and up here where we work. He has said: If the taxes are in, the bill is gone. So it looks to me as if those who want a winner ought to vote to take the taxes.

Those who want a loser ought to vote to leave the taxes in and they will get their wish. But they will not only lose the taxes—which some say: They are pretty good; I like them—they will lose the entire Energy bill on CAFE and cellulosic, which follows right after ethanol and is desperately needed to buttress the ethanol market, as my friend who spoke eloquently for her side of this bill knows.

We need the bill on cellulosic. I call it ethanol 2 for simplicity. We need it because we need to get that ethanol market stabilized a little better and come in with a second kind of product instead of just corn. But we are not going to get that, so the wishers are not going to get their wishes, if they vote for the taxes, even if they say: I have looked at them, and I love them. Lots of people love taxes. Some have looked at this \$21 billion or \$20-plus billion and said: We love them. They are great. They are incentives. They are the right thing.

But, look, the point is, this is not the bill you are going to get them on. You are not going to get the taxes on a bill that is essentially an energy bill. Send the President an energy bill. Send the President an energy bill and look around for another time when we could send him the tax bill.

I still talk to Senators—some yesterday—and they say: Well, I think the taxes belong in. And I ask them: How do you think we are going to get the CAFE standards, which you certainly would acknowledge is one of the most important energy measures we could do? "Well, we will just vote for it." No, we won't. The President is going to veto it if the taxes that you like so much are in it.

So why don't we take the taxes off and send the President a clean bill with CAFE, cellulosic, and a couple other things? It would then be an energy bill which he would want and he would sign, and instead of a veto, we would have a victory party. That would be good, it seems to me.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. WEBB). Who yields time?

The Senator from New Mexico.

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

The PRESIDING OFFICER. The Republican side has 5½ minutes and the majority has 6 minutes 52 seconds.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that immediately prior to the cloture vote, each leader be permitted to use leader time, with the majority leader speaking last.

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

Mr. BINGAMAN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, if I could respond to a couple of things my colleagues on the other side of the aisle said because this is an important debate. If there are people who want to continue to debate the farm proposal we are going to be voting on this morning, I will be happy to yield the floor. But not seeing that, I am happy to continue the discussion on the Energy bill.

Both Senators from New Mexico have played an incredible leadership role in energy, and the 2005 Energy bill was a bipartisan effort. I certainly know what it is like to take half a loaf. That was not the bill I would have written myself, but I voted for that legislation. I think it started us on a course of making investments in renewable energy technology that was beneficial.

In particular I happen to disagree that the 2005 tax provisions, as they related to more subsidies for the fossil fuel industry, have been a big benefit for us. We even had an executive of an oil company say they did not think they were going to have much impact. So now consumers in my State are paying over \$3 at the pump, and home heating oil prices are up 35 percent. So I do not think those subsidies to the oil industry have had any kind of magnificent impact that my colleague from Texas was saying.

What we do know is the investment we started in the 2005 bill in renewable energy is having an incredible impact. The question is whether we are going

to give predictability to that industry. I would hate to think this is a vote—whether it is on this bill or any future bill; and this Senator would certainly take these provisions and put them on lots of different vehicles. It does not have to always be in this precise fashion—but the fact is, this bill and these tax incentives will generate over 50,000 megawatts of new, clean energy supply and efficiencies. That is right, it does create new generation.

Mr. President, 50,000 megawatts, in case anybody wants to know, is the same amount of electricity that is used in 26 States today. So the question is whether we are going to have a 1-year extension—that is, until 2008—for renewable energy, or whether we are going to give them 2, 3, 4 years of predictability so we can get that generation, as I said, that will produce enough electricity for 26 States out of renewable and efficiency generation, instead of continuing to use those tax subsidies for the oil industry that, even by their own account, they say are not having a significant impact.

So I would say to my colleagues on the other side of the aisle, I have heard what the President has said. We have heard all along that he thinks these particular provisions are raising revenues on one industry. The President included in his own budget a broader reduction in the subsidies that we had previously passed, and nowhere did he call that raising revenue. So by his own account, it is hypocrisy to now start claiming these are somehow different.

What we need is to pass this Energy bill. I look forward to working with my colleagues in a bipartisan fashion on many of the provisions that are in this legislation that will diversify us off of fossil fuel and get us into renewables and biofuels, so we can lower the price at the pump for consumers.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from North Dakota.

Mr. DORGAN. Mr. President, are we in morning business at this time?

AMENDMENT NO. 3695, AS MODIFIED

The PRESIDING OFFICER. The Senate is debating the Dorgan-Grassley amendment.

Mr. DORGAN. Mr. President, how much time remains before the vote?

The PRESIDING OFFICER. The proponents have 2 minutes 25 seconds, and the opponents have 5 minutes 29 seconds.

Mr. DOMENICI. Mr. President, I say to the Senator, would you like a couple minutes?

Mr. DORGAN. Mr. President, let me understand, we are debating my amendment, and I have 2 minutes left on my amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. Mr. President, I say to the Senator, somebody spoke off your amendment.

Mr. DORGAN. I understand. About energy?

Mr. DOMENICI. About energy.

Mr. DORGAN. Mr. President, let me take the time that remains on our side, at least.

We have a 9:15 vote, and the vote is a vote on determining whether we are going to continue to do business the way we have always done business on these issues or whether we are going to vote for some change here and some reform.

This amendment is very simple. It provides some payment limitations with respect to the farm bill. It says those people who have never farmed and are never going to farm, living on land that has not produced a crop for 20 years, should not be getting farm program payments. But they are today, and they will under the bill that is here on the floor of the Senate.

I support the bill on the floor of the Senate, but I want to improve it by amending it with these payment limitations. My colleague, Senator GRASSLEY, joins me. My colleague, Senator NELSON from Nebraska, joins me, and others.

This issue is some payment limitations. We are supposed to provide a farm program that helps family farmers during tough periods. This farm program has become a set of golden arches for some of the biggest corporate farms in this country. Millions of dollars are being sucked out of this farm program in large payments for large corporate agrifactories. That is No. 1.

No. 2, as I have indicated, we have farm program payments going to people who have never farmed and never will farm. Mr. President, in the last 5 years, \$1.3 billion went from this country's Treasury in farm program payments to people who are not farming. Think of that: \$1.3 billion.

Do you think there might have been a better use for that? Do you think maybe if we recovered that \$1.3 billion we could provide a better safety net for family farmers when they run into a tough patch or a tough spell? In my judgment, the answer is yes, we could do much better.

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

Mr. DORGAN. Mr. President, let me ask my colleague from New Mexico if he is intending to use the remaining time.

Mr. DOMENICI. Mr. President, how much time does the Senator have?

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes 21 seconds.

Mr. DOMENICI. Mr. President, I was, I say to the Senator, but I will be glad to give you a couple minutes. Go ahead and take a few minutes.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I virtually said what I intended to say. If my colleague from New Mexico wishes to speak about the Energy bill, there has been a lot of work on an energy bill which is very important. There has not

been much debate or discussion about it. I do not object to continuing that discussion.

But I do want to say this 9:15 vote is very important. It is about change and reform. It is about doing the right thing for family farmers. I hope the Dorgan-Grassley-Nelson amendment will be supported and that we will finally say to the American people: Yes, we are about change. We are about reform. We are about doing things right.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself the remainder of the time I have.

I want to start over again to make sure everybody understands what I have to say. Sometimes the most simple thing is the most difficult to explain.

This is a very simple proposition. We have put in a bill—the Energy bill—the work of two or three committees. It is not all an Energy Committee bill. The lead pony in the bill is an important provision with reference to the mileage on automobiles, and we have, for the first time in more than two decades, changed that in this bill.

We have an ethanol 2, which is cellululosic, which follows on right behind ethanol to make sure ethanol is stabilized and we get a huge product in years to come to take the place of oil-based petroleum.

Those were in a bill, and they were working their way through, and the decision was made: Well, we will put on that some taxes. They put on \$21 billion in taxes and another item that was long passed—we will leave it alone—and all of a sudden the President of the United States said: Well, don't send me that bill. I will veto it.

Now, I am one who happens to believe him. Since I believe him, I think what we ought to do is see what we can do to make it most probable we will get these two energy provisions that we need—the ones I have just alluded to for the third time today.

It would appear to me what we ought to do to get those energy provisions, to most probably get them—you never know until the President signs; and this still has to go one time to the House—but it appears to me rather simple. The way to do that is to take out the taxes the President does not want.

They may be good incentives. They may be good taxes on bad people—whatever it is Senators have to say—but they are bad taxes for those who want this Energy bill. They are bad taxes for anyone who wants these two new provisions of the Energy bill, bad because the President will veto them and we will get nothing.

So I urge that you vote today against cloture so we will have this bill before us, and we know, then, the majority leader will do something to see that we get a bill. He will have some time to work on what kind of language he

wants to send to the House. It is very limited with amendments because this is not a very ordinary way the House sent us this bill. They sent us this as a message on one of their bills, and that is very unique.

Nonetheless, let's not get into that.

It is simple today: Do you want an energy bill? If you want an energy bill, then don't vote for cloture so taxes can be taken out of this bill, and then all you have to do is send it to the House after you fix it up, if you would like to, if the majority leader wants to repair it, because it needs some repair.

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

Mr. DOMENICI. So there we go. I thank the Senate for listening. I think it is a pretty simple proposition and I hope everybody understands. If they want this bill, they ought to know how to vote. Thank you.

Mr. JOHNSON. Mr. President, I rise in support of Dorgan-Grassley amendment No. 3695, of which I am a cosponsor, to enact commonsense, meaningful farm program payment limitations. My bipartisan colleagues from North Dakota and Iowa and I have offered a straightforward and fiscally responsible proposal that would target our farm program payments and safety net.

The current farm program payment structure has, quite simply, failed rural America. Approximately 71 percent of our farm benefits are absorbed by only 10 percent of the farming community. Our omnibus farm bill is intended to promote programs that function as a safety net for farmers, in contrast to the cash cow they've become for a few producers. I do not favor eliminating our farm program benefits, but rather prefer that they are targeted to small- and medium-sized producers instead of large agribusiness.

According to farming data from the 2002 census, farms in South Dakota that received program payments collected \$16,518 on average. The average producer in my State, then, received under \$17,000 in benefits, which pales in comparison to the \$360,000 current supposed "limit" and does not touch the proposed \$250,000 hard payment cap.

The Dorgan-Grassley amendment includes several specific limits. Under this amendment, direct payments could not exceed \$20,000 per producer; countercyclical payments are capped at \$30,000; marketing loan gains are limited to \$75,000; and total payments are restricted to \$125,000. The amendment would allow for doubling by a spouse, and also require direct attribution. The amendment closes the triple entity loophole that has opened up an avenue of opportunity for excessive payments.

In 2002, the Senate saw a strong vote in favor of payment limitations with 66 Senators voting in favor of a \$275,000 cap for farm program payments. We need 60 votes this morning to pass the Dorgan-Grassley amendment, because of the filibustering that has been threatened by the minority party, and

we are working to achieve that goal. That being said, in a time of budgetary constraints, I find it unconscionable that a Member of Congress would not vote to restrict such egregious spending and vote to promote our rural communities. I urge my colleagues to support this amendment.

Mr. COCHRAN. Mr. President, first I want to thank the chairman of the committee, the distinguished Senator from Iowa, Mr. HARKIN and the distinguished ranking member, the Senator from Georgia, Mr. CHAMBLISS, for their leadership during the debate of this farm bill.

I commend them for their response to the needs and interests of our Nation's farmers and ranchers. In my State, most of our farmers are deeply concerned about the amendment offered by Senator GRASSLEY and Senator DORGAN. If it is approved it will adversely affect family farms in many States by eliminating the ability to receive financing and making it harder for farmers from efficiently marketing their crop.

Since the passage of the 2002 farm bill there has been a good bit of controversy surrounding the issue of payment limits. Much of this has been based on misinformation and is a result of misunderstanding of modern agricultural practices. While I am pleased that the legislation passed by the committee contains significant reforms to address the concerns raised over the past 6 years, these reforms are not easy for producers in my State of Mississippi to accept and will result in many farms having to significantly alter their farming operation.

I believe it is important for us to understand just how significant the reforms in the committee passed bill are. This legislation applies direct attribution to the individual farmer, thus making all farm payments transparent. The committee passed legislation would limit the direct payment a single producer can receive to \$40,000. The legislation reduces the amount of a countercyclical payment to \$60,000. In addition, the Senate language reduces the adjusted gross income means test for producers from \$2.5 million to \$750,000. While this may still sound like a lot of money, when you consider production costs such as a four-hundred thousand dollar cotton picker, fuel prices, fertilizer costs, and technology fees for seed, these support levels are quite low.

Many crops of the Midwest are enjoying record prices right now due mostly to the use of corn in the current ethanol boom. The most prevalent crops in the South, cotton and rice, are not seeing the record prices created by renewable fuel incentives and tax credit subsidies; and it is important to point out that none of these subsidies are subject to an arbitrary limit.

Mr. President, this amendment would have a very negative impact on the livelihood of thousands of farmers. It would undo what many farmers today

and generations before them have established through hard work, surviving natural disasters, and the Great Depression. This amendment is an attempt to make farmers in my State to conform to the way others operate in very different regions of the country. Mr. President, not every farmer should be made to fit in the same mold. I urge the Senate to reject the Grassley-Dorgan amendment.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment No. 3695, the Dorgan-Grassley payment limit amendment.

The majority leader is recognized.

Mr. REID. Mr. President, it is my understanding that there is a unanimous consent order in the Senate that prior to the next vote, Senator MCCONNELL and I would be recognized; is that true?

The PRESIDING OFFICER. The leader is correct.

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be. The yeas and nays are ordered. The clerk will call the roll.

The assistant journal clerk called the roll.

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 56, nays 43, as follows:

[Rollcall Vote No. 424 Leg.]
YEAS—56

Akaka	Ensign	Murray
Allard	Enzi	Nelson (FL)
Barrasso	Feingold	Nelson (NE)
Bayh	Feinstein	Obama
Biden	Grassley	Reed
Bingaman	Hagel	Reid
Boxer	Harkin	Sanders
Brown	Hatch	Schumer
Brownback	Johnson	Smith
Byrd	Kennedy	Specter
Cantwell	Kerry	Stevens
Cardin	Klobuchar	Sununu
Carper	Kohl	Tester
Casey	Lautenberg	Thune
Clinton	Levin	Warner
Collins	Lugar	Webb
Dodd	Menendez	Whitehouse
Dorgan	Mikulski	Wyden
Durbin	Murkowski	

NAYS—43

Alexander	DeMint	Martinez
Baucus	Dole	McCaskill
Bennett	Domenici	McConnell
Bond	Graham	Pryor
Bunning	Gregg	Roberts
Burr	Hutchison	Rockefeller
Chambliss	Inhofe	Salazar
Coburn	Inouye	Sessions
Cochran	Isakson	Shelby
Coleman	Kyl	Snowe
Conrad	Landrieu	Stabenow
Corker	Leahy	Vitter
Cornyn	Lieberman	Voinovich
Craig	Lincoln	
Crapo	Lott	

NOT VOTING—1

McCain

The PRESIDING OFFICER. Under the previous order requiring 60 votes for the adoption of this amendment, the amendment is withdrawn.

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

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

The motion to lay on the table was agreed to.

RENEWABLE FUELS, CONSUMER PROTECTION, AND ENERGY EFFICIENCY ACT OF 2007

The PRESIDING OFFICER. Under the previous order, each leader is permitted to use leader time prior to a vote on the motion to invoke cloture with respect to H.R. 6.

NHTSA REGULATIONS ON FUEL ECONOMY

Mr. LEVIN. Mr. President, I support this bill and, in particular, the provisions that require the Department of Transportation, through the National Highway Traffic Safety Administration, NHTSA, to set new fuel economy standards for vehicles that will reach an industry fleet wide level of 35 miles per gallon by 2020 based on my understanding that these new Federal standards will not be undercut in the future by regulations issued by the Environmental Protection Agency regulating greenhouse gas emissions from vehicles.

I believe that we have taken historic steps in this legislation by putting in place ambitious but achievable fuel economy standards that will reduce our Nation's fuel consumption and greenhouse gas emissions. In this legislation, the Senate and House have come together and established the appropriate level of fuel economy standards and have directed NHTSA to implement that through new regulations. In this legislation, the Congress has agreed that the appropriate level of fuel economy to reach is 35 miles per gallon in 2020, or an increase of 10 miles per gallon in 10 years.

But it is essential to manufacturers that they are able to plan on the 35 miles per gallon standard in 2020. We must resolve now with the sponsors of this legislation in the Senate any ambiguity that could arise in the future when EPA issues new rules to regulate greenhouse gas emissions from vehicles pursuant to its authority under the Clean Air Act so that our manufacturers can have certainty. With that in mind, I want to clarify both Senator INOUE's and Senator FEINSTEIN's understanding and interpretation of what the Congress is doing in this legislation and to clarify their agreement that we want all Federal regulations in this area to be consistent. We do not want to enact this legislation today only to find later that we have not been sufficiently diligent to avoid any conflicts in the future.

The Environmental Protection Agency has authority under the Clean Air Act to regulate greenhouse gas emissions from vehicles and to delegate that authority, as the agency deems appropriate, to the State of California. This authority was recently upheld by the U.S. Supreme Court, and it is not our purpose today to attempt to change that authority or to undercut