

fundamental differences—not just between Senators—but among the American people, over the appropriate use of taxpayer funding for stem cell research that destroys a living embryo. We may never move beyond this impasse, but that should not stop us from encouraging non-controversial and highly productive medical treatments.

While S. 5 contains provisions which are morally unacceptable to many people, S. 30, the “Hope Offered through Principled and Ethical Stem Cell Research Act” or the “HOPE Act,” which the Senate passed, is an opportunity for Congress to support highly-productive adult stem cell research free of ethical defects. S. 30 would specifically direct the Department of Health and Human Services to seek alternative sources of stem cells and study the possibility of establishing an amniotic and placental stem cell bank, similar to the bone marrow and cord blood stem cell bank, while reaffirming a policy that prohibits research that destroys human life. This goes far beyond the current policy in the extent to which it supports adult stem cell research.

Right now, as Senators prepare to consider an override of the President's veto of S. 5, there are millions of Americans suffering from serious illnesses who are waiting for the potential treatments offered by adult stem cell research. Rather than wasting precious time debating ethically divisive funding for stem cell research that destroys living embryos, the House should take up and pass S. 30. It is disappointing to see partisanship trump science and patients' hopes.

I applaud the President for issuing his Executive Order today, implementing many, but not all, of the key provisions of S. 30. I urge my colleagues to reaffirm opposition to S. 5 by upholding this justified veto, and to think twice about trying to add S. 5 or similar provisions that would promote embryo-destructive research onto other bills, including annual appropriations bills. Such a move would justify the veto of that legislation as well.

CREATING LONG-TERM ENERGY ALTERNATIVES FOR THE NATION ACT OF 2007—Continued

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

AMENDMENT NO. 1658

Mr. VITTER. Mr. President, I rise in strong support of an amendment I filed at the desk some time ago, Vitter amendment No. 1658, and I would like to briefly explain what that is.

At its core, this amendment would allow Louisiana to use more Federal coastal impact assistance dollars, which are already going to the State under preexisting law, a law we passed a couple of years ago, to be used specifically for one of our top priorities in the wake of Hurricanes Katrina and Rita, and that is a hurricane protection effort.

By way of background, in 2005, we passed the Energy Policy Act, and that

did a very important thing for the State of Louisiana and other producing States. It established a Coastal Impact Assistance Program for the six States in the United States that produce offshore energy, particularly oil and gas. Obviously, that includes Louisiana. Under that 4-year Coastal Impact Assistance Program, certain Federal dollars flow to those producing States in light of the enormous work they do producing energy for our country and the negative impact that activity has in many cases on our coastline.

Back at that time, a provision was made to restrict the amount of those funds that could go specifically to infrastructure projects, and that cap was established, with the work of Senator BINGAMAN and others, at 23 percent. Back in 2005, I argued strongly and worked with Senator BINGAMAN and others to say that cap should be lifted with regard to hurricane protection work, at least in Louisiana, because that work was absolutely so vital, so essential for our very existence. Unfortunately, that argument did not hold the day. The cap was not lifted, and an exemption was not put in place for hurricane protection efforts.

I am trying to get that cap lifted for hurricane protection work in Louisiana now. My argument that we should do it comes down to two words—two words that happened, that devastated our coastline between then and now, and the two words are “Katrina” and “Rita.” Since that original act in 2005, Katrina and Rita struck, and they struck literal death blows to the Louisiana coast. If hurricane protection was a big priority before that, it has only grown enormously with those two hurricanes coming upon our shores.

I think there is every rationale, every reason to allow us to use more of that coastal impact assistance money for hurricane protection efforts and to lift that arbitrary ceiling of 23 percent for infrastructure projects, specifically when we are talking about hurricane protection efforts.

I have been in contact with Senator BINGAMAN about this issue. We have just discussed it on the Senate floor. I know he is considering these arguments. Perhaps in wrapping up my discussion, I could invite the Senator to engage in a brief colloquy and ask him again to focus on the extreme needs of the Louisiana coast in the wake of Hurricanes Katrina and Rita and to continue consideration of lifting this cap in light of those extreme needs and to see where we are in that discussion.

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

Mr. BINGAMAN. Mr. President, let me respond to the comments the Senator from Louisiana made.

Procedurally, we are not able to bring up or consider the amendment he has talked about today. I have explained to him the reason for that is there is a Republican objection to us bringing up and considering a great many amendments that Democratic

Members would like to bring up and consider at the same time. So I regret that.

On the substance, I am not in a position to indicate right now whether this kind of change would take place. I would assume that to make that judgment, we would have to know something about the hurricane assistance that has been provided and whether there are still adequate funds available for some of this wetland assistance that was the purpose of the original legislation in 2005.

Obviously, I think the entire Senate has been anxious to be of assistance to all of the gulf coast. This legislation he is referring to, the wetlands protection part of the 2005 Energy bill, was part of that. There have been several things that have been done since the devastating hurricanes hit that region. But I do not know enough about the specifics of those assistance programs to pass judgment on the contents of his amendment. I commend him for offering it, but I am not in a position to support it or oppose it.

Mr. VITTER. Mr. President, reclaiming my time.

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

Mr. VITTER. Reclaiming the floor, I will put that down as an “undecided,” and “maybe.” I want to continue these discussions with the Senator from New Mexico. He is essentially the key to clearing this amendment, probably without objection.

Again, I restate that because of the devastating impact of Hurricanes Katrina and Rita, I think there is every reason in the world to lift this arbitrary cap of 23 percent, specifically and only for hurricane protection work on our coast. It is absolutely vital for our survival. It will not mean we are not doing everything else we have been talking about. That is moving forward for a number of reasons, including the revenue sharing piece we were able to pass into law late last year. That will give significant new revenue to our coastal restoration efforts and other things. I again urge the Senator to continue to look at this and hopefully clear this so it can be adopted without even the need for a vote on the floor, adopted by unanimous consent.

AMENDMENT NO. 1776

Now I wish to move to a second very important amendment I have at the desk, which is amendment No. 1776. I just happened to get that number but I think it is a very appropriate number for this amendment because this goes to our very important, patriotic efforts to increase our energy independence and to get away from our enormous reliance on the Middle East, including very dangerous countries and regimes in the Middle East that are clearly not friends of ours at all.

This amendment is straightforward. It would allow increased domestic production of minerals or renewable energy in Federal areas that are not allowed now, if and only if all four of these things happen—really five.

No. 1, the national average gasoline price would have to exceed \$3.75 a gallon at the pump.

No. 2, in addition, foreign imports of oil would have to exceed 65 percent of all oil use.

No. 3, in addition, the President would have to determine that an ample supply of renewable fuels is insufficient to meet fuel demand domestically at that time.

No. 4, in addition, the President would have to determine that continued and growing reliance on foreign oil imports is a threat to national security.

If all of those four preconditions were met, then and only then, No. 5, the Governor of a State, with the concurrence of the State legislature, could petition the Secretary of the Interior to initiate leasing activities on specified Federal lands within the State or within the administrative boundaries of the Outer Continental Shelf related to that State for oil and gas or alternative energy production. So if everything I mentioned happened, then and only then a State itself, through its Governor, through its State legislature, can say: Yes, sir, Mr. President, we want to be part of the solution. This is a dire, extreme case. This is a real national security threat. We want to be part of the solution by producing, safely and in an environmentally friendly way, more oil and gas, more renewable energy for America.

I think this is an utterly commonsense and very much needed amendment to increase domestic production, decrease reliance on foreign sources. That goes to energy security. As such, it goes to economic security. It goes to national security.

Again, none of this would happen unless all of those things happened first: gasoline prices at \$3.75 at the pump, foreign imports over 65 percent of everything we are using in this country, the President saying renewables cannot make up the difference, the President saying this is a real national security issue, the Governor of the State saying we want to do this, it is our home, we can do it responsibly, and the State legislature of the State concurring. All of those things would have to happen before opening up either land within the State or part of the Outer Continental Shelf off the State to leasing activity, in terms of Federal land.

It is very important that we do a balanced approach, all sorts of things, to decrease our reliance on foreign sources. This is a very commonsense part of that menu.

With that, I understand there may be objection, but I ask unanimous consent to set aside the pending amendment so that this very commonsense amendment, which goes to the heart of this

debate and the heart of the bill, Vitter amendment No. 1776, can be called up and made pending.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BINGAMAN. I object.

Mr. REID. Could I ask a question, through the distinguished Senator from Louisiana, to the manager of the bill, the Senator from New Mexico?

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

Mr. REID. Would the distinguished chairman of the Energy Committee inform the Senate why there isn't more done on this bill? People have said to me we want to have it debated—and not just Democrats; Republicans have asked me the same question—why aren't we able to move on to get some of this done?

Mr. BINGAMAN. Mr. President, let me respond to the majority leader by saying there are a great many good amendments Republican Members would like to offer, there are good amendments Democratic Members would like to offer. We are informed there is objection to us bringing up any of these amendments and getting a vote on them at this time because of objections from a Senator on the Republican side.

For that reason, we are somewhat unable to proceed with any of these legislative matters. I know the time is running toward the vote on cloture—both on the tax package and on the bill itself. I know there is good faith on both sides in wanting to do some more business before those cloture votes occur. But obviously, good faith on the part of many Senators does not ensure we can make progress. We have to have unanimous consent and we cannot get that.

Mr. REID. I don't know if the Senator from Louisiana still wants the floor?

Mr. VITTER. Yes, I do.

Mr. REID. Would it be OK if I direct another question to the manager of the bill?

Mr. VITTER. Certainly.

Mr. REID. I say through the Chair to the distinguished Senator from New Mexico, I have worked for all the time I have been in the Senate, for more than a dozen years, on a very close, intimate basis while we were managing the Energy and Water appropriations bill, with the senior Senator from New Mexico, Senator DOMENICI. What is going on here, as the comanager of this bill, is very unlike Senator DOMENICI. Senator DOMENICI likes things debated. He likes votes to take place. He likes movement here in the Senate.

Senator DOMENICI is not part of holding this legislation up, is he?

Mr. BINGAMAN. Mr. President, let me respond to the majority leader. I think it is fair to say there is a good-faith effort on the part of both managers to try to move forward with legislation in a way that is fair to both Republicans and Democrats, and allows

consideration of amendments on both sides. But we are being blocked by others.

Mr. REID. One last question, if the Senator will be patient, the Senator from Louisiana.

The Senator from New Mexico, the senior Senator from New Mexico, the manager of the bill, has been in the Senate longer than I have, and he knows more about procedure than I do, but has the Senator tried, for example, having 60-vote margins on some amendments that people may not want, to see if there is any other way to move this along to get that objection withdrawn?

Mr. BINGAMAN. Again, Mr. President, in response, let me say we have tried to get agreement that certain of the amendments that are objectionable to some Members on the Republican side—we would agree that we would be bound by a 60-vote threshold on those amendments. But at least at this point, my understanding is the objection is to any consideration of the amendments, regardless of what the threshold is going to be. We are unable to proceed right now. I hope that changes. I hope we can dispose of some of the very meritorious amendments that both Republican Senators and Democratic Senators wish to offer before we get to cloture.

Mr. REID. Mr. President, I want the record to reflect my appreciation for the courtesy extended to me by the distinguished Senator from Louisiana.

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

Mr. VITTER. Mr. President, I was happy to do that.

Reclaiming the floor, all of that is interesting. It is also what is commonly referred to as "inside baseball." For the sake of the insiders here, let me translate for you what the American people just heard. To quote Charley Brown, "Wah, wah, wah, wah, wah, wah, wah."

The fact is, what Americans are faced with is an energy crisis and we have all this "inside baseball" tangling us up in the Senate, in the House, and we are not doing a darned thing about it.

The other fact is there is no objection on the Republican side to calling this amendment up, No. 1776, to making it pending, to considering it. There are all sorts of debate and all sorts of discussions about other amendments. There is certainly no objection on our side to this amendment. Why should there be? Why shouldn't we allow individual States to say: Yes, we want to be part of the solution, particularly when all of the following events occur: average price of gasoline reaches \$3.75 a gallon, foreign imports top 65 percent of everything used in the country, the President certifies that renewables can't make up the gap, the President certifies there is a continuing reliance on foreign oil, which is a national security threat? If all of those things happen, shouldn't we be allowing a State,

through its Governor, through the State legislature, to be part of the solution in a safe and environmentally sensitive way to produce more energy in this country that doesn't take away the need for alternative fuels, that doesn't take away the need for conservation or everything else?

But the clear and simple fact is, this problem is so big we need to do all of the above. Certainly this commonsense approach should be on that menu, should be among all of the above.

Let's get beyond the Washington insider "Wah, wah, wah," all the running around, all the objections, all the being tied up in knots, and present some reasonable, commonsense solutions to this growing national energy crisis.

I hope those who control the floor and leave the floor, starting with the distinguished majority leader, to whom I deferred a few minutes ago on the floor, can be part of that.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from West Virginia is recognized.

(The remarks of Mr. BYRD are printed in today's RECORD under "Morning Business.")

Mr. BINGAMAN. 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. NELSON of Florida. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. NELSON of Florida. Mr. President, the moment of truth is coming on this Energy bill very shortly as to whether we will stick with the bill which requires the meeting of cars and light trucks to be 35 miles per gallon not for another 13 years, until 2020, and thereafter the mileage standards to improve by 4 percent a year. There is a great deal of consternation going on here, particularly by the automobile industry that does not want to comply with these standards.

I was prepared to offer an amendment that I think 35 miles is too low. We have the technology. The question is, Do we have the political will? We have the technology to go to 40 miles per gallon. I have filed an amendment. But apparently, because of the dynamics of the Senate taking up this issue, we are struggling to get the votes in order to keep the 35-miles-per-gallon standard in the bill.

There are all kinds of side discussions going on in the corridors and anterooms of the Capitol as to whether there will be any offer, particularly by the Senator from Michigan, Mr. LEVIN, as to reduced standards. Originally, he was proposing a standard of 36 miles per gallon but not to be achieved until the year 2025, with other trucks exempted from that. So you see the battle, the choice that is basically set.

Why should we do this now? Let's look at history. I came into public of-

fice in 1972, now 35 years ago. At the time in the early 1970s, we had an embargo by the oil-producing countries, particularly in the Persian Gulf region. There was a panic. There were long lines at the gas stations. The price of oil shot up from a low price of something less than \$10 a barrel back then, it shot up considerably and everybody was concerned. Americans were impatient. The Persian Gulf region became a target of our disaffection. Then the spigot was turned on. The oil began to flow again. The embargo was released. The price started to recede. America went back to sleep.

It happened again in the late 1980s, about the time I was elected to Congress. Again, there were long gas lines, the cost of gasoline shot up, the enmity toward the Persian Gulf region nations, the double whammy that interest rates soared upward of 15, 16 percent. All of that was a real crunch on Americans. But the spigot was turned on again. The oil flowed. The price receded a little bit—not nearly as much as it was back in the early part of the decade of the 1970s—and America went back to sleep again.

All the time at each of these moments, the alarm was sounded that from a defense posture, the United States did not want to be dependent on foreign oil. Yet each time dependence increased and the amount of foreign oil imported into the United States increased to the point that today we are importing 60 percent of our daily consumption of oil. Where is it coming from? It is coming from places such as the Middle East, the Persian Gulf, Nigeria, and Venezuela. I have mentioned four parts of the world that are relatively unstable. Yet this is what is supplying us with 60 percent of our daily consumption of oil.

So we come to the moment of truth which may occur this afternoon, if an alternative amendment is offered to the miles per gallon required in this Energy bill. The moment of truth is, is America ready to have the political will to change its gas-guzzling ways? We are talking about reasons of energy. We haven't even said anything about what the excess carbon dioxide as a result of the burning fossil fuels is doing going into the air, creating the greenhouse effect and heating up the Earth. That is another complete story. But it is all as a result of this.

People say: Another part of this, we are going to talk about renewable fuels for electric utilities. That is an important part too. But when you look at where do we consume most of the oil, the petrol, it is in the sector of transportation. Within transportation, where is most of the oil consumed? It is consumed in private vehicles. So we are coming to the moment of truth. Are we going to finally require, without many exceptions, the automobile industry to do what technology easily allows us to do—but not even do it tomorrow, phase it in over a 13-year period to the year 2020, requiring that we

have greater miles per gallon and, therefore, what does that mean? Less consumption of oil. That means less dependence on foreign oil. This is where the greatest consumption of oil is, our private vehicles. The moment of truth is here.

There is clearly a defense reason we ought to explore as to why we ought to do this as well. Can you imagine the different posture of the Armed Forces of the United States if we did not have to be the protector, almost the sole protector, of the sealanes upon which the great supertankers of the world steam in order to satiate an oil-thirsty world? Thus, who do you think defends and protects the sealanes coming out of the Persian Gulf, coming through one of those chokepoints, a military chokepoint called the Strait of Hormuz, 19 miles wide, on one side Iran, on the other side of the 19 miles, Oman, through which narrow passage the supertankers of the world have to flow to get out into the Indian Ocean? Who protects that? The United States.

Wouldn't it be different from a defense posture with a Latin American President such as Hugo Chavez, who continues to thumb his nose at the United States because he can since he has petrol dollars, since he supplies 12 to 14 percent of our daily consumption. And, by the way, his company, which has been nationalized by the Government of Venezuela, the oil industry called PDVSA, did you know that they own all the Citgo stations in the United States? So his threat of cutting off is more hollow than real because he would be, to use the old expression, "cutting off his nose to spite his face"—if he were to suddenly shut down the oil supply going into all of his gasoline stations around the United States. Nevertheless, he has made that threat. In the process, with his oil wealth, because we do buy half of his oil production, he can buy friends around the region. Happily, he has not been totally successful. But he can buy friends and buy influence with his petrol dollars, either in the form of direct financial remuneration or in the form of oil and gasoline supplies to oil- and gasoline-thirsty countries, such as the little countries in the Caribbean, the little countries in Central America. That is another thing we are facing. The moment of truth has come.

I had an automobile dealer, one of the very best from my State of Florida, sit with me yesterday and tell me the automobile industry could not make this adjustment. But that is what the automobile industry has been saying for the last 35 years, ever since we had that first major oil disruption in the early 1970s. In his particular case, he has tried, within the industry, to get the industry to be willing to reform itself and use the technology we have to do much higher miles per gallon. I thanked him profusely and congratulated him on his efforts. But Mr. Automobile Industry, backed up by Mr. Oil Industry, don't come tell me we don't

have the technical capability and the American people the capability of buying automobiles that will take us from what is now, on the average, about 22 miles per gallon on vehicles—they have a different standard; it is something like 27, but in reality it is only 22—don't tell me we don't have the technology in 13 years to get us to 35 miles per gallon. I wish it were 40. But if we can get this, we are all the better off.

I wish to share one more thing, as we are coming to the moment of truth.

Two weeks ago, during the break, I spent it going around on an intelligence mission in Africa, and it became quite apparent in one of those countries, Nigeria—we get 12 to 14 percent of our daily supply and consumption of oil from that one country, Nigeria—it became very apparent to me those facilities were defenseless.

At the same time, it was very apparent to me that al-Qaida is on the rise in Africa. They are coming out of Arabia, into the Horn of Africa, there at Somalia, in all the midst of that chaos, and they are moving across the Sahel and the Sahara of Africa. They have even changed some of the names of the terrorist groups there in Africa to be AQIM, al-Qaida in the Islamic Maghreb. That is the group that just tried to assassinate the President of Algeria a couple months ago, and they got close. They got a big truck bomb, suicide bomber, next to the Presidential palace. It killed a dozen people, but they did not get the President. But it is on the rise.

Guess what one of their targets is going to be. The oil facilities in Nigeria. The only way we are going to stop that, since the Nigerian Government cannot protect them, is through the cooperative arrangement we have with African nations' intelligence services cooperating with our intelligence services. That cooperation is going on and has saved some of the terrorist strikes elsewhere in the world. That is the only way we are going to interdict—to find out ahead of time and stop it; otherwise, it is going to happen. When that happens, right there, with 14 percent of the daily supply suddenly cut off, we are going to rue the day if, on this day, this moment of truth, we have not set ourselves on a mandatory course of higher miles per gallon in order to force less consumption of oil, particularly foreign oil.

That is the message. I do not see how any Senator can ignore this message. Yet we are scrambling for 60 votes to close off debate to get to the end of this bill because of that provision in it.

Senators, the moment of truth is coming, portending enormous consequences for the future of our country and for the future of the free world, and it is going to happen today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 1800 TO AMENDMENT NO. 1704

Mr. KYL. Mr. President, I have an amendment I send to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 1800 to amendment No. 1704.

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

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

The amendment is as follows:

(Purpose: To disallow the credit for renewable diesel for fuel that is coprocessed with petroleum)

On page 69, lines 17 to 20, strike “to so much of the renewable diesel produced at such facility and sold or used during the taxable year in a qualified biodiesel mixture as exceeds 60,000,000 gallons”.

Mr. KYL. Mr. President, I wish to ask the chairman of the committee, is it not correct that at this time there is agreement to have a debate—40 minutes equally divided—on this particular amendment, and the vote to be set at a later time, but we would try to conclude the debate at this time?

Mr. BINGAMAN. Mr. President, in response, that is my understanding, that we will have 40 minutes equally divided prior to a vote on or in relation to the amendment, and that vote may take place later in the afternoon.

Mr. KYL. Mr. President, I thank the Senator very much.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KYL. Mr. President, this amendment is designed to get back to the original intent with regard to the Energy Policy Act of 2005 in relation to a very specific, rather narrow provision, but an important provision, that provided a \$1 per gallon credit for renewable diesel. The idea was to encourage the creation of new technologies for renewable diesel. The idea was primarily to try to get products, such as cellulosic products, that could eventually be added to or be turned into a fuel that could be burned as diesel fuel. As a result, that \$1 per gallon credit was deemed an important way to create a new kind of product.

Well, as entrepreneurs will do, a couple of very bright people figured out they could take an existing product, which is already used—namely, animal fat—and put that in with diesel fuel, in effect—I am simplifying the process—and, voila, it all burns the same, but it would qualify as renewable diesel, biomass under the credit and, therefore, they would get the \$1 per gallon credit for doing something that adds essentially nothing to the process and uses animal fat—primarily, tallow—which is already used by the oleochemical industry, which is seeing the price skyrocket because of the interpretation these oil companies have gotten IRS to agree to that they could actually use this animal fat in their diesel and, therefore, get the credit for producing a new kind of diesel.

That was never the intent. The intent was to find some new kinds of bio-

mass processes that could be converted to a diesel fuel and have it be a renewable diesel fuel—something truly new—not to take existing diesel and take an existing product that is already used by a very green industry.

By the way, the oleochemical industry is an industry that gets no subsidy, and uses this animal fat—something that is good to dispose of—to make plastics, cleaning products, home cleaning products, some rubber kinds of products, and most especially soap. The basic ingredient in soap is tallow. There is a finite market for that. The soap people buy all the stuff that is on the market, but they found that the cost has gone up 100 percent in the last 6 months because of this interpretation that tallow could be bought up by, primarily, one big oil company, Conoco oil company, which has figured out they can get the advantage of this \$1 per gallon subsidy.

That is wrong. It was never intended for that. If they want to go out and invent a new process with the big tax credit we have given them, that is great, but not to use the tax credit to do something that can be done anyway and which has the effect, the unintended consequence, of hurting an industry that employs at least 4,000 people. By the way, if that industry is not able to buy the tallow—the animal fat that is being used here—then the only alternative is to produce things like soap in foreign countries that have alternative supplies to what we have in the United States.

So the unintended consequence of this is not just that somebody gets to take advantage of a \$1 per gallon tax credit that is very generous—and not producing anything new—but they are also driving out of the United States an important industry which does use this waste animal fat, and uses its very productively, without any subsidy.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the chief executive officer of the National Biodiesel Board, who wrote to me on June 20.

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

NATIONAL BIODIESEL BOARD,
Jefferson City, MO, June 20, 2007.

Hon. JON KYL,
U.S. Senate,
Washington, DC.

DEAR SENATOR KYL: The National Biodiesel Board (NBB) supports your efforts to promote sound energy policy by ensuring that renewable diesel produced through petroleum co-processing does not qualify for the \$1.00 per gallon renewable diesel excise tax credit.

In a time of budget deficits and rising fuel prices due in large part to limited domestic refining capacity, the NBB questions the wisdom of directing tax benefits and limited feedstock to subsidize existing oil refining operations at the expense of free-standing producers of biodiesel and renewable diesel. Under your amendment, vegetable oils and animal fats co-processed with petroleum would not qualify for the \$1.00 per gallon renewable diesel tax credit, but would continue

to qualify for a 50 cents per gallon credit that is provided under current law. The NBB believes that your amendment represents balanced energy policy and is consistent with the goals of the underlying legislation.

Again, the NBB thanks you for your efforts on this issue and urges Senators to support passage of your amendment to preclude petroleum co-processing from qualifying for the \$1.00 per gallon renewable diesel tax credit.

Sincerely,

JOE JOBE,
Chief Executive Officer.

Mr. KYL. Here is what the letter says:

The National Biodiesel Board supports your efforts to promote sound energy policy by ensuring that renewable diesel produced through petroleum co-processing does not qualify for the \$1.00 per gallon renewable diesel excise tax credit.

In a time of budget deficits and rising fuel prices due in large part to limited domestic refining capacity, the NBB questions the wisdom of directing tax benefits and limited feedstock—

That is the animal fat—

to subsidize existing oil refining operations at the expense of free-standing producers of biodiesel and renewable diesel. Under your amendment, vegetable oils and animal fats co-processed with petroleum would not qualify for the \$1.00 per gallon renewable diesel tax credit, but would continue to qualify for a 50 cents per gallon credit that is provided under current law. The NBB believes that your amendment represents balanced energy policy and is consistent with the goals of the underlying legislation.

And so on.

We are not eliminating the tax credit. We are not eliminating this other credit. All we are doing is getting back to the original intent, which was not to provide this additional \$1 per gallon credit for something that could be done anyway. We want you to go out and invent something new here using biomass for biodiesel, not using something that can already be done.

According to the testimony of the company that is primarily going to be doing this, this has not resulted in any major expenditure on their part. I will quote from ConocoPhillips' 2005 annual report. They have "conducted a successful test that converted vegetable oil into high-quality renewable diesel fuel . . . , and can be produced with existing refinery equipment with minimal incremental capital investment." In other words, this is not something that requires some new investment that requires the American taxpayers to subsidize it.

As I said, they are taking something they can do right now, and they are simply taking advantage of a tax break we did not intend to be used by a company like that.

Now, in anticipation of this boondoggle—and it has gotten quite a bit of press—there has been a suggestion: Well, we can limit it to taxpayers with 60 million gallons of production. The problem is, in the Finance Committee mark that was changed from "taxpayer" to "facility." So now a company can have 20 different facilities, each one producing 60 million gallons,

and they are right back in business. It is no limitation at all.

So my colleagues should not be horn-swoggled—to use the old phrase my grandfather used to use—that somehow there is some kind of limitation on this. Very cleverly, the Conoco folks were able to get in this legislation that it applies per facility; and by having multiple facilities, there is, in effect, no limitation.

Mr. President, I will be happy to give those who want to speak in opposition to this amendment an opportunity to try to refute what I have said, but I think this is very straightforward. There is no sense in rewarding what I would consider to be behavior that was never intended by this Congress in providing this kind of a tax credit.

When we are going to take a tax benefit—in effect, using taxpayer dollars—to promote something, we want to make sure we are promoting something that is in the best interest of the American taxpayer, not just a way for somebody who knows how to make a buck to use it to make a buck, especially if it has a negative consequence on an existing industry, the oleochemical industry, and, in particular, the soap makers of this country.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself such time as I might consume.

Yesterday, the Finance Committee passed the Energy Advancement and Investment Act. That measure passed by a vote of 15 to 5. That is a very broad-based, bipartisan majority for the Finance Committee amendment that is now pending on this energy bill.

It is a major amendment. The committee spent a lot of time trying to figure out the best way for America to turn the corner, for the United States to begin to wean ourselves away from OPEC, to wean ourselves away from our reliance upon foreign oil, to try to enhance our national security, make the United States a little more able to determine its own destiny with respect to energy.

In doing so, we therefore also created lots of incentives for American production of renewables, for renewable energy, conservation, hybrid automobiles, hybrid plug-ins, cellulosic ethanol—a whole multitude of ways to help America become much more self-sufficient and, hopefully, therefore, be able to get our gasoline prices down a little bit because at the current time we very much are in the throes of big oil's control as to what they charge at the gas pump. This is a very thoughtful amendment. We spent a lot of time trying to put all this together.

The Finance Committee amendment includes a compromise on the topic of Senator KYL's amendment; that is, renewable diesel. There are a lot of offsetting interests here, to be honest about it, from different parts of the country. Some are more concerned

about biodiesel produced from products such as soybeans; others are much more concerned about renewable diesel produced by other products that could be organic products. In trying to get that balance put together, the goal is the same, which is to displace foreign oil.

I hope, therefore, that the amendment offered by the Senator from Arizona is not agreed to because the effect of it will be not to displace a good bit of foreign oil, which is contrary to the main point of the underlying legislation.

Under current law, there is a \$1-a-gallon credit for renewable diesel, including that produced with animal fats. There is also a \$1-per-gallon credit for biodiesel, which is made from soybeans and other seeds. The committee amendment extends both of these credits for 2 years, until 2010; otherwise, they will expire at the end of next year.

The Senator from Arizona appears to be concerned that renewable diesel coprocessors—such as Conoco, for example—will increase the cost of consumer goods. He thinks consumer goods are going to go up as a consequence of our assistance for renewable diesel. He argues that the price of animal fats to be used in making renewable diesel, which are also used in making soap, will drive up the cost of those consumer goods.

I might say that fancy term "coprocessors" includes companies such as ConocoPhillips, which will use some of its existing infrastructure to produce renewable diesel. That is true.

The Senator from Arizona also appears to be concerned about the size of the subsidy—\$1 per gallon—for this fuel. I might say that this was a question which members of the committee were concerned with. There are those who thought that biodiesel would be in competition with renewable diesel, so we worked to find a way to work together to reach a balance. This is a compromise we worked out: the dollar credit for each, but in addition, the committee capped the tax credit for renewable diesel coprocessors at 60 million gallons per facility. We put a cap on it. Another way to say it is that once that cap is reached, then the \$1-per-gallon credit will no longer be available. We have a limit. We are cognizant of the points made by the Senator from Arizona.

We also commissioned a study on the effects of energy tax incentives on consumer goods. The 60-million limitation is the same as the definition used for a small producer of biodiesel or ethanol. Now, is 60 million a magic number? No. But it is a standard used in current law. That is why we took it. It is not something pulled out of thin air. One might ask: Should the \$1 subsidy remain current law for good? My answer is, probably not. This is a bold step in the sense that we are trying to push-start and help kick-start renewables and alternative energies. We don't know if these incentives are exactly

right. They are probably not exactly right, but they are the best we could come up with at this time, and we think that probably they will work pretty well, but we will have to come back and revisit them. Some are not going to work very well, some will be increased and some will be decreased.

I say all that because the committee amendment before us extends this \$1 for each—that is, for biodiesel and renewable—for just 2 more years. It is not a 5-year or a 10-year extension. It is not a permanent provision. It is just for 2 years. It will sunset in 2 years. That is contrary to most of the recommendations we have been getting from industry across the board; namely, they like 5-year incentives toward capital needs. A couple years, 3 years; 1 year is not enough, 2 years is not enough. We extended most of these credits on renewables and alternatives for 5 years. Section 485, which is renewable credits, is extended for 5 years, but we limited this to just 2 years as an extension because we are not as confident that is what the exact provision should be.

So I hope this amendment offered by the Senator from Arizona is not agreed to. The underlying Finance Committee amendment, which is pending, we thought it through the best we could. We think it is balanced. We think it is fair. Therefore, we hope it is sustained. Let me restate that every gallon of renewable diesel produced is a gallon of foreign oil displaced, which I think is pretty important.

I appreciate the efforts of my good friend from Arizona, but I think by and large they are not well placed.

I understand there are a couple of others who wish to speak on our side. How many minutes would the Senator from Iowa like to speak? For 5 minutes. Senator LINCOLN, about the same.

Mr. President, how much time is remaining on our side?

The PRESIDING OFFICER. Twelve minutes.

Mr. BAUCUS. Mr. President, I yield 5 minutes to each Senator who wants to speak, and I first yield to the Senator from Iowa, my good friend, Senator GRASSLEY.

Mr. GRASSLEY. Mr. President, I thank the Senator for yielding. I am glad to come to the floor to speak about renewables. I am going to speak against the Kyl amendment.

I think we ought to put things in perspective. For two decades, maybe longer than that, this country has been seeking various approaches to alternative energy so that we are not dependent upon foreign sources and, more recently, violent and unpredictable sources of energy for the United States for reasons of national security, for reasons of our economy. There are a lot of good reasons we shouldn't be so dependent upon fossil fuels and foreign sources of energy. So we have had two or three decades, starting out with ethanol and now going into other things such as biodiesel, wind, Sun, and things of that nature.

Now we are finding that the things this country was so united on, such as the need for renewables, the need for helping agriculture, the need for lowering our trade deficit, the needs of national security, the needs of a cleaner environment—everybody was united that we ought to be doing it, and now we are being somewhat successful. It used to be we would have to listen to all of the excuses of big oil, fight big oil, why we shouldn't have renewables. Now we are finding out about the high price of food, the high price of animal feed, just as if all of the problems of our country are on the backs of the American farmers, which is very unfair. Now we are finding some dissension from other industries being affected. We are still in the infancy of these industries, whether it is ethanol after a couple of decades or whether it is biodiesel after 3 or 4 years. We are in a state of infancy yet in renewables.

We ought to be as united today as we were over the past two decades on what is right for this country, good for agriculture, good for the environment, good for our national defense, good for good-paying jobs in parts of rural America where it has never been before. Everything about it is good, good, good. We better stick together because otherwise we will continue to be dependent upon those violent regions of the world for energy; we are going to be dependent on something God made a finite quantity of, such as fossil fuels. We need to move forward, united. This is the second amendment today and, who knows, we may have 10 other amendments which are very detrimental to the causes of getting this infant industry of renewables off the ground.

Having said that as a backdrop, I wish to speak specifically about what is wrong with the amendment that is before us. I can't replace the good things—or I can only add to the good things which the Senator from Montana has already spoken to. But there is no cap on any biodiesel production. They may go forth and produce and meet their specific chemical standards. They have the right to produce as many gallons of biodiesel as they like, and it will be qualified for the excise tax credit through the end of 2010. Now, people will argue that it ought to be longer, but you have to fit things into what we have offsets for, so it is the year of 2010. If they are a small producer, they will be able to receive the credit until December 2012. If you are a noncoprocessing facility and do 100 percent biomass, not including chemicals, catalysts, and the like, they have the same rules as biodiesel. If you coprocess at a facility, your total credit is limited to 60 million gallons. If you claim a renewable diesel credit, the 60 million gallons is the current definition of a small producer. So a coprocessor facility will not be able to receive any more tax benefits than the small producer. For example, if you have a 100-million-gallon facility that you are

concerned about, they have a built-in \$40 million advantage over any coprocessing facility. Obviously, a barrel of vegetable oil or animal oil is substantially more expensive than a barrel of crude oil, and the credit by law is limited to only the volumetric amount of the biomass.

I hope this makes it clear that we should not support the amendment of the Senator from Arizona.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Mr. President, may I be informed as to how much time remains on this side?

The PRESIDING OFFICER. Twelve minutes for the Senator from Arizona and 6½ minutes for the Senator from Montana.

Mr. KYL. Might I take a little bit of time, then, before the other side speaks again on this issue?

I respect my colleagues who have spoken, but I have not really heard an argument that, to me, anyway, argues against the specific amendment I am offering. Remember, I am not doing away with the credit. The arguments that have been raised here make it sound as if we are trying to do away with the credit. That is absolutely not true. The credit remains. What we are trying to do is essentially reverse an IRS ruling, which I submit was made in error, with respect to the application of the tax credit. They said you could actually apply it to a process to which it was never intended to be applied.

A letter to the Secretary of Treasury at the time this legislation was originally considered makes that crystal clear.

Congressman BLUNT wrote:

It has been brought to my attention that some taxpayers are suggesting to the Department of Treasury that section 1346 of the Act, the renewable diesel provision, could be broadly interpreted to include traditional processes. This is not what we intended in the provision, and neither the statute nor the associated JCT estimate of revenue implications in any way support such a reading.

What he is saying is this: Two years ago when this tax credit was created, it was designed to incentivize the creation of a new product so that we didn't have to continue to explore for oil or export it from foreign sources; we could begin to make renewable diesel out of biomass. That was the idea. We have all of this waste product of biomass. We have cellulosic products we can create here, and that will create a new renewable fuel source.

Everybody said: That is a great idea. To get it promoted, let's have a dollar-per-gallon tax credit for the production of that. It was not intended to apply, as the Congressman from Missouri pointed out, to include traditional processes for refining and producing fuel. In other words, it was designed to promote something new.

So when these folks found that they could take animal fat, essentially, to greatly simplify it, and add it to their

existing stocks, voila: a biomass renewable fuel that qualified for a generous tax benefit, that was never intended. All my amendment does is to say that interpretation is not correct; you can't do that. The underlying dollar-per-gallon credit exists. The other 50-cent-per-gallon credit exists. We don't take away any of that. All we do—and the primary person or company that is affected by this, I acknowledge, is Conoco Oil Company. They have figured out, with minimal new investment, as they themselves wrote in their annual report, that they could take advantage of this tax credit by using the animal fat.

Now, again, I suppose it wouldn't matter that much if a big oil company is taking undue advantage of a tax credit we create. That is probably done all the time. I don't like it. That is why taxpayers are, frankly, sometimes upset with Congress that we pass these great, generous subsidies and sometimes they are utilized by people who shouldn't be utilizing them, not to create a new kind of diesel fuel in this case but to keep using the same old diesel fuel.

The other unintended consequence, though, is one that affects another industry, a clean industry, an industry that is using the waste fat, the vegetable oil and animal fat, the waste product of turkeys and chickens, for example. It is utilized today in a variety of these oleo chemical products which are products we use every day—house-cleaning products, soap, as I said.

The problem is that because these existing refineries are buying up these waste products, they are driving up the cost. There is only so much of this animal fat around. It is a finite amount. When the demand is increased by having these oil refineries buy it all up so they can put it into their diesel fuel so they can get an extra credit, that is driving up the price which, as I said, has gone up 100 percent in the last 6 months.

If that continues, these soap companies are not going to be able to afford the primary feedstock for the soap, and they are going to have to produce it abroad, another great unintended consequence of what started out to be a good idea but didn't turn out to be such a hot idea.

This is a very parochial issue. I submit, except for the chairman and ranking member of the committee, primarily the opponents of this are from places that take advantage of this provision. I cannot object to their fighting for their local industries, but I think it is important for us to recognize that as a national energy policy and as a national tax policy, we have to look at it in nationwide terms. When we have created a credit to produce something new, and it ends up not being used to produce something new but to produce something that currently exists by existing refineries and uses up the feedstock of another important industry,

driving the cost of that industry way up, we better pay attention to that. The fix doesn't hurt anybody, except primarily, as I said, this one big oil company because it leaves the credit in place, it leaves the 50-cent credit in place. It doesn't do anything with those credits. It doesn't say they are not extended. All it does is say we go back to the way it was prior to this IRS ruling that said they could take advantage of this provision for the existing refiners.

I will conclude. We don't need to subsidize existing oil-refining operations at the expense of freestanding producers of biodiesel and renewable diesel. That is who this tax credit was designed to help, the freestanding facilities, the ones that were actually producing something new.

A key component of rising fuel prices in this country is a lack of refining capacity in the United States. We all know that. Freestanding biodiesel and renewable diesel producers have both fuel and refining capacity. We ought to be encouraging them, and that is what the \$1-per-gallon credit was designed to do.

By contrast, coprocessed renewable diesel adds no new net fuel and no new refining capacity to the diesel pool. This was not intended to help the existing refiners. They are already in business, they are already making money, and we don't need to give them \$1-a-gallon credit for doing something we don't need to have them do.

Finally, as I said, the availability of feedstock, such as animal fat and vegetable oils, is essentially fixed, and this \$1 renewable diesel credit is the motivation for integrating the oil companies to engage in coprocessing. This will clearly increase demand for the feedstock needed to produce biodiesel and increase costs. It is not wise tax policy to drive tax policies and limited feedstock to support existing refinery operations at the expense of biodiesel and freestanding renewable diesel production.

The economic benefits associated with freestanding biodiesel production could be lost if this \$1-per-gallon renewable tax incentive is directed to support operations in existing oil refineries.

I ask my colleagues to please keep this in perspective and take into account that those who say this amendment is bringing the end of the world, no, it is not. It doesn't change existing law at all. All it does is say to go back to the original intent and apply this very generous tax credit for the purpose we originally intended: to produce something new, not to use existing refineries and give them a tax credit for doing something they are already doing.

I hope when the amendment is called that my colleagues will see through some of the smokescreen that has been presented, not in the Chamber but on the outside with regard to this amendment, and will agree that national pol-

icy dictates that we take care of taxpayers' dollars carefully, that we set our energy policy carefully, and that we not let people take undue advantage of it in ways we did not intend.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask the Senator from Arizona, before the debate proceeds, we now have agreements with Senator INHOFE for two votes. One is a vote in relation to amendment No. 1693 and then a vote in relation to amendment No. 1666. I was wondering if the Senator will agree that following the debate on those two amendments, which will take an hour, if the Senator will be able to return to that point and debate his second amendment and then we can have a stack of four votes.

Mr. KYL. Mr. President, I will be happy to do this on my time because I am going to yield back my time on this amendment in any event. I am happy to have the vote on this amendment stacked with the Inhofe amendment at whatever time that will occur.

With regard to the second amendment, which I am going to propose, I am not at liberty to do that right now because there are numerous people who wish to speak. I assure the chairman that as soon as I have that list and know how much time it is, I will let him know that.

Mr. BINGAMAN. I appreciate the response.

I yield the floor.

Mr. BAUCUS. Mr. President, I yield to the Senator from Arkansas 5 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I start first by thanking both the chairman and ranking member and their staff for some incredibly hard work to get this legislation ready to come to the floor. It was absolutely no small feat, but it is so very important that we bring this portion of our objective in leading our Nation away from dependence on foreign oil and back to our ability to provide for ourselves.

This energy tax package that Chairman BAUCUS and Senator GRASSLEY have brought together is remarkable—remarkable in its balance, it is remarkable in the engine it provides to drive the incentives industry needs to move us toward renewable fuels.

I wish to say how much I appreciate their effort. Throughout the history of our Nation, we have faced great technological challenges that we have confronted and overcome. We didn't put a man on the Moon by talking about how important it was. We developed a plan, and we committed the resources necessary to achieve that plan. We are at that juncture now in this country in regard to renewable fuels and our dependence on foreign oil. I applaud their efforts in what they have done and accomplished.

I also wish to point out, in terms of what the Senator from Arizona has

brought up, he mentioned this is not a new product. I venture to say how many people have heard of diesel made from animal fat, particularly chicken fat? This is a new product. It is a product that produces a renewable diesel that is very clean burning and very positive for our environment and the overall objective of what we are trying to reach in this underlying bill and that is reducing our CO₂ emissions, reducing what is going into the environment, and reducing our dependence on foreign oil.

The Senator from Arizona mentions the original intent. The original intent was to promote renewable diesel. In fact, the renewable diesel credit is drafted as technology neutral, regardless of the state of the art or process at the time of enactment. The EPAct statute simply provides that renewable diesel fuel, in order to qualify for the credit, must be produced using a thermal depolymerization process. We have the history on that process. We know what the intent and the purpose of EPAct was and is, and we meet that intent. We meet that intent with the encouragement of making sure we are looking at all the renewable feedstocks in this country to put into the mix to lessen our dependence on petroleum products and to create variety in what it is we go to.

I know there are some in this body on both sides who think maybe this is an opportunity to get even with big oil. That is not the intent of this bill, and I hope we would not stray to that. I hope we would not stray to the idea that we are here to get even with big oil but that we are here to encourage those in the oil industry to move into renewable fuels, to move into the opportunities that exist in technology, to push them into an area where renewables make sense.

Senator KYL's amendment does not solve the problem he raises regarding the increase in the price of fat. The credit that Senator KYL seeks to strike is for a process that is in the very early stages of production. This process has not even been produced in terms of barrels of fuel in this country. So it is difficult to see how it could have had the profound effect on the prices that Senator KYL claims it has.

The fact is, the price of fat has been driven up in part due to its use in the production of biodiesel. Senator KYL said in our hearing yesterday that if he could, he would try to remove all credits he believes might distort existing markets.

If we think we are going to move ourselves as a nation and as a people, with the culture and the amenities to which we have become accustomed, to a society that depends on renewable fuels without making at least some minor changes in the marketplaces of our existing feedstocks, we might as well pack it up and go home right now.

If we are going to eliminate all the credits and all the opportunities that exist to go to renewable fuels, and we

are going to eliminate them because of some blip they may cause momentarily before we begin to move into the decade where we can balance our needs for renewable feeds with other items, we might as well go home because that is going to happen.

What we have done is crafted in this bill a very sensible solution. Senator KYL mentions the stand-alone renewable diesel facilities need to be protected, they need to be maintained. They are. They have no cap whatsoever in this bill, just as there is no cap on biodiesel. But where we have facilities that are taking the steps in the right direction to coproduce, they are going to get a credit. They are going to get a credit up to the amount where they meet what the small producers are doing, a 60-million-gallon-per-facility cap. It is very reasonable, and it certainly speaks to the efforts of what we are trying to do in this underlying bill.

Today's amendment may only affect renewable diesel, but it is entirely possible that next year the target will be biodiesel or ethanol or cellulosic ethanol, if what he wants to do is eliminate credits that protect those underlying feedstocks.

While it may be good intention for something that is parochial for the Senator from Arizona, I say let us all remember what the ultimate objective of this bill is: to lessen our dependence on foreign oil, clean our environment, and make sure that we are moving to renewables. That is exactly what the underlying bill does.

The PRESIDING OFFICER. The Senator from New Mexico.

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

The PRESIDING OFFICER. The Senator from Montana has no time remaining.

Mr. BINGAMAN. Mr. President, I see no Senators on either side, so I will propound a unanimous consent request.

I ask unanimous consent that Senator ALEXANDER be recognized for 10 minutes, to be followed by 10 minutes for Senator KLOBUCHAR, and following that, the pending amendments be set aside so I may offer amendment No. 1693 and that Senator INHOFE can then offer his first-degree amendment No. 1666; that the two amendments be debated concurrently for 1 hour, to be equally divided between Senator INHOFE and myself; that at the conclusion or yielding back of time, the Senate vote in relation to amendment No. 1693, to be followed by 2 minutes for debate and a vote in relation to amendment No. 1666; that no amendments be in order to either amendment prior to the votes in relation to the amendments; and that upon the disposition of the Inhofe amendment, the Senate vote in relation to the Kyl amendment No. 1800, with 2 minutes of debate prior to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. We have no objections. We have worked together to arrive at this schedule.

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

The Senator from Tennessee.

Mr. ALEXANDER. I thank the Senator from New Mexico for the courtesy of the next 10 minutes, and I would ask the Chair to let me know when 1 minute remains.

Mr. President, I compliment both Senators from New Mexico for their work on energy. As they did 2 years ago, they have made some important proposals. The 2005 bill was a terrific step forward, and there are some important suggestions in this bill. I want to especially say a few words about the tax part of the bill that came out today, and I will have more to say about that tomorrow and amendments to offer.

It is probably not the first time it has been said of the Senate that there is too much wind here, but I would like to suggest there is too much of that in the tax bill that has been reported to the Senate. Here is the tax bill. As I read the figures: \$28.5 billion more over the next 10 years, \$10 billion of it for wind. Almost all of it is for subsidies to wind developers. 34 percent of the bill's total goes toward this tax credit.

This isn't the first time the Senate has been generous to wind. In the 2005 bill it was 19 percent. Why would I say that is a little too much wind? It is because in many parts of the country the wind doesn't blow sufficiently for us to rely on it for electricity.

We have had some debate about Senator BINGAMAN's proposal, which might work very well in New Mexico or some other States to say that 15 percent of the electricity ought to be from renewable energy, mostly wind under this definition.

This map of the United States shows that much of the wind in the Southeast and Eastern United States doesn't blow enough for that to happen there. So under that proposal, the one we were debating earlier, called the renewable portfolio standard, I am afraid Tennesseans would have to pay basically a tax of 2 cents per kilowatt-hour, which would be \$410 million a year.

We have one wind farm in the entire Southeast, and it is in Tennessee on Buffalo Mountain. Last August, while we were all sweating and perspiring with our fans on the front porch, the wind farm operated for 7 percent of the time. Most of us want our air conditioners when it's hot—not just when the wind blows enough to make electricity.

We are not the only ones who are beginning to see the limits of wind. Yesterday, the President of Pacific Gas and Electric in California, which likes wind power and is using wind power, said, according to California Energy Markets, that they will not make substantial new investments in wind generation, and "we think we are approaching in California itself the limit on wind."

So why then if we are going to spend \$28 billion for energy sufficiency—that would mean reliable, clean electricity for the country in the world that uses 25 percent of all the energy in the world—why then would we develop a national wind turbine policy instead of a national energy policy? Isn't \$10 billion more—which would make our total investment over the next 10 years more than \$2 billion a year for wind turbines—isn't that too much wind?

I am not even talking so much about the fact of what these look like. I think I have said many times on this floor that in Tennessee I don't like the fact that these only work, when they work, on our most scenic ridgetops. We would prefer not to have them. That is not the case with everybody, I understand that. But it is important for people to know these aren't your grandmother's windmills.

These are twice as tall as the sky boxes at the football stadium, and the rotor blades go from the 10-yard line to the 10-yard line. So there are limits as to where they should go.

Across the country, even when performing well, they only work a third of the time. They often blow at the wrong time—at night, when people are asleep and not using so much electricity. And you can't store the wind. Basically, a utility makes a big investment, paying somebody \$20 million—in the TVA Buffalo Mountain case \$60 million for 20 years—to buy wind, whenever it comes, and if it comes at night when the lights are off, tough, they just lose it. If it comes 7 percent of the time in August, when everybody's air conditioners are up, it doesn't help very much. Of course, even if you had it, you still need nuclear or coal or something else because most people want their computers and their electricity on when they want them on.

As I mentioned, it is very difficult to store. It only uses about 1 percent of our current electricity needs. It does little to clean the air because we already have caps on sulfur and nitrogen, which I would like to accelerate, and it means lots of new power lines. So we have a 400-percent increase in wind capacity that would produce no change in emissions of nitrogen, no change in sulfur, and very little in carbon.

My point is, I believe there are better ways to spend that \$10 billion of the \$28 billion we propose to spend over the next 10 years, better ways to spend one-third of all this money than on a national wind policy, since it doesn't work very well, it is not very reliable, and much of the country can't use it at all.

For example, take fluorescent lighting. I know Senators BINGAMAN and DOMENICI have talked about this, but if we spent \$2 billion a year just in tax

credits for fluorescent lighting, we could save enough energy to equal eight 1,000-megawatt nuclear reactors, or 18,000 1.8-megawatt wind turbines.

Let's take another idea. What if we took the \$2 billion a year and gave a credit for appliances, such as dishwashers, washing machines, and refrigerators. There is such a credit in the tax bill, and that is good. It costs about \$100 million a year to encourage that. Why don't we extend that to 10 years? That would be \$1 billion of the \$10 billion we are spending on wind. It would save more electricity than we would get building wind.

We talk about not just carbon but clean air. I know Vermont wants clean air. We want clean air in the mountains in Tennessee. For \$2 billion a year we could buy six new scrubbers a year at \$300 million a scrubber. A scrubber takes the sulfur out of the air that contributes to the unhealthy aspects and to the soot and to the smog that is unhealthy for people and interferes with our view of the mountains.

Or take utility bills. The average utility bill for Tennesseans is \$100 a month. This is \$2 billion a year. We could just give the money to Tennesseans, 1.7 million households, for a full year. One month's electric bill for 20 million households, that is what we could do for \$2 billion.

If we were a little more creative, we might go to the metering that some utilities are now putting in homes and say: If your electric bill is \$100, and you reduce your use of electricity by \$20, we will match it by \$20 and we will collect all that information in the utility. And as a result, you will get a \$60 bill instead of a \$100 bill each month—instead of investing in more wind.

Or you could use that money for clean coal power plants. The 2005 bill that Senator BINGAMAN and Senator DOMENICI worked on had a number of initiatives for nuclear, clean coal, IGCC, and a number of things that are underfunded. We don't have enough money for them. Well, if we don't have the money for those things—which we decided by consensus in 2005 was the best way to create clean reliable electricity for a country that uses 25 percent of all the energy in the world—if we didn't have the money in 2005, why don't we take this \$28 billion over the next 10 years, or at least some of this \$10 billion for wind, and put it in clean coal or these other areas?

The PRESIDING OFFICER. One minute remains.

Mr. ALEXANDER. I thank the Chair.

Mr. President, I wanted the Senate to know that of the \$28 billion, one-third of it goes to wind turbines. We have a national wind policy instead of a national energy policy.

We will be spending \$2 billion a year on wind subsidies. And there are many

other wind subsidies in the Federal Government. You get bonds to build them, you get accelerated depreciation, and then there are the State subsidies. So I am suggesting there is too much wind, and a wiser use of at least half that \$10 billion would be for conservation, efficiency, scrubbers, and other forms of energy that are reflected in the 2005 Energy bill.

I thank the Chair and the Senator from New Mexico for the time.

Mr. DOMENICI. Mr. President, I ask unanimous consent the Senate grant me 1 minute at this point to make a statement and ask the Senator a question.

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

Mr. DOMENICI. Senator, first of all, I listened. Some people might say the Senator from New Mexico shouldn't listen again because I have listened now at least twice to you on this subject matter.

To tell you the truth, your analysis of the situation becomes more relevant every single month that passes in the Congress because today we are about to decide what to do with \$30 billion, more or less; that we are going to levy a tax; and you have come before us and told us what you might do.

I might say, as chairman of the Energy Committee, I don't serve on the Finance Committee. That is the breaks of the way things are done in the Senate. I am not complaining, but I can guarantee you and the Senate that I, as one Senator, and as chairman of the Energy Committee a year and a half ago—not now—I would never have voted to put that much money in wind and so little in other technologies and breakthrough science items.

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

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement from the Joint Tax Committee which does an estimate of the amount of the new tax package that would go to wind.

The estimate for a 5-year extension of section 45 credit is \$10,292 million, and the amount attributed to wind is \$7,846, in their estimation. The rest would be used for biomass and geothermal and other energy sources.

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

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC.

Hon. JEFF BINGAMAN,
U.S. Senate.

FISCAL YEARS
(millions of dollars)

Item	2007	2008	2009	2010	2011	2012	2007-12	2007-17
5-year extension of section 45 credit			-75	-294	-610	-949	-1,929	-10,292
Amount attributable to wind			-52	-199	-419	-679	-1,350	-7,846
8-year extension of section 45 credit			-75	-294	-610	-949	-1,929	-13,110
Amount attributable to wind			-52	-199	-419	-679	-1,350	-10,122
5-year extension of section 48 credit			-83	-129	-107	-116	-434	-655

Note: Details may not add to totals due to rounding.

I hope this information is helpful to you. If we can be of further assistance in this matter, please let me know.

Sincerely,

THOMAS A. BARTHOLD,
Acting Chief of Staff.

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

The PRESIDING OFFICER. The Senator from Minnesota.

AMENDMENT NO. 1557

Ms. KLOBUCHAR. Mr. President, I am here once again to address my amendment for a national greenhouse gas registry. As you know, this is an amendment that I am cosponsoring with Senator SNOWE and two other Republicans, as well as Senator BINGAMAN.

This is an idea whose time has come. This is an amendment that doesn't actually say what the policy will be with regard to greenhouse gases. It simply requires that on a national basis we collect accurate information so we can make smart policy decisions.

I am sorry to say the other side has not yet agreed to vote on this amendment. It is looking a little bleak as time ticks on, but I am still here. It puzzles me because the senior Senator from Oklahoma, in a trade magazine—*Environment and Energy Daily*—was recently quoted in a short interview, after repeatedly calling global warming a hoax, as saying that he predicted this measure, this bill, would probably be adopted, if offered. And I think that may be accurate.

We know a number of Republicans are interested in this bill. We have worked very hard and we think it is important. That is why it is very distressing to me that we are not even going to be allowed to have a vote on this.

It is distressing because one of the reasons Senator SNOWE and I came up with this amendment is because we did hear what we considered something of an outcry from businesses across this country. As you know, 31 States have come up with plans involving greenhouse gas emissions and climate change, and they are actually starting their own registry out of complete and utter frustration with the Federal Government. It is absurd to think a majority of States is having to put together a greenhouse gas registry because our national Government is so complacent. Back in January we had a number of these companies that gathered together and came to us and said we want action on climate change. We want to get this registry going. We want to have it done by the end of the year.

I have been here long enough to know we are not going to get it done by the

end of the year unless we vote on it now.

I want to mention some of the companies that expressed interest in this: Alcan Inc., Alcoa, American International Group, Inc.—that is AIG, Boston Scientific Corporation, BP America Inc., Caterpillar Inc., ConocoPhillips, Deere & Company, the Dow Chemical Company, Duke Energy, DuPont, Environmental Defense, FPL Group, Inc., General Electric, General Motors Corp., Johnson & Johnson, Marsh, Inc. PepsiCo, Pew Center on Global Climate Change, PG&E Corporation, PNM Resources, Shell, Siemens Corporation. They all said they wanted us to get something done on climate change.

You can imagine my surprise when we found out that in fact the U.S. Chamber of Commerce opposed this bill. They never talked to me about it; they just sent out a letter. In fact, they threatened this could be one of the key votes for the chamber this year, depending on how people voted on this little bill that simply asks that accurate data be collected and be able to be posted on a Web site as they do in Canada and other places. But they said it might be a key vote, right up there with the estate tax last year and some of the other votes that were national issues.

There have been a lot of things said about this bill. The senior Senator from Oklahoma actually sent out a letter about it. He talked about how it would apply to virtually every business in America in this letter.

The simple truth is we wrote this amendment with business in mind because we had the impression, from what we had heard, that business wants to work with us on this important issue of climate change. The amendment contains explicit provisions excluding companies for which reporting was excessively burdensome or expensive. The new registry only covers major emitting facilities and major sources of fossil fuels. Utilities already reporting under the Clean Air Act would not have to report their data twice.

For facilities facing costs and purchasing advanced monitoring equipment, the EPA would accept basic information on the amount and type of fossil fuels they consume, which is collected by businesses for general accounting purposes. Section 165(b)(10)(c) of my amendment specifies that confidential business information will not be published under the National Greenhouse Gas Registry.

The legislation also has an exception for small businesses, the exception as defined by the Small Business Admin-

istration—businesses that generate fewer than 10,000 metric tons of greenhouse gas emissions. And 10,000 metric tons is not an arbitrary number. The American Chemical Society released a report in 2003 which talked about this as a threshold, 10,000 metric tons, a threshold which

... effectively relieves the agriculture and commercial building sectors from reporting, substantially reduces the number of manufacturing facilities that would report while continuing to capture 80 percent of emissions.

Clearly this is not true.

We also know the current status. We have some businesses, major emitters, reporting to the Department of Energy. Some report to the EPA. Some report every 3 years. Some report every week. Some report every year. This is not the kind of information we expect to have in order to make policy decisions on climate change.

In his letter, the senior Senator from Oklahoma also said organizations such as the Sierra Club or the Natural Resources Defense Council would be put in charge of third-party verification and have access to confidential business information. This is so inaccurate I do not even know where to begin. Under my amendment, the EPA Administrator may ensure that reports are certified by a third-party entity, but as with the California Climate Registry, third-party verifiers will have to be verified themselves as experienced firms in providing greenhouse gas emission certifications. These are engineering firms; they are not political interest groups.

Finally, they claim this amendment did not go through the committee process. That interests me because a little over 5 years ago, Senator BROWNBACK, the Republican Senator, along with then-Senator Corzine of New Jersey, passed an amendment in this Chamber creating a greenhouse gas registry. This registry would have been voluntary, but after 5 years, if the registry contained less than 60 percent of the total greenhouse gas emissions in the U.S.—that is clearly where it is now—mandatory reporting would have been triggered. Sadly, the bill didn't get ultimately through this Congress. But the point is, this Chamber has already voted on this.

Here is a simple truth. This amendment seeks to create common standards for measuring, tracking, verifying, and reporting greenhouse gas emissions by major industries. It requires the Environmental Protection Agency—not exactly an engine of radical reform at this moment—to consider cost and coordinate with existing Federal and

State programs to implement this registry.

This is an opportunity that the Senate should be willing to put its head up and vote for. It is an opportunity to at least get the accurate data so we can start talking about climate change reform.

I never knew I would end up here in the Senate. I grew up in a middle-class family. My grandpa was a miner and a logger. My dad was a journalist. My mom was an elementary schoolteacher. I worked jobs all my life—as a pie cutter. I worked as a car hop. I worked as a secretary. I went to public high school. I got a law degree. I went to a law firm, and I ended up being privileged to be the district attorney for the largest county in Minnesota. When Senator Dayton decided he wasn't going to run again for the Senate, I ran for the Senate.

It has been my belief throughout my life that you can get things done if you have right on your side, and if you are able to work with other people, you can get things done and you can change things. It started in the fourth grade when I was the first girl to wear bell-bottom pants, the first girl to wear pants in my public elementary school. I was kicked out by Mrs. Quady, the principal, but I came back the next day and within a year the girls were allowed to wear pants.

In high school they said we couldn't raise enough money to have our high school prom, and we sold Life Saver lollipops and we got it done. In DA, we had troubled crime in a lot of our neighborhoods and we reached out to these neighbors and organized, and they did a lot of good work and we had some amazing examples of individual citizens getting things done on the front end.

Now we are here. We have a major challenge confronting us. That is a challenge of climate change. There are people out there waiting for us to do something about it. There is a scientist out there right now seeing how the sea level is going up. There is another scientist who measures the temperatures and sees how, since the ice age, we have only had a 5-degree increase in temperature and just the last century we have seen a 1-degree increase, with the EPA estimating a 3-degree increase in the next hundred years. There are little kids out there wearing "Save the Penguins" buttons right now. There is a hunter in Hinckley, MN, who sees changes in the wetlands. He is waiting for us to act. There is a ski resort on up in Grand Marais, MN, that had 30 percent less profits in this last year because of the decrease in snow. He is waiting for us to act.

That is why I ask my colleagues on the other side of the aisle to allow this important amendment to be heard. It doesn't dictate what the policy will be. It simply asks that we collect accurate information.

I am an optimist. The seat I hold was once held by Hubert Humphrey. At the

end of his life, he said the words that are on his grave:

People consider me sentimental but to the end I remain an optimist. I remain an optimist with joy and without apology about this great American experiment in Democracy.

I remain an optimist too. I remain an optimist because I have seen the great work the Senator from New Mexico and others have done in this energy bill, and I believe more can be done. I remain an optimist that this bill will ultimately pass. If not today, this amendment will ultimately pass on another bill.

I yield the floor.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from New Mexico.

Mr. BINGAMAN. For the information of Senators, we have now an hour equally divided, half of it under the control of Senator INHOFE and half of it under my control. It is for two purposes. It is to debate amendment No. 1693, which I have submitted, and also to debate amendment No. 1666, which Senator INHOFE has submitted.

Why don't I take 5 minutes at this point.

AMENDMENT NO. 1693 TO AMENDMENT NO. 1502

Let me call up amendment No. 1693.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mrs. BOXER and Mr. REID, proposes an amendment numbered 1693 to amendment No. 1502.

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

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

The amendment is as follows:

(Purpose: To ensure that the renewable fuel standard does not harm the environment)

On page 59, after line 21, insert the following:

Subtitle D—Environmental Safeguards

SEC. 161. GRANTS FOR PRODUCTION OF ADVANCED BIOFUELS.

(a) IN GENERAL.—The Secretary shall establish a grant program to encourage the production of advanced biofuels.

(b) REQUIREMENTS AND PRIORITY.—In making grants under this section, the Secretary—

(1) shall make awards to the proposals for advanced biofuels with the greatest reduction in lifecycle greenhouse gas emissions compared to the comparable motor vehicle fuel lifecycle emissions during calendar year 2007; and

(2) shall not make an award to a project that does not achieve at least a 50-percent reduction in such lifecycle greenhouse gas emissions.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$500,000,000 for the period of fiscal years 2008 through 2015.

SEC. 162. STUDIES OF EFFECTS OF RENEWABLE FUEL USE.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding at the end the following:

“(t) STUDIES OF EFFECTS OF RENEWABLE FUEL USE.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall offer to enter into appropriate arrangements with the National Academy of Sciences and any other independent research institute determined to be appropriate by the Administrator, in consultation with appropriate Federal agencies, to conduct 2 studies on the effects of increased domestic use of renewable fuels under the Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007.

“(2) MATTERS TO BE STUDIED.—

“(A) IN GENERAL.—The studies under this subsection shall assess, quantify, and recommend analytical methodologies in relation to environmental changes associated with the increased domestic use of renewable fuels under the Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007, including production, handling, transportation, and use of the fuels.

“(B) SPECIFIC MATTERS.—The studies shall include an assessment and quantification, to the maximum extent practicable, of significant changes—

“(i) in air and water quality and the quality of other natural resources;

“(ii) in land use patterns;

“(iii) in the rate of deforestation in the United States and globally;

“(iv) to greenhouse gas emissions;

“(v) to significant geographic areas and habitats with high biodiversity values (including species richness, the presence of species that are exclusively native to a place, or the presence of endangered species); or

“(vi) in the long-term capacity of the United States to produce biomass feedstocks.

“(C) BASELINE COMPARISON.—In making an assessment or quantifying effects of increased use of renewable fuels, the studies shall use an appropriate baseline involving increased use of the conventional transportation fuels, if displacement by use of renewable fuels had not occurred.

“(3) REPORTS TO CONGRESS.—The Administrator shall submit to Congress a report summarizing the assessments and findings of—

“(A) the first study, along with any recommendations by the Administrator to mitigate adverse effects identified by the study, not later than 3 years after the date of enactment of this subsection; and

“(B) the second study, along with any recommendations by the Administrator to mitigate adverse effects identified by the study, not later December 31, 2015.”.

SEC. 163. INTEGRATED CONSIDERATION OF WATER QUALITY IN DETERMINATIONS ON FUELS AND FUEL ADDITIVES.

Section 211(c)(1) of the Clean Air Act (42 U.S.C. 7545(c)(1)) is amended—

(1) by striking “nonroad vehicle (A) if in the judgment of the Administrator” and inserting “nonroad vehicle—

“(A) if, in the judgment of the Administrator, any fuel or fuel additive or”; and

(2) in subparagraph (A), by striking “air pollution which” and inserting “air pollution or water pollution (including any degradation in the quality of groundwater) that”; and

(3) by striking “, or (B) if” and inserting the following: “; or

“(B) if”.

SEC. 164. ANTI-BACKSLIDING.

Section 211 of the Clean Air Act (42 U.S.C. 7545) (as amended by section 162) is amended by adding at the end the following:

“(u) PREVENTION OF AIR QUALITY DETERIORATION.—

“(1) STUDY.—

“(A) IN GENERAL.—Not later than 18 months after the date of enactment of the

Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007, the Administrator shall complete a study to determine whether the renewable fuel volumes required by that Act will adversely impact air quality as a result of changes in vehicle and engine emissions of air pollutants regulated under this Act.

“(B) CONSIDERATIONS.—The study shall include consideration of—

“(i) different blend levels, types of renewable fuels, and available vehicle technologies; and

“(ii) appropriate national, regional, and local air quality control measures.

“(2) REGULATIONS.—Not later than 3 years after the date of enactment of the Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007, the Administrator shall—

“(A) promulgate regulations to implement appropriate measures to mitigate, to the greatest extent achievable, considering the results of the study under paragraph (1), any adverse impacts on air quality, as the result of the renewable volumes required by that Act; or

“(B) make a determination that no such measures are necessary.

“(3) OTHER REQUIREMENTS.—Nothing in title I of the Renewable Fuels, Consumer Protection, and Energy Efficiency Act of 2007 supercedes or otherwise affects any Federal or State requirement under any other provision of law that is more stringent than any requirement of this title.”

Mr. BINGAMAN. Madam President, let me take up to 5 minutes to speak on amendment No. 1693 and then yield to my colleague Senator BOXER 10 minutes for her to speak on that same amendment.

This amendment addresses a number of important environmental issues associated with renewable fuels. It contains four sections. The first section makes an authorization for grants to encourage production of advanced biofuels with the most favorable greenhouse gas emission characteristics.

The second section provides for a study by EPA of potential issues that may arise as a result of increases in the renewable fuels standard. That study will result in two reports to Congress, one in 2010, the other in 2015.

The third part of the amendment allows the EPA to consider groundwater impacts when regulating fuel additives under the Clean Air Act. One of the reasons we had a problem with MTBE as a fuel additive was that we looked at it in a one-dimensional way. This section of our amendment will allow a full look at all relevant impacts of fuel additives going forward.

The final part of the amendment is a provision commonly known as antibacksliding. It basically allows EPA to address air quality issues that might arise as a result of the increased volumes of renewable fuel mandated by the Energy bill. These changes have been developed by Senator BOXER and her staff, and myself and my staff, in a collaborative manner. I thank her and her staff for the good work they did on these provisions.

I also acknowledge the assistance and support we have received on this amendment from the Renewable Fuels Association.

This is a consensus amendment on the part of those with interests in enhancing our energy security through increased use of renewable fuels in an environmentally responsible way.

I urge my colleagues to support this amendment.

I will now yield to the Senator from California for her comments on this, and I will yield her up to 10 minutes, and I will then speak in opposition to the amendment by the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Madam President, thank you so much.

I thank Senator BINGAMAN very much for this amendment we have worked very hard on for days now. I am delighted we are able to offer it.

I see my ranking member is here because he has an amendment that in concept—I am going to look at the details—in concept makes a lot of sense. In terms of this amendment, I hope I will be able to support it because what we are trying to make sure of is that in the new fuels program, this bill, we do not lose any ground in terms of the Clean Air Act so we still are able to give EPA important authority under the Clean Air Act to mitigate any adverse air quality impacts that might result from the increased use of renewable fuels.

What we learned when we dealt with MTBE, which was an additive in gasoline, was we were not prepared for any adverse impacts from MTBE. We thought it was going to be the answer. As you know, MTBE permeated the water supplies in many States. We thought it was going to clean up the air and, guess what, it did. But it created havoc with our water quality.

We want to make sure—we worked hard on this—that in this new fuels program, we do not backslide and that we are able to have all the protections we need. So at first, we fixed the water problem and now this is fixing the air quality problem.

What we do is, we give EPA authority under the Clean Air Act to consider impact on water quality when regulating fuel. Such authority, as I say, will prevent future MTBE situations. We require EPA to contract with the National Academy of Sciences to conduct a comprehensive study of the environmental impact of increasing use of renewable fuels.

The study will analyze impacts of renewable fuels on air quality, water quality, land-use patterns, deforestation rates, greenhouse gas emissions, ecologically important areas, and the long-term ability to produce biomass feedstocks.

Now, I wanted to say to my ranking member, Senator INHOFE, if I can have his attention, that I know what he is trying to do in his amendment in many ways parallels this. We, in this amendment, make sure that EPA can look at the long-term to produce biomass feedstock because that is a very important point.

I think the Senator and I both care about this. I think the Senator and I both care that the EPA is not going to lose jurisdiction over this new fuels program.

The amendment to me is also exciting because it includes a grant program for biofuels that achieve at least a 50-percent reduction of lifecycle emissions of greenhouse gases. So what we are saying is, we want innovation, and we are saying we will start a grant program so we get that technology that we all know is going to, in fact, step up and meet the challenge of global warming.

There are so many ways we can meet the challenges of reducing our carbon footprint. One way is to have fuels that have a 50-percent better carbon footprint. This amendment ensures that EPA will play a critical role in protecting our environment from any adverse environmental impact that may be realized from an increase in the production and use of renewable fuels.

So it is pretty simple. The Senator from New Mexico and I have been in very close contact over these last several days. I have been helping him to manage this bill, although I have to say, he is very competent at doing it himself.

But I have given him my advice and my help and the help of my good staff. We did have a worry at the very beginning that we did not want to live to see another MTBE problem, that is, unintended consequences of a new fuels program and unintended consequence. So how we would protect against is to be very vigilant, and we are very vigilant.

We say to the EPA: Make sure that whatever these fuels are, they are real good for our people, good for our air, good for our water, good for our land use, and also our long-term ability to produce biomass feedstocks.

Again, we go a step further we set up a grant program for new fuels, biofuels that achieve at least a 50-percent reduction in the lifecycle emissions of greenhouse gases. This particular program is authorized at \$500 million. Of course, it is subject to appropriations. I do not have the need to speak any longer on this amendment. I would retain the balance of my time Senator BINGAMAN gave me.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 1666 TO AMENDMENT NO. 1502

Mr. INHOFE. Mr. President, it is my understanding that the unanimous consent request was for the two amendments to be side by side.

At this point, I call up amendment 1666 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. OBAMA). The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE], for himself, Mr. BURR, and Mrs. DOLE, proposes an amendment numbered 1666 to amendment No. 1502.

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

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

The amendment is as follows:

(Purpose: To ensure agricultural equity with respect to the renewable fuels standard)

At the end of subtitle A of title I, add the following:

SEC. 113. AGRICULTURE EQUITY.

(a) ASSESSMENT OF FOOD AND FEED AVAILABILITY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this section as the “Administrator”) shall conduct an assessment of the availability of corn for food and feed uses by not later than July 31 and November 30 of each calendar year after the date of enactment of this Act.

(2) REGIONAL WEATHER CONDITIONS.—

(A) IN GENERAL.—Not later than August 1, 2007, and annually thereafter, the Administrator, in consultation with the Secretary of Agriculture, the Secretary of Commerce, and the Association of American Feed Control Officials, shall submit to Congress, and publish in the Federal Register, an assessment of the Administrator regarding—

(i) regional weather conditions during the current crop year; and

(ii) the impact of the conditions on projected local corn supplies.

(B) FACTORS FOR CONSIDERATION.—In conducting the assessment under subparagraph (A), the Administrator shall take into consideration, as applicable—

(i) the impacts of drought, including reduced precipitation; and

(ii) the impacts of flooding, including increased precipitation; and

(iii) projected local demand for corn during the following crop year.

(3) ESTIMATES.—

(A) IN GENERAL.—Not later than December 1, 2007, and annually thereafter, the Administrator shall conduct an assessment of the most current estimates of the ratio that, with respect to the marketing year beginning in September of the calendar year in which the assessment is conducted—

(i) United States domestic ending stocks of corn; bears to

(ii) total use of corn.

(B) FACTORS FOR CONSIDERATION.—In conducting the assessment under subparagraph (A), the Administrator shall take into consideration, and rely on, the data published by the Secretary of Agriculture in the monthly report entitled “World Agricultural Supply and Demand Estimates” (or similar public and authoritative estimates provided by the Secretary of Agriculture).

(b) POTENTIAL ECONOMIC AND CONSUMER HARM ASSESSMENT.—

(1) REGIONAL WEATHER CONDITIONS.—If the Administrator determines that an assessment of the Administrator under subsection (a)(2) indicates that there is a reasonable likelihood that the ratio described in subsection (a)(3)(A) will be equal to or less than 0.10, the Administrator shall publish the determination in the Federal Register by not later than 14 days after the date on which the determination is made.

(2) ESTIMATES.—If the Administrator determines that an assessment of the Administrator under subsection (a)(3) indicates that there is a reasonable likelihood that the ratio described in subsection (a)(3)(A) will be equal to or less than 0.10, the Administrator, in consultation with the Secretary and the Secretary of Agriculture, shall publish, by not later than 14 days after the date on which the determination is made, the inten-

tion of the Administrator to request the President to modify a portion of the requirement described in section 111(a)(2).

(3) REGIONAL DISRUPTION.—If the Administrator determines that an assessment of the Administrator under subsection (a)(2) indicates that a regional disruption to the availability of feed corn with respect to livestock producers will occur, the Administrator, in consultation with the Secretary of Agriculture, shall develop and implement a plan to ensure that regional food and feed supplies are maintained, to the maximum extent practicable, including through adjustments to the applicable renewable fuels standard under section 111(a) in the affected region.

(c) ACTIONS TO PREVENT ECONOMIC AND CONSUMER HARM.—

(1) IN GENERAL.—Subject to paragraph (2), the Administrator may submit to the President a petition to request a modification of a requirement under the renewable fuels standard under section 111(a) in a quantity of gallons sufficient to ensure, to the maximum extent practicable, that the ratio described in subsection (a)(3)(A) will be at least 0.10.

(2) LIMITATION.—A requirement under the renewable fuels standard under section 111(a) shall not be reduced by more than 15 percent during any calendar year.

(3) EFFECTIVE PERIOD.—A modification under paragraph (1) shall be effective during the 1-year period beginning on the effective date of the modification.

(d) PUBLIC PARTICIPATION.—

(1) IN GENERAL.—The Administrator shall—

(A) make each assessment conducted, and each modification provided, pursuant to this section available to the public; and

(B) provide an opportunity for public comment relating to each assessment and modification for a period of not more than 30 days.

(2) MODIFICATIONS.—Not later than 14 days after the end of the comment period described in paragraph (1)(B), the President shall promulgate the modification that is the subject to the comment period, unless the President, in consultation with the Administrator, determines that clear and compelling evidence demonstrates that the modification would not have a material effect on the quantity of corn available for food and feed use.

Mr. INHOFE. Mr. President, let me first respond to something the chairman of the committee, Senator BOXER, had stated. I believe I agree that our committee should have the jurisdiction. I do agree with her.

There are some other things. In fact, there is an easier way to do it, I would suggest to my chairman. That would be to strike the portion in the bill, the underlying bill, that talks about the President or the administration and merely put in the EPA. If you do that, then, of course, you correct the jurisdictional problems. It is another way of doing it.

My concern is that your amendment does get into some areas I do not find I get quite as excited about as the chairman does, such as having us study land-use patterns, which I do not think is as appropriate for the Federal Government to do as State and local government.

We had this debate in the past. But I would say I would like to accomplish some of the things that the chairman has tried to accomplish with her amendments.

Mrs. BOXER. May I ask my friend to yield. It can come off my time.

Mr. INHOFE. No, it can come off mine.

Mrs. BOXER. Thank you so much. Let me say to my ranking member I agree with him. We tried that approach. We were not able to gain ground. So I am with you. But we were not able to do it in our negotiation with the Energy Committee. So we went as far as we could go, and I think we have made tremendous progress.

Again, it was give and take and it was tough and your staff was very helpful as they were helping us get the best we could get. But I think after this amendment, we can foresee a future where any President—this one said he would not do it, but a future President could take the whole fuels program and eliminate EPA. So I would hope my friend would join me in this.

The other part, we are asking for reports from the EPA, we are not giving them authority over these issues. We are going to get information from them. That information we can share with local and State.

So I know my friend is going to give it some real hard thought, as I am about his amendment. But perhaps we can wind up supporting each other's amendments. But we will see where we go from here. But I say to my friend, he is absolutely right, striking the offending language would have been great for me, but we were not able to achieve that with the Energy Committee.

Mr. INHOFE. I appreciate the comments of the chairman. I recognize her concern with MTBE contamination. I understand that. But getting the Administrator authority to use the Clean Air Act to regulate water quality is something I would have to think about a little bit.

Let me go back and talk a little bit about the amendment we are running concurrently with the other amendments. This is amendment 1666. We have a lot of cosponsors to this. I would invite more to come down. I think people would see this is a very rational way to address one of the problems with the mandates that come with this bill.

We seek to ensure the bill does not pick winners and losers in domestic agriculture. Although high corn prices might be good for corn farmers, it is harmful for livestock and poultry industries.

Now, in my State of Oklahoma, I don't have a dog in this fight, or I guess I could say I have all the dogs in this fight, because we are a corn State, we are a very large livestock State. I have heard from a lot of our people there expressing their concerns.

In fact, 15 industry groups have joined together and sent both Senate leaders a letter expressing their concern that the biofuels title in this bill could harm their industries.

I ask unanimous consent at the conclusion of my remarks to have printed in the RECORD a copy of that letter.

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

(See exhibit 1.)

Mr. INHOFE. Unfortunately, the collective livestock and grocery producers' concern continues. In fact, the earlier coalition has grown to 18 industry representatives, including cattle, poultry, swine producers, Coca-Cola, Pepsi, even Cargill. In a letter to me, the coalition writes:

We are asking Congress to provide those that utilize and rely on corn and corn products a reasonable amount of certainty that adequate supplies are available to all users of this commodity.

We know right now the price of corn is very high. This obviously has—it does not happen in a vacuum. Too often on the Senate floor we believe things can be done without affecting others. In this case, it is definitely affecting others, as indicated by these communications.

Now, with respect to our amendment, they state:

Your amendment would go a long way in ensuring a safety net ensuring those of us that utilize corn and corn products will have enough to go around should a drought or flood occur that would limit the harvested amount that is available.

Now, our amendment seeks to provide some of the much needed equity in the current system. This amendment simply requires that the USDA provide information on projected corn harvests each year. Well, they do that anyway. This is not going to incur anymore of a hardship on the USDA; they have that capability; they are already doing it.

If the projected harvest is below a certain percentage, then the administrator has the authority to modify the mandate for the next year.

So that if it comes down and we see we are going to have a drought, we are going to have some kind of a problem, we would be able to address that by making a small adjustment to the mandate that is there.

Now, I would expect the ethanol industry to support our amendment, since first they claim there is no food versus feed issue. Second, because they have stated repeatedly that corn farmers can grow much more renewable—Fuels Association President Bob Dineen said—this is the one who is very strong in the ethanol mandate the American farmer absolutely has the ability to grow more corn to provide sufficient quantities of grain and food and feed for fuel usage and we are going to see that that happens.

Well, if that is the case, then there is not a problem. So I am not suggesting or picking any favorites with this amendment. I am saying we ought to be sure in the event that something that can be foreseen, and these droughts can be foreseen—as I say, they are doing it right now. So this amendment supports that concept.

Corn farmers have done a great job in increasing yield per acre in the past and they will continue to do that. Our amendment simply provides, as a col-

lective food industry State, a reasonable amount of certainty and a safety net, so that all the U.S. agriculture is able to prosper.

I know there are others who are on the floor who would disagree with my amendment. I certainly wish to make sure they have time to express themselves. So if the Senator from Iowa is prepared at this point to speak, I would be glad to yield to him.

EXHIBIT 1

JUNE 20, 2007.

Sen. JAMES INHOFE,
Russell Senate Office Building,
Washington, DC.

DEAR RANKING MEMBER INHOFE: We believe in the need to advance renewable and alternative sources of energy. New fuel sources offer the potential to eliminate our dependence on foreign oil while contributing to the long-term stability of our rural economies. But, as we seek to implement policy that will move us toward accomplishing this objective, it is essential that we carefully weigh the impacts of our actions on other segments of the economy. Additionally, we would hope that any policy that is agreed upon during this debate would not overly tax one group in an effort to hopefully achieve the objective of energy independence.

We are concerned that the very aggressive increase in biofuels mandates proposed in S. 1419 raises fundamental questions about the impact that an increased federal government mandate for corn-based ethanol, in addition to new state mandates, will have on the livestock, poultry and food industry's ability to produce competitively available, affordable food. It is vitally important that we fully appreciate and understand the implications of quintupling the Renewable Fuel Standard (RFS) mandate, and we would ask that you use careful consideration and listen to the significant issues being raised by those in the agriculture and food products community.

Rapid development of the corn-based ethanol industry is already having adverse impacts on food supplies and prices, a major concern for us. Rising food prices, coupled with the rising energy prices we are seeing throughout the country, pose a threat to the health of our national economy. According to a recent report by Merrill Lynch Chief Investment Strategist Richard Bernstein, within the first three months of the year, food prices rose at an annualized rate of 7.3 percent. That is slightly higher than the anticipated annual rise in healthcare costs over the next decade, according to the Centers for Medicare and Medicaid Services' National Health Statistics Group. In addition, the continued aggressive expansion of corn ethanol production diminishes the availability of soybeans and other crops. We need a safety valve that ensures availability and that works.

We are asking Congress to provide those that utilize and rely on corn and corn products a reasonable amount of certainty that adequate supplies are available to all users of this commodity. Your amendment to S. 1419, the Agriculture Equity Adjustment Provision (#1666) would go a long way in achieving a safety net ensuring those of us that utilize corn and corn products will have enough to go around should a drought or flood occur that would limit the harvested amount that is available.

We look forward to working with you to achieve a balanced approach between all competing uses of corn as we go forward in this energy debate. We need an adequate contingency plan in place, and this amendment achieves that goal.

Thanks again for your leadership and efforts.

Sincerely,

American Feed Industry Association, American Meat Institute, Cargill, The Coca Cola Company, ConAgra Foods, General Mills, Grocery Manufacturers/ Food Products Association, Hormel Foods, National Cattlemen's Beef Association, National Chicken Council, National Pork Producers Council, National Restaurant Association, National Turkey Federation, PepsiCo, Inc., Seaboard Corporation, Tyson Foods, United Egg Association, United Egg Producers.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I would be glad to yield the Senator from Iowa up to 5 minutes to speak in opposition to this amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, this is the third amendment today that has been very detrimental to the future of ethanol and other renewable fuels.

If we had had this attitude expressed 20 years ago when we started, in a very elementary way, down the road to a successful renewable fuels industry that we are now developing, and it is still an infant industry, we would never be here today, where we could say that we have a strong opportunity of renewable fuels.

This is the third amendment that raises questions about whether we are going to continue to have investment in renewable fuel production and everything that is connected with it.

Something that bothers me more than anything else, and I have expressed it on previous amendments today, is throughout the development of renewable fuels, and particularly agriculture being the production of the renewable feedstock, we have always had agriculture very much united between renewable fuels.

Within the last 4 or 5 months, because corn has gone from \$2 to \$4 a bushel, we now have beef producers raising questions about whether we ought to have an ethanol industry. You have the pork producers—and evidently we have the poultry people—raising the same question. If agriculture is not going to be united, if they had not been united, we would never have gotten here. I do not know what happens in a matter of 4 or 5 months, that after 20 years, all of a sudden things are bad about renewable fuels, and the farmer is being blamed for everything, \$4 corn, food going up, energy prices going up.

You know, food prices, a farmer gets a nickel out of a big box of Corn Flakes that is half full of air when you buy it for \$4. The farmer is being blamed for \$4 corn, raising the price of food, raising the price of energy, causing livestock feed to go up.

You know, for the last 40 years, we have had a principle in agriculture that we call the hog-corn ratio. It was never felt, during the corn-hog ratio, when you use that, that the high price of corn was bad for livestock because, you

know, livestock prices would soon rise, and it was considered good, good, good. Everything about ethanol has been considered good, good, good: Good for the farmers, good for the environment, good for high-paying jobs in the small towns of rural America, good for national defense because of less dependence upon violent parts of the world for petroleum to be delivered, good for our balance of trade. Everything is good, good, good about renewable energy.

Now, in the last 4 or 5 months—do you think the price of corn is going to be \$3.50 or \$4 forever? This fall at harvest time, we might find corn at \$2.50. We had 77 million acres of corn planted last year. We have 91.5 million acres believed to be planted this year. When June 30 comes and the USDA makes their next report, it may be 95 million acres of corn—the most acres planted since 1944. When you have that supply of grain coming in, the fact that the price is going to be where it is today is a dream. In 1995, we had a drought. Corn got to \$4 or \$5. Everybody thought it was going to be \$4 or \$5 for the next 5 years. The next harvest season, it was down to \$1.60 a bushel. Here we have people raising questions about the stock ratio, the stock on hand that we have of grain, that when it gets down to a certain level, we are not going to use grain for renewable fuels. What are you going to do? Are you going to go shut down every ethanol plant that is operating in the United States? What other amendment comes to the floor with the idea that we are going to shut down an industry under certain circumstances? It never happens.

This is not a very good approach, particularly the use of stock ratios as proposed in this amendment. There are even questions about the use of that among economists at this point.

This is a very bad amendment for renewable fuels, for agriculture. All that is good about renewable fuels, and you shut down the whole industry, it is for naught. You can't do that.

I ask Members to vote against the amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Oklahoma has 23 minutes and the Senator from New Mexico has 16 minutes.

Mr. BINGAMAN. Mr. President, let me speak briefly in opposition to the amendment by the Senator from Oklahoma.

First, I ask unanimous consent to have printed in the RECORD following my remarks a letter I received from the American Coalition for Ethanol, the American Farm Bureau Federation, the National Association of Wheat Growers, the National Corn Growers Association, National Farmers Union, the National Sorghum Producers, and the Renewable Fuels Association.

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

(See exhibit 1.)

Mr. BINGAMAN. I would like to briefly hit the high points of this letter and explain why they are so strongly in opposition to Inhofe amendment No. 1666. I will read parts of the letter into the RECORD so Members will be aware of their position. It says:

As the Senate continues to debate the energy bill . . . we urge all Senators to vote against the amendment offered by Senators [Inhofe, Burr, and Dole] when it is brought up for a vote. We strongly oppose this amendment as it would effectively gut the RFS and thwart the growth of the domestic ethanol industry.

It goes on to say:

Senators Inhofe, Burr and Dole are proposing an amendment to the energy bill that would put in place a stocks-to-use mechanism that would suppress crop prices and be detrimental to the American farmer and to domestic renewable fuels. Stocks-to-use has limited value as an indicator of demand and expected price. It is an oversimplified way to look at supply/demand and pricing and does not often provide an accurate picture of how markets would be impacted.

It goes on with various examples.

The Senator from Iowa pointed out that the price of corn is high today but may not be high indefinitely. It makes the same point here. It says:

Most long-run economic models [from the] (U.S. Department of Agriculture and Food and Agricultural Policy Research Institute, and others) project stocks-to-use ratio slightly under 10 percent for the next several years, with prices in the \$3.00–\$3.50 range. Additionally, many economists have stopped using the stocks-to-use ratio in their econometric models as a tool to forecast price because of its obvious limitations.

They go on and on along the same line, pointing out deficiencies in the approach being taken by the Senator from Oklahoma in the amendment.

Let me conclude with their final statement:

Efforts to undermine the continued growth of the U.S. ethanol industry should not be tolerated. A careful look at the facts reveals that American farmers have met, can and will continue to meet our domestic and international commitments for food and feed while still making a significant and growing contribution to lessening our dependence on imported oil with homegrown, American-made renewable fuels. We strongly urge you to oppose the Inhofe/Burr/Dole amendment.

It is hard to know how to do better than that letter in pointing out the deficiencies in the amendment. It is clearly an amendment we should oppose.

EXHIBIT 1

JUNE 20, 2007.

Majority Leader HARRY REID,
U.S. Senate.

Chairman JEFF BINGAMAN,
Committee on Energy and Natural Resources,
U.S. Senate.

Minority Leader MITCH MCCONNELL,
U.S. Senate.

Ranking Member PETE DOMENICI,
Committee on Energy and Natural Resources,
U.S. Senate.

DEAR SENATORS: As the Senate continues to debate the energy bill, H.R. 6, we urge all Senators to vote against the amendment offered by Senators James Inhofe (R-OK), Richard Burr (R-NC), and Elizabeth Dole (R-

NC) when it is brought up for a vote. We strongly oppose this amendment as it would effectively gut the RFS and thwart the growth of the domestic ethanol industry.

Senators Inhofe, Burr, and Dole are proposing an amendment to the energy bill that would put in place a stocks-to-use mechanism that would suppress crop prices and be detrimental to the American farmer and domestic renewable fuels. Stocks-to-use has limited value as an indicator of demand and expected price. It is an oversimplified way to look at supply/demand and pricing and does not often provide an accurate picture of how markets would be impacted. For example, in 2003/04 the stocks-to-use ratio was one of the lowest in the last 20 years at 9.4 percent, but prices remained at \$2.50 for a season average. Most long-run economic models (U.S. Department of Agriculture and Food and Agriculture Policy Research Institute, and others) project stocks-to-use ratio slightly under 10 percent for next several years, with prices in the \$3.00–\$3.50 range. Additionally, many economists have stopped using the stocks-to-use ratio in their econometric models as a tool to forecast price because of its obvious limitations. As corn usage are likely to increase substantially to 13, 14, or even 15 billion bushels in the future, a 10 percent stocks-to-use ratio could very well equate to carry-out of 1.3, 1.4, or 1.5 billion bushels. So while the stocks-to-use ratio might seem low in these cases, actual carry-out levels would be right in line with the 12-year average (95/96 to 06/07) of 1.38 billion bushels.

According a recent analysis from the University of Illinois, “the stocks-to-use ratio is generally used as a ‘short cut’ approximation for summarizing annual supply and demand conditions. However, very different supply and demand conditions in individual years can lead to similar ratios of stocks-to-use, but very different prices. The most obvious example is the contrast between a year of very small production that results in a low stocks-to-use ratio, but also requires very high prices to force a reduction in consumption and a large crop year that results in a high level of consumption, a low stocks-to-use ratio, but low prices.”

Without the strong domestic market corn farmers won't have the incentive to plant as many acres and take the risk that large production will drive down corn prices. An arbitrary stocks-to-use ratio trigger that restricts corn use for ethanol would likely diminish overall demand and put downward pressure on the price for corn. This would serve as a disincentive to farmers and discourage them from planting more corn at a time when more corn is what the feed and fuel industries need. The food and feed industries have assumed that farmers will continue to produce record crops regardless of prices and profitability. If production declines, or even grows more slowly, stocks could also fall, eventually driving prices higher. In the long-term, America's farm sector is better off maintaining a strong and growing domestic demand base and adding value markets.

The corn industry will continue to strive to satisfy a variety of important demands and maximize the utility of its product. Seed technology developments, increasing agricultural efficiency, innovation in biofuels production processes and other breakthroughs will ensure that growers will continue to meet the world's need for food, feed, fuel, and other uses.

Efforts to undermine the continued growth of the U.S. ethanol industry should not be tolerated. A careful look at the facts reveals that American farmers have met, can and will continue to meet our domestic and international commitments for food and feed

while still making a significant and growing contribution to lessening our dependence on imported oil with homegrown, American-made renewable fuels. We strongly urge you to oppose the Inhofe/Burr/Dole amendment.

Sincerely,

American Coalition for Ethanol, American Farm Bureau Federation, National Association of Wheat Growers, National Corn Growers Association, National Farmers Union, National Sorghum Producers, Renewable Fuels Association.

Mr. BINGAMAN. I see the Senator from South Dakota here. I yield him 4 minutes to speak in opposition.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I rise to express my opposition to this amendment. I worked closely with my colleague from Oklahoma on a number of issues when I was a member of the Environment and Public Works Committee. I worked with him last week on an amendment to expand refinery capacity because we have a shortage of refinery capacity. It is something that needs to be addressed. Unfortunately, that amendment failed. This amendment, however, is not necessary because we don't have a shortage of corn. In fact, demand for corn has increased because of ethanol production. It is expected to increase further thanks in part to the growth and expansion of renewable fuels. But to suggest for a minute that somehow we are going to run out of corn simply is not true. In fact, one of the most respected economists in the agricultural community, USDA's Dr. Keith Collins, has testified before the Senate Agriculture Committee about corn and ethanol production. I will highlight some of the points he made.

First, since 1948, corn yields have increased fourfold—from 40 bushels per acre to 160 bushels per acre—due to fertilizer, better management, technology, and improved crop genetics. Corn yields in the past couple of years have moved above the long-term trend and may continue to do so in coming years as well, helping to meet biofuel demand and reduce pressure on corn prices and acreage. Over the past few years, new-generation rootworm-resistant corn has been introduced and is showing strong yield increases in many areas.

As we look out over the next decade, USDA trend projections suggest that U.S. corn yields per acre are going to rise to 168 bushels per acre by the year 2016, and some seed companies suggest they are going to go even higher, as much as 20 bushels per acre above that level. Every 5-bushel increase in yield above the current trend level would be the equivalent of adding around 2.5 million acres to corn plantings, enough to produce 1 billion gallons of ethanol each year.

If you look State by State, Arkansas growers are expected to plant 560,000 acres of corn in 2007, up from 190,000 in 2006, a nearly 300 percent increase in corn acreage in 1 year. Louisiana farm-

ers intend to plant 700,000 acres in 2007, up from 300,000 acres in 2006, a 233-percent increase in corn acreage. In Mississippi, corn producers are expected to plant 950,000 acres in 2007, up from 340,000 acres in 2006, a 280-percent increase in corn acreage.

My point is, in the underlying bill, basically, there is a stipulation that ethanol production can't exceed about 15 billion gallons. USDA's Dr. Keith Collins, who is an expert economist down there, says we can get to 15 billion gallons of ethanol based on corn production. Today, we are producing about 6.5 billion gallons of ethanol. So to get to 15 billion gallons, which is what the USDA's Chief Economist says we can reach, we have a long way to go. There is a lot of headroom to 15 billion gallons. To suggest for a minute that somehow we need this sort of an amendment that would put all these additional restrictions on the renewable fuels standard, I submit is unnecessary.

The underlying bill has provisions already that address this issue and waivers in place for economic hardships experienced by certain regions or States. Specifically, the President can waive the RFS if one of the following conditions is met: implementation of the requirement would severely harm the economy or environment of a State or region or the United States; if extreme and unusual circumstances exist that prevent distribution of an adequate supply of domestically produced renewable fuel to consumers.

I would also add that this particular amendment creates lots of problems for areas of the country because it forces investors to make investment decisions based upon the weather. We all know we can't protect the weather or predict the weather with certainty.

This amendment is misguided and unnecessary. I hope we will vote it down.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me inquire of the time remaining on each side, please?

The PRESIDING OFFICER. There is 23 minutes for the Senator from Oklahoma, and the Senator from New Mexico has 7¾ minutes.

Mr. INHOFE. First, I may be yielding back some time. Let me respond to a couple assertions that have been made.

The Senator from Iowa was talking about in the event that livestock would not be hurt because they would actually end up going up later in the market and that will take care of that problem. I would suggest to you that a lot of individuals don't agree with that. I have a letter I will read a little bit out of. It is signed by the National Cattlemen's Beef Association, the Chicken Council, the Pork Producers Council, the Restaurant Association, and the Turkey Federation. All of them don't feel this is going to be the market result.

Since the Senator from New Mexico read some excerpts of a letter signed by

a large number, we have many more who have signed this letter than the letter which was submitted by the Senator from New Mexico.

One of the paragraphs in here says: We are concerned that the very aggressive increase in biofuels mandates proposed in S. 1419 raises fundamental questions about the impact that an increased Federal Government mandate for corn-based ethanol, in addition to new State mandates, will have on the livestock, poultry, and food industry's ability to produce competitively available, affordable food.

In other words, this is going to affect a lot of people in their estimation in terms of the cost of food, not just livestock, not just the grain concern that is out there.

It continues: It is vitally important that we fully appreciate and understand the implications of quintupling the renewable fuels standard mandate, and we would ask that you use careful consideration and listen to the significant issues being raised by those in the agriculture and food products community.

Let me mention, I know the Senator from South Dakota was not in the Chamber when I made my remarks, but Oklahoma also is a corn State. I really believe the excellent statement that was made by the Senator from South Dakota—who has been a real champion, maybe the No. 1 champion, in this body of corn ethanol—really makes my case for me. If these States are increasing their production the way they are, then there is no problem. Nothing in this amendment is going to affect anything at all. In fact, the only concern we have is in the event there is a year where this is not true.

Let me just go ahead and make sure everyone understands what this amendment does and does not do. Quite often on the floor, we get people opposing something, and then you scratch your head and say: Wait a minute, is that my amendment they are talking about?

The amendment is a modification provision for food and animal feed based on the ratio of cornstalks to projected demand. In the case of a short- or low-corn crop year, there is currently no meaningful safety valve that would address this situation. This amendment would provide a small level of confidence to producers as well as investors that corn would be available to meet the needs of all uses. In other words, if the production is up, there is not a problem. This addresses disasters and worst-case scenarios and assures the renewable fuels standard does not lead to a shortage of corn for human or animal consumption.

It requires the USDA and the EPA to make a midyear-end determination of current weather conditions, followed by an end-of-the-year determination on the stalks-to-use ratio following harvest. If the determination estimates the stalks-to-use ratio is below 10 percent, it would trigger a temporary adjustment in the RFS to account for the

need for increased availability of corn feed. The amendment would not permit the RFS to fall more than 15 percent in any given year.

Now, it has been said—I suspect there is a letter floating around somewhere that says this would be the end of the world and it would completely destroy what they are trying to do. Let me just read the one limitation that is in this amendment. It says:

A requirement under the renewable fuels standard under section 111(a) shall not be reduced by more than 15 percent during any calendar year.

That is, if there is some kind of a drought or some kind of a real serious problem—it can be too much water or not enough water—then it would not affect it by more than 15 percent. Well, that is 15 percent. That is not the end of the world. It means 85 percent of these mandates are still going to be there and still be in effect.

So I think it is a very modest approach. The list of people who share this concern is a very long one. I mentioned some of the names—these industries. I will go ahead and read them at this time: American Feed Industry Association, American Meat Institute, Cargill, the Coca-Cola Company, ConAgra Foods, General Mills, Grocery Manufacturers/Food Products Association, Hormel Foods, the National Cattlemen's Beef Association, the National Chicken Council, National Pork Producers Council, the National Restaurant Association, National Turkey Federation, PepsiCo, Incorporated, Seaboard Corporation, Tyson Foods, United Egg Association, United Egg Producers—and the list goes on and on. So there is this concern out there.

Again, my State is not dissimilar in any way to the State of New Mexico. They are right next door. I would suggest we probably have about the same size corn industry, as well as perhaps our cattle industry is not quite as large as it is in New Mexico, but it certainly is not dissimilar. There is nothing I would do to be damaging to the corn industry because that is a major industry, of course, in my State.

The Food Products Association—let me mention to you how they feel. In a worst-case scenario, if you do not have some kind of a safety valve, it could be damaging. They say: More and more pursuit of corn-based ethanol is resulting in higher food and feed prices. The price of corn has jumped 55 percent since September.

According to USDA's Chief Economist, the consequences of ethanol are the biggest thing going on in agriculture today. An increase in ethanol production is already having a significant impact on food and feed supplies, such as corn, soybeans, and wheat.

The U.S. Labor Department recently reported that February prices for foodstuffs and feedstuffs were 18 percent above year-ago levels. That was in the Wall Street Journal of March of this year. According to the Wall Street Journal, the higher corn prices have

raised costs for livestock and poultry which are fed corn and for crops such as soybeans, which farmers are replacing so they can grow more corn. The corn companies are starting to pass those higher prices on to consumers. Wholesale consumer food prices were 6.8 percent above year-ago levels.

So this is not happening in a vacuum. Obviously, the mandates are there for corn ethanol, and they will continue to be there. As we look down the road, Oklahoma has been pretty active in the work they are doing right now on the other types of cellulosic biomass. Right now, one of our companies in Oklahoma has been very active in that. We are leading the field. We have Oklahoma State University and Oklahoma University and the Noble Foundation leading the country in the pursuit of these technologies.

The coal-to-liquid technology is here. We are currently flying B-52s with all eight engines running on this type of a fuel. So we know it is coming. So it is not all just corn ethanol. Again, we are a corn State. We are also a big livestock State. I think this is a middle-of-the-road type of amendment.

Again, you have to respond to these statements that you are going to destroy something, when the limitation by law would be 15 percent of the current mandate in the event of some kind of a disaster. USDA is already making these studies and doing it, and it is not really requiring anything more.

With that, Mr. President, I will retain the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. The Senator from New Mexico has 7 minutes 45 seconds, and the Senator from Oklahoma has 13½ minutes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 1510

Mr. COCHRAN. Mr. President, it is my intention to offer an amendment at the appropriate time to reduce the impact of future disruptions of our supplies by enlarging the Strategic Petroleum Reserve. This amendment, which is cosponsored by Senators BAYH, LOTT, and LANDRIEU, will expand the capacity of the Strategic Petroleum Reserve from 1 billion barrels to 1.5 billion barrels.

The economic security of the United States is threatened by our vulner-

ability to disruptions of the world oil supply and the volatile prices of energy. Whether we like it or not, our Nation's transportation sector, our major industries, and our military forces are all dependent upon petroleum. We must protect ourselves from the instability and the uncertainty of the international oil market.

The existing inventory in the Strategic Petroleum Reserve represents only 56 days of net petroleum imports. Our obligation to the member countries of the International Energy Agency requires us to maintain the equivalent of 90 days of net petroleum imports. Increasing the authorized capacity of our reserves will help ensure that we meet our international obligations.

Mr. INHOFE. Mr. President, will the Senator yield?

Mr. COCHRAN. Mr. President, I am happy to yield for a question.

Mr. INHOFE. Yes, for a question.

It is my understanding that the time you are taking right now will be taken off of our time equally, and since we are under a UC for a time-certain for a vote, I know that would not be the Senator's intention.

Mr. COCHRAN. No, it would not. I will be happy to put these remarks in the RECORD.

Mr. INHOFE. Well, I think that is probably a good idea.

Mr. COCHRAN. No one was speaking when I asked for recognition. I have a statement that lasts maybe 5 minutes.

Mr. INHOFE. Go ahead.

Mr. COCHRAN. All day long, I have been trying to get an opportunity to make this statement.

Last December, the Department of Energy identified the salt domes near Richton, MS, as a preferred site for a new Strategic Petroleum Reserve storage facility. My State welcomes the opportunity to help meet our Nation's energy needs. Other sites in Texas and Louisiana will also gain additional reserves under the plan being developed by the Department of Energy.

Mr. President, our Nation's energy security and stability depend on a combination of efforts to increase domestic supplies of oil, gas, and petroleum, as well as the development and promotion of new renewable energy technologies. The combination of these efforts will make it possible for us to reduce our dependence upon foreign oil and provide for a bright economic future for all Americans.

I urge the Senate to adopt this amendment.

Mr. President, I ask unanimous consent to have a copy of the amendment printed in the RECORD.

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

On page 314, after line 2, add the following:
SEC. 708. INCREASE IN CAPACITY OF STRATEGIC PETROLEUM RESERVE.

(a) STRATEGIC PETROLEUM RESERVE.—

(1) POLICY.—Section 151(b) of the Energy Policy and Conservation Act (42 U.S.C. 6231(b)) is amended by striking "1 billion" and inserting "1,500,000,000".

(2) CREATION.—Section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234(a)) is amended by striking “1 billion” and inserting “1,500,000,000”.

(b) FILLING STRATEGIC PETROLEUM RESERVE TO CAPACITY.—Section 301(e) of the Energy Policy Act of 2005 (42 U.S.C. 6240 note; Public Law 109–58) is amended by striking “1,000,000,000-barrel” and inserting “1,500,000,000-barrel”.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me once again ask how much time remains.

The PRESIDING OFFICER. There is approximately 12½ minutes for the Senator from Oklahoma. The Senator from New Mexico has approximately 4 minutes.

Mr. BINGAMAN. Mr. President, in light of that, since there is 12 minutes still remaining for the Senator from Oklahoma—I do not know how much of that time he wants to use. Once he has used his time, I was going to take a couple minutes to sum up my position in favor of the first amendment that is being offered and we are voting on, and then I would yield that time. But I defer to the Senator from Oklahoma to make any statement he has.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. All right. Mr. President, I say to the Senator, I do not think adequate time has been given to the amendment you want to address, the Boxer amendment, and if you would want some of my time to do that, I would be willing to give it up. I am really prepared to yield back at the appropriate time on this amendment.

Let me make this comment. If people are concerned my amendment is going to be devastating, just keep in mind we have this limitation. There is a very sizable mandate that is out there. The very maximum that would be used would be to reduce that mandate—in a year when a disaster occurs—by only 15 percent. In other words, 85 percent of that mandate would still be in effect. I think that is a very reasonable approach to it.

With that, Mr. President, I will yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 1693

Mr. BINGAMAN. Mr. President, let me sum up my argument in favor of the first amendment we are going to be voting on in this sequence of three amendments; that is, amendment No. 1693 that I have cosponsored with Senator BOXER.

The amendment does address a number of important environmental issues associated with renewable fuels. It is an amendment that contains four sections.

The first makes an authorization for grants to encourage production of advanced biofuels with the most favorable greenhouse gas characteristics.

Second, we have a study by the EPA of potential issues that may arise as a result of increases in the renewable

fuels standards. That study will result in two reports to Congress, both in 2010 and 2015.

The third part allows the EPA to consider groundwater impacts when regulating fuel additives under the Clean Air Act, which is a good provision.

The final part is a provision commonly known as an anti-backsliding provision, basically allowing EPA to address air quality issues that might arise as a result of the increased volumes of renewable fuel mandated in this Energy bill.

Mr. President, let me at this time conclude my remarks and ask the Senator from California if she wishes to make any concluding remarks.

Mrs. BOXER. Mr. President, I say to the Senator, if you could yield me about 2 minutes.

Mr. BINGAMAN. Mr. President, I yield the remainder of my time to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank the Senator.

Mr. President, the Senator from Illinois has asked if he could have a minute and a half. If there is no objection, I suggest we allow that to happen at this time, and I will then follow him with 2 minutes.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENT NO. 1666

Mr. DURBIN. Mr. President, one of the pending amendments we will consider very shortly is by Senator INHOFE, and this would create an additional mechanism that would interrupt the bill's renewable fuels standard depending on the ratio of stocks of corn to total corn use, known as the stocks-to-use ratio.

Statistics show that stocks-to-use does not correlate to price and supply information. In addition, there is already a waiver provision in the bill that offers protection to consumers if corn prices or availability becomes unsustainable.

According to one economic analysis, the 10-percent stocks-to-use trigger required by this amendment would suppress corn prices to \$2.50 to \$2.60 a bushel. In the current farm bill, the target price is \$2.63. So by artificially suppressing the price of corn from \$2.50 to \$2.60, the Inhofe amendment would put downward pressure on prices and cause the triggering of loan deficiency payments. As a result, this amendment would cost the Government more in farm payments.

I am going to urge my colleagues to oppose this amendment. I understand there is a budget point of order. I have notified Senator INHOFE that I will raise that point of order at the appropriate time.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from California is recognized.

AMENDMENT NO. 1693

Mrs. BOXER. Mr. President, I just wanted to say I hope amendment No.

1693 that has been offered by Senator BINGAMAN and myself will be overwhelmingly supported by both sides. We know what happens when we ignore unintended consequences. I think this amendment makes sure we don't experience another MTBE; that, in fact, we are careful, regardless of what the fuels turn out to be, because we are not picking winners and losers. We are saying: Let technology go.

As a matter of fact, in this program we have to assist in the development and production of biofuels, cellulosic. So what we don't know is when these fuels come, what are they going to do to the environment? We all want to be free of foreign oil. Every one of us. But we don't want to make mistakes.

So I hope this amendment No. 1693 will be strongly supported. It ensures that the EPA stays involved. It doesn't give away all the powers of EPA to the Department of Energy. We just need to make sure what we are doing in the future is sound.

I think Senator INHOFE has made a very important point about corn. There are wonderful things about corn, but there are some negatives.

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

Mrs. BOXER. I think this first amendment can protect against these problems.

I yield the floor.

Mr. INHOFE. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. There is 1½ minutes remaining.

Mr. INHOFE. On my side?

The PRESIDING OFFICER. On your side.

Mr. INHOFE. And on the other side?

The PRESIDING OFFICER. The time has expired.

Mr. INHOFE. Mr. President, I ask unanimous consent to include Senator PRYOR as a cosponsor of amendment No. 1666.

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

Mr. BINGAMAN. Mr. President, I ask unanimous consent to add to amendment No. 1693 Senators DODD, CARDIN, and SANDERS as cosponsors, to the amendment we are about to vote on.

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

Mr. INHOFE. Mr. President, I also ask unanimous consent to add Senator GREGG as a cosponsor.

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

Mr. BINGAMAN. Mr. President, I believe Senator GREGG would be a cosponsor to amendment No. 1666?

Mr. INHOFE. That is correct.

Mr. BINGAMAN. Mr. President, at this point I ask for the yeas and nays on amendment No. 1693.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The question is on agreeing to the amendment.

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 Connecticut (Mr. DODD), and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. COBURN), the Senator from Arizona (Mr. MCCAIN), and the Senator from Alaska (Mr. STEVENS).

The result was announced—yeas 58, nays 34, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—58

Akaka	Gregg	Nelson (FL)
Alexander	Harkin	Nelson (NE)
Baucus	Hutchison	Obama
Bayh	Inouye	Pryor
Bingaman	Isakson	Reed
Boxer	Kennedy	Reid
Brown	Kerry	Rockefeller
Byrd	Klobuchar	Salazar
Cantwell	Kohl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Smith
Casey	Leahy	Snowe
Clinton	Levin	Specter
Collins	Lieberman	Stabenow
Conrad	Lincoln	Tester
Corker	Lugar	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden
Feingold	Mikulski	
Feinstein	Murray	

NAYS—34

Allard	Dole	McConnell
Bennett	Domenici	Murkowski
Bond	Ensign	Roberts
Bunning	Enzi	Sessions
Burr	Graham	Shelby
Chambliss	Grassley	Sununu
Cochran	Hagel	Thune
Coleman	Hatch	Vitter
Cornyn	Inhofe	Voinovich
Craig	Kyl	Warner
Crapo	Lott	
DeMint	Martinez	

NOT VOTING—7

Biden	Dodd	Stevens
Brownback	Johnson	
Coburn	McCain	

The amendment (No. 1693) was agreed to.

AMENDMENT NO. 1666

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes for debate equally divided prior to a vote in relation to amendment No. 1666 offered by the Senator from Oklahoma, Mr. INHOFE.

The Senator from Illinois.

Mr. DURBIN. Mr. President, this Inhofe amendment is one I am opposing, and I urge my colleagues to oppose it. There is already a waiver provision in the bill that offers protection to consumers if corn prices or availability become unsustainable.

Unfortunately, the language of the Inhofe amendment could trigger a dramatic decrease in income of farmers and a dramatic increase in Government costs. As a result, I raise a point of order that the pending amendment violates section 201 of Senate Concurrent Resolution 21, the concurrent resolution on the budget for fiscal year 2008.

The PRESIDING OFFICER. The point of order must be made after time has expired.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, there have been some misconceptions about this amendment. First, my State of Oklahoma is a corn State. It is a livestock State. If my colleagues will look at the groups of people that have joined in and said we need to have this safety valve, it is virtually everyone: the National Cattlemen's Beef Association, the Chicken Council, port producers, Restaurant Association—all of these recognizing that in the event something should happen with a severe drought—and these are easy to predict—we should have some kind of a trigger that would allow the mandate to be reduced.

All this does is simply provide that if the USDA determines because of weather patterns there is going to be a real problem in the crop of corn, the mandated limit can be reduced by as much as 15 percent. In other words, we are still going to have an 85-percent mandate.

I suggest my colleagues look very carefully at this amendment. This is going to offer some assistance in the event of a serious drought or something that will affect the corn crop in America.

I ask my colleagues to support my amendment.

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

The Senator from Illinois.

Mr. DURBIN. Mr. President, do I have any time remaining for debate?

The PRESIDING OFFICER. The Senator has half a minute remaining.

Mr. DURBIN. Mr. President, first, I ask unanimous consent to have printed in the RECORD a letter in opposition to the Inhofe amendment from the American Coalition for Ethanol, the American Farm Bureau Association, the National Association of Wheat Growers, the National Association of Corn Growers, National Farmers Union, National Sorghum Producers, and the Renewable Fuels Association.

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

JUNE 20, 2007.

Majority Leader HARRY REID,
U.S. Senate.

Chairman JEFF BINGAMAN,
Committee on Energy and Natural Resources,
U.S. Senate.

Minority Leader MITCH MCCONNELL,
U.S. Senate.

Ranking Member PETE DOMENICI,
Committee on Energy and Natural Resources,
U.S. Senate.

DEAR SENATORS: As the Senate continues to debate the energy bill, H.R. 6, we urge all Senators to vote against the amendment offered by Senators James Inhofe (R-Okla.), Richard Burr (R-N.C.) and Elizabeth Dole (R-N.C.) when it is brought up for a vote. We strongly oppose this amendment as it would effectively gut the RFS and thwart the growth of the domestic ethanol industry.

Senators Inhofe, Burr and Dole are proposing an amendment to the energy bill that would put in place a stocks-to-use mechanism that would suppress crop prices and be detrimental to the American farmer and domestic renewable fuels. Stocks-to-use has

limited value as an indicator of demand and expected price. It is an oversimplified way to look at supply/demand and pricing and does not often provide an accurate picture of how markets would be impacted. For example, in 2003/04 the stocks-to-use ratio was one of the lowest in the last 20 years at 9.4 percent, but prices remained at \$2.50 for a season average. Most long-run economic models (U.S. Department of Agriculture and Food and Agriculture Policy Research Institute, and others) project stocks-to-use ratio slightly under 10 percent for next several years, with prices in the \$3.00–\$3.50 range. Additionally, many economists have stopped using the stocks-to-use ratio in their econometric models as a tool to forecast price because of its obvious limitations. As corn usage are likely to increase substantially to 13, 14, or even 15 billion bushels in the future, a 10 percent stocks-to-use ratio could very well equate to carry-out of 1.3, 1.4, or 1.5 billion bushels. So while the stocks-to-use ratio might seem low in these cases, actual carry-out levels would be right in line with the 12-year average (95/96 to 06/07) of 1.38 billion bushels.

According to a recent analysis from the University of Illinois, "the stocks-to-use ratio is generally used as a "short cut" approximation for summarizing annual supply and demand conditions. However, very different supply and demand conditions in individual years can lead to similar ratios of stocks-to-use, but very different prices. The most obvious example is the contrast between a year of very small production that results in a low stocks-to-use ratio, but also requires very high prices to force a reduction in consumption and a large crop year that results in a high level of consumption, a low stocks-to-use ratio, but low prices."

Without the strong domestic market corn farmers won't have the incentive to plant as many acres and take the risk that large production will drive down corn prices. An arbitrary stocks-to-use ratio trigger that restricts corn use for ethanol would likely diminish overall demand and put downward pressure on the price for corn. This would serve as a disincentive to farmers and discourage them from planting more corn at a time when more corn is what the feed and fuel industries need. The food and feed industries have assumed that farmers will continue to produce record crops regardless of prices and profitability. If production declines, or even grows more slowly, stocks could also fall, eventually driving prices higher. In the long-term, America's farm sector is better off maintaining a strong and growing domestic demand base and adding value markets.

The corn industry will continue to strive to satisfy a variety of important demands and maximize the utility of its product. Seed technology developments, increasing agricultural efficiency, innovation in biofuels production processes and other breakthroughs will ensure that growers will continue to meet the world's need for food, feed, fuel and other uses.

Efforts to undermine the continued growth of the U.S. ethanol industry should not be tolerated. A careful look at the facts reveals that American farmers have met, can and will continue to meet our domestic and international commitments for food and feed while still making a significant and growing contribution to lessening our dependence on imported oil with homegrown, American-made renewable fuels. We strongly urge you to oppose the Inhofe/Burr/Dole amendment.

Sincerely,
American Coalition for Ethanol.
American Farm Bureau Federation.
National Association of Wheat Growers.
National Corn Growers Association.

National Farmers Union.
National Sorghum Producers.
Renewable Fuels Association.

Mr. DURBIN. I make the point again that there is already a waiver provision in this bill. The Inhofe amendment goes too far in that regard.

If it is the appropriate time, I will raise my point of order.

The PRESIDING OFFICER. The Senator may make the point of order.

Mr. DURBIN. Mr. President, I raise a point of order that the pending amendment violates section 201 of Senate Concurrent Resolution 21, the concurrent resolution on the budget for fiscal year 2007.

Mr. INHOFE. Mr. President, I move to waive the applicable points of order against my amendment and 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 the motion. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. COBURN), and the Senator from Arizona (Mr. MCCAIN).

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

The yeas and nays resulted—yeas 31, nays 63, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—31

Alexander	Dole	Reed
Boxer	Enzi	Sanders
Bunning	Hutchison	Schumer
Burr	Inhofe	Sessions
Cardin	Isakson	Shelby
Carper	Kyl	Snowe
Chambliss	Leahy	Stevens
Cochran	Lott	Sununu
Collins	Mikulski	Vitter
Cornyn	Murkowski	
DeMint	Pryor	

NAYS—63

Akaka	Ensign	McCaskill
Allard	Feingold	McConnell
Baucus	Feinstein	Menendez
Bayh	Graham	Murray
Bennett	Grassley	Nelson (FL)
Bingaman	Gregg	Nelson (NE)
Bond	Hagel	Obama
Brown	Harkin	Reid
Byrd	Hatch	Roberts
Cantwell	Inouye	Rockefeller
Casey	Kennedy	Salazar
Clinton	Kerry	Smith
Coleman	Klobuchar	Specter
Conrad	Kohl	Stabenow
Corker	Landrieu	Tester
Craig	Lautenberg	Thune
Crapo	Levin	Voinovich
Dodd	Lieberman	Warner
Domenici	Lincoln	Webb
Dorgan	Lugar	Whitehouse
Durbin	Martinez	Wyden

NOT VOTING—5

Biden	Coburn	McCain
Brownback	Johnson	

The PRESIDING OFFICER. On this vote, the yeas are 31, the nays are 63.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

AMENDMENT NO. 1800

Under the previous order, there will now be 2 minutes of debate equally divided prior to a vote in relation to amendment No. 1800, offered by the Senator from Arizona, Mr. KYL.

Mr. KYL. Madam President, this amendment very simply changes an IRS interpretation of the 2005 Energy bill that provides a \$1-per-gallon tax credit for creation of biodiesel. An interpretation by IRS said that if you take animal fat and add it to the biodiesel—or add it to diesel, you have biodiesel and then get the \$1-per-gallon credit. That was not what was intended when this was created.

What has happened is all of the animal fat used to do this was already being used by the oleo chemical industry. Folks, for example, who make soap and detergents and the like, are finding the cost of the animal fat, their feed stock, has skyrocketed 100 percent this past year because of the way this has been done. As a result, we are simply changing the interpretation IRS put on it that big oil companies can take advantage of what was not intended to be a tax credit for them, people who are already refining diesel fuel. But rather, those who would create legitimate new diesel fuel from legitimate biomass, the credit remains; nothing changes for that. It simply means the oil companies taking advantage of the credit in an improper way would no longer be able to do so.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Madam President, the Senator from Arizona seeks to strike the provision of the underlying Finance Committee amendment—frankly, the amendment package which the committee voted to report by a vote of 15 to 5. The underlying amendment before us extends for 2 years the \$1-per-gallon credit for renewable diesel, including diesel produced from animal fats. That credit is in current law. It is only 2 years old. We should give it time to work.

Under the language in the underlying Finance Committee amendment, we will revisit subsidies for most fuels, including this one, in the year 2010. The bottom line is we want to displace foreign oil imports—that is the goal—and every gallon of renewable diesel produced is a gallon of foreign imports displaced.

I urge my colleagues to help decrease foreign oil imports and oppose the Kyl amendment.

I yield the remainder of my time.

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

Mr. KYL. 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 assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. COBURN), and 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 45, nays 49, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—45

Alexander	Ensign	McConnell
Allard	Enzi	Menendez
Bennett	Feingold	Murkowski
Cantwell	Graham	Murray
Clinton	Gregg	Obama
Coleman	Harkin	Schumer
Collins	Hatch	Sessions
Corker	Inhofe	Shelby
Cornyn	Kennedy	Snowe
Craig	Kerry	Specter
Crapo	Klobuchar	Sununu
DeMint	Kyl	Thune
Dodd	Lautenberg	Voinovich
Domenici	Martinez	Warner
Durbin	McCaskill	Webb

NAYS—49

Akaka	Dorgan	Nelson (NE)
Baucus	Feinstein	Pryor
Bayh	Grassley	Reed
Bingaman	Hagel	Reid
Bond	Hutchison	Roberts
Boxer	Inouye	Rockefeller
Brown	Isakson	Salazar
Bunning	Kohl	Sanders
Burr	Landrieu	Smith
Byrd	Leahy	Stabenow
Cardin	Levin	Stevens
Carper	Lieberman	Tester
Casey	Lincoln	Vitter
Chambliss	Lott	Whitehouse
Cochran	Lugar	Wyden
Conrad	Mikulski	
Dole	Nelson (FL)	

NOT VOTING—5

Biden	Coburn	McCain
Brownback	Johnson	

The amendment (No. 1800) was rejected.

Mr. BINGAMAN. Madam 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. BINGAMAN. Madam 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.

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

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

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

Mr. BINGAMAN. Madam President, I ask unanimous consent that there be up to 2 hours 10 minutes for debate prior to a vote in relation to the Kyl second-degree amendment to the Baucus amendment No. 1704, and the cloture vote on the Baucus amendment;

with the time divided as follows: 60 minutes to be used during today's session, and 70 minutes available for debate when the Senate resumes consideration of H.R. 6 on Thursday, June 21; with all time equally divided and controlled between Senators BAUCUS and KYL or their designees; with the Republican time being controlled 15 minutes by Senator KYL and 20 minutes by Senator DOMENICI; that no other amendment be in order prior to disposition of the Kyl amendment; with 30 minutes of the time on Thursday available for debate with respect to the motion to invoke cloture on the Baucus amendment No. 1704; and then, upon the use or yielding back of time, the Senate proceeded to a vote in relation to the Kyl amendment; that upon disposition of the Kyl amendment, the Senate proceeded to a vote on the motion to invoke cloture on the Baucus amendment No. 1704.

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

AMENDMENT NO. 1733 TO AMENDMENT NO. 1502

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I have an amendment at the desk, No. 1733, and would ask that it be called up at this time.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 1733 to amendment No. 1502.

Mr. KYL. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide a condition precedent for the effective date of the revenue raises)

At the end of subtitle B of title VIII add the following:

SEC. ____ . CONDITION PRECEDENT FOR THE EFFECTIVE DATE OF REVENUE RAISES.

Notwithstanding the provisions of this subtitle, the amendments made by this subtitle shall not take effect unless the Secretary of Energy certifies that such amendments shall not increase gasoline retail prices and the reliance of the United States on foreign sources of energy.

Mr. KYL. Madam President, I will speak for one minute and then yield about 10 minutes to the Senator from Kentucky who will begin the discussion. Actually, I would like to read the entirety of this amendment. It will take me about 10 seconds. It explains what the amendment does.

Notwithstanding the provisions of this subtitle, the amendments made by this subtitle shall not take effect unless the Secretary of Energy certifies that such amendments shall not increase gasoline retail prices and reliance of the United States on foreign sources of energy.

What this amendment does very simply is to say that the \$28.6 billion in tax increases called for by this bill will be allowed to go into effect as long as

the Secretary of Energy can certify that it would not raise gas prices or cause further dependence on foreign oil. The reason for the amendment, obviously, is to make a point. It is going to be very difficult to have \$28.6 billion in tax increases on oil producers not reflected on our gasoline cost at the pump. I predict Americans will pay more for their gasoline because of the tax increases in this legislation.

I will have more to say about the three different kinds of tax increases, why I believe that is the case, why I think it is a bad idea for us to increase our dependence on foreign oil and increase the cost of gasoline to consumers as a result of the tax increases embodied in this bill.

At this time, I yield 10 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Madam President, I thank Senator KYL for yielding. I rise in support of amendment No. 1733 that would prevent the tax increases in this bill from going into effect if the tax provisions raise gasoline prices or increase our dependency on foreign oil. I voted against these tax increases in the Finance Committee, and I strongly oppose all the tax increases in this bill. But there is one provision I oppose in particular. I am referring to the 13-percent severance tax on oil and gas leases.

There are several reasons why the Federal Government will never see the \$10.6 billion allegedly raised by this provision and why we should not, under the banner of tax law, confiscate property. Very simply, the United States should not break its contracts. A deal is a deal. The Clinton administration bid out these lease contracts in the Gulf of Mexico in 1998 and 1999, more than 1,000 of them. Now, with the benefit of hindsight, the small number of performing leases—about 20 of them—look like a bad deal for the Government. That may be true. Some leases negotiated before and after the period in question have 12.5 percent royalty rates. These leases have a zero rate.

On the other hand, the favorable terms that Senator BINGAMAN complains about encourage the oil companies to pay more at the outset to drill in deeper waters. Senator BINGAMAN knows he cannot tear up the contracts he does not like, so he has proposed an unprecedented and unusual targeted severance tax that falls almost exclusively on the current holders of these leases. This tax is so unusual, the Federal Government has never imposed a severance tax on resources, and we never have enacted a tax that can be offset by royalty payments.

If there is any doubt about the purpose of this tax, Senator BINGAMAN cleared that up earlier today when he explained the tax will not impact future leaseholders. The only people who actually pay this 13 percent tax are the holders of the leases Senator BINGAMAN thinks are a bad deal. As Senator

BINGAMAN explained, future leases are expected to have a royalty rate higher than the tax, and royalties can be used to offset the tax under Senator BINGAMAN's scheme. The problem with this is Congress cannot reverse contracts legislatively without paying compensation. The Supreme Court has said as much in two recent cases: *Winstar* and *Mobil Oil*. What is more, the Federal courts have said Congress cannot use its taxing power to break or modify a Government contract.

But that is precisely what this measure aims to do. If we enact this legislation, we will cast a small degree of doubt on every contract the Federal Government ever writes. We will raise the cost of Government today and for generations because every contractor will wonder whether their Congress might step in to claw back the benefits of the deal.

Here is a true story. During the savings and loan crisis, Federal regulators tried to encourage healthy thrifts to buy up failing thrifts to stabilize the savings and loan industry. They agreed to more lenient regulatory standards and tax benefits that would be available to the healthy thrifts. Later, when the cost of the savings and loan bailout became a concern, Congress enacted laws that took back some of these benefits. One of these laws was the Guarini amendment, a targeted tax provision. Similar to the Bingaman severance tax, the law seemed to raise revenue on paper. But in the end, the Federal courts reversed themselves, and the Federal Government paid out millions in damages for breach of contract. The same Federal court that decided these cases has exclusive jurisdiction to decide whether the 13-percent severance tax is legal. I am not optimistic.

We should make sure this provision never becomes law by voting for the Kyl amendment. It is unconstitutional. It is un-American. It will raise gasoline prices across the board, not lower them, by imposing additional costs on the American oil and gas companies. Most of them are small companies that risk capital to search for oil in the Gulf of Mexico.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, unless the chairman of the committee would like to speak next, I yield 5 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. I thank the Senator from Arizona for yielding me the time to speak on his amendment which basically requires a certification from the Secretary of Energy that these taxes will not increase retail gasoline prices or the reliance of the United States on foreign sources of energy. I think it is a good amendment. Here is why. The current bill, as I see it, does nothing to produce more energy. It doesn't do anything to make energy less expensive. It makes us more dependent on

foreign oil from my perspective. This amendment helps remediate the provisions of the current Energy bill before us.

I think back to the previous Energy bill passed in the fall of 2005, in which we accomplished a lot. We did a lot to increase the supply of energy through incentives and to hold down costs because we were increasing supply. It made us less dependent on foreign oil.

In that particular legislation, we took nothing off the table. We kept traditional fuels out there. Many of those were the petroleum products, but included hydroelectric plants. We also had incentives in there for nuclear fuels. We did a lot to encourage renewable fuels. We had provisions to encourage production of solar energy, production of wind-generated energy, geothermal energy, probably one of the more practical and efficient ways of generating energy, with some of the local governments in the State of Colorado taking advantage of the source. Hydrogen was a source, cellulosic sources of alcohol and energy fuels, corn ethanol. We even had conservation provisions in there, for example, provisions which would allow tax credits for housing and construction projects that produced buildings that conserved energy. It was a good, well-balanced bill, and it didn't have many mandates in it.

One of the concerns I have is the huge amount of mandates and tax increases we have in this bill which will make it more difficult to generate energy. Not only will it make it more difficult to generate energy, but it will also make it more expensive. When you make anything more expensive, consumer demand will go down, but also production will go down because what you are implementing is taxes that are directed to the producer.

As Senator BUNNING commented, there is going to be an injustice. It wouldn't surprise me if we have court action and if it doesn't turn away some of the revenue-producing provisions of this bill.

I am not in support of the bill as it stands now. With the adoption of the Kyl amendment, I think it remediates many of the provisions in this bill that I have an objection to. These provisions undo a lot of what we did in the big Energy bill in 2005.

I am urging my colleagues to join me in supporting the Kyl amendment. It simply states that the amendments shall not take effect unless the Secretary of Energy certifies that such amendments shall not increase gasoline retail prices and the reliance of the United States on foreign sources of oil. It is very simple, straightforward. I urge my colleagues to join me in supporting this important amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent that the amendment I have offered, No. 1733, be modified to

reflect that it is a second-degree amendment to the Baucus amendment No. 1704.

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

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield myself such time as I may consume.

First, let me begin by reminding the Senate why we are here today. We want a strong energy policy. I think most Senators agree that the underlying bill, plus the Finance Committee bill, moves this country very much in the right direction, making us less dependent upon OPEC. It enhances national security. It will move us more toward alternative and renewable fuels, conservation, cellulosic ethanol, and also clean coal technology. This is a very good bill.

It is important to remind ourselves why we have these provisions that are the subject of the amendment offered by the Senator from Arizona. We have to pay for what we do here. It is something called pay-go. Essentially, whenever we decrease taxes—and that is what the underlying Finance Committee bill does, it decreases taxes; it gives incentives to lots of different organizations to help develop new technologies, this is a tax-decrease bill—we also, under our rules, have to raise revenue the same amount that we decrease revenue.

We are here today to debate the offsetting amendment offered by the Senator from Arizona. Basically, should we pay for what we are doing? That is the basic question.

I say that is the basic question because it is one that offers no alternative. He just wants to strike the provisions that raise revenue in this bill to pay for other things, to pay for the tax decreases. So on a net basis, it is zero. Some like to say this is a tax increase bill. It is not. It is a net zero—zero-zero.

So the Senator from Arizona is not suggesting any alternative. He just says, no, we do not pay for what we are trying to do here. I think this body all agrees we need to pay and should pay for what we do. The question is whether this is a proper pay-for. I remind my colleagues that this full committee amendment, which includes the provisions which are the subject of the amendment of the Senator from Arizona, passed the committee by a vote of 15 to 5—a very strong, bipartisan vote. Many Senators believed—15 Senators believed—this is proper. It is right to have these provisions in this legislation.

We clearly do not want to increase the deficit. If the Senator's amendment passes, and these incentives for clean energy remain, it will have an effect of increasing the deficit.

Let's go in a little more detail about these offsets. The first is the section 199. What is that? I think all of our colleagues remember that several years

ago—basically prior to 2004—the United States had a program called FSC-ETI. That was a program placed to give incentives for companies to manufacture products that are shipped to foreign countries. It was an incentive for domestic manufacturers to ship products overseas. The World Trade Organization ruled that this incentive violated WTO rules. The Europeans have something similar. They just constitute it a little differently, so they are able to have their stimulus for their exports that go overseas. But ours was ruled illegal by the WTO.

So what did we do about that in the Congress? We decided we were going to enact this section 199. What is that? Basically, it gives a deduction for domestic manufacturers, and it is phased in. When fully phased in in 2010, it will allow 9 percent of qualified production activities income to be deducted.

Well, here we are today saying: Well, for the five major oil companies, that 199 deduction for their production is no longer available to them. Some here suggest: Well, that is going to have the effect of increasing prices at the pump and it will maybe discourage domestic production in the United States.

Look at the record. Look at the facts. The facts are basically these. Since this provision went into effect—section 199—what has happened domestically in the United States? The major oil companies have gotten a significant break. It comes down to approximately \$10 billion over 10 years. Domestic production by the five major oil companies has actually declined, even though they had this break, they got this additional incentive. Did it increase production in the United States? No, it did not increase production in the United States. It decreased production. Remember, this is a provision which applies to domestic production. It did not increase domestic production. Domestic production by oil companies actually decreased over this period of time.

I might also say that the Joint Committee on Taxation has done an analysis on this issue, and they demonstrated many of the points I am making.

So if you look at all the various factors that bear on this issue, you reach the conclusion that domestic production has gone down. So the argument that this one bill, this one portion will be responsible for decreasing domestic production is a specious argument. The facts show the opposite.

What determines gasoline prices charged at the pump? The Joint Committee on Taxation looked at this question, and it is their determination that—and it is obvious—the price at the pump is determined by an awful lot of complex factors. It is global demand. It is a lot of supply factors. I could go on as to all the factors the Joint Committee on Taxation believes contributes to this issue. To say there is a direct link that this provision is actually going to increase prices is just not accurate. It is just not going to happen.

It is a fallacious argument to try to discourage and confuse people into saying, therefore, this is not a good payoff.

What are the other oil provisions? There are three of them. I already mentioned one. The second one is a loophole-closer.

Basically, this is a loophole identified by the Joint Committee on Taxation. In short, it has to do with credit American companies get for taxes paid overseas. For oil and gas production, there are two specific provisions relating to foreign taxes. One provision, called foreign oil and gas extraction income, or FOGEI, applies to extraction costs of oil and gas. The other, foreign oil related income, or FORI, applies to downstream distribution costs.

The long and short of it is that the Joint Committee on Taxation recommended changes to the system of credits against foreign taxes, a streamlining of FOGEI and FORI. And that's what the Finance Committee has done.

We closed this loophole, and it happens to raise over \$3 billion dollars. This is a loophole closer. That is what this is. I cannot see any reason why anyone would have any problem with that.

In fact, the oil company people tell us it is probably a good thing to close this loophole. Why? Because it is so complicated to comply with.

Now, let's go to the third provision in this bill. This is the provision with respect to Outer Continental Shelf severance taxes. Clearly, constitutionally, the Congress always has the power to enact a tax. This is a 13-percent tax on production in the gulf. That is what it is. Producers can offset that tax with royalties they otherwise would pay for those leases in the gulf.

Now, the provision applies not just to the so-called years in question—1998 and 1999. It applies to a much broader range of leases in the gulf. This is not targeted to those 2 years people discuss. This is a severance tax that Congress has the power to levy in this area.

A couple points: The President himself enacted a higher level of royalties for all new leases at 16½ percent. On his own, he raised the royalty rate to 16½ percent for most new offshore deepwater federal oil and gas leases.

In this amendment, we are talking about a 13-percent severance tax. Is this a breach of contract? No. We have asked the American Law Division of the Congressional Research Service to research this point for us because we do not want to do anything that is going to be unconstitutional and wrong. They say no, that basically Congress has the power to enact this provision. Under the broad public purposes, which is the basic standard, which is utilized here in the courts, Congress does have the power to do this. The question is, Is this a taking or confiscatory? No. This is not confiscatory. Nobody can make an argument this is confiscatory. So there is no

takings, fifth amendment question here. Someone can raise it, but I think any reasonable person looking at this issue would say it is not a taking, it is not confiscatory, and second, this is not a breach of contract because we are saying: Hey, Congress has the power to enact the tax and credit royalties against it.

Do not forget, the President already said those folks, those companies are not paying enough. So he raised the royalty rate to 16½. We are saying 13 percent, in the form of a tax. We are trying to be reasonable. We are trying to do what is right. We came up with that 13 percent.

Another point that is kind of tricky about this amendment—it is kind of interesting about this amendment—essentially, it is delegating to the Secretary whether or not the oil companies are going to pay taxes. That is basically what the amendment says: Congress, you cannot decide; it is not your prerogative; it is up to the Secretary. Because he has this little clause in there that says: Unless the Secretary certifies, it is not going to increase prices. Come on. The Secretary can say anything he wants to say in this area because it is so complicated. It is so complicated. We should not be giving such broad authority to the Secretary for him to determine whether this offset should be enacted. But that is what the Kyl amendment does. I think any reasonable person would say: Hey, that is not the right thing to do. We do not want to give the Secretary this authority. You guys—men and women in Congress—we elected you to do what is right. Basically, what is right is to enact these provisions.

So I, therefore, urge all of us—the body—let's keep our heads on straight. Let's keep our feet on the ground. This is common sense. Let's oppose this thing that does not make any sense.

Mr. President, I ask how much time remains on both sides?

The PRESIDING OFFICER. The Senator from Montana has 16½ minutes. The Senator from Arizona has 16 minutes.

Mr. BAUCUS. I thank the Chair.

The PRESIDING OFFICER. The Republican whip is recognized.

Mr. LOTT. Mr. President, I have not spoken on this energy legislation. There is no question in my mind that we need a national energy policy. I do not think this bill, in its current form, does what we need to do. I have always believed what we need to do in America is produce more energy here at home. More supply—that is the answer—not try to do with less, try to shrink what we have in terms of energy or conserve ourselves into an energy policy. I want more. This is America.

We can produce more of everything. More oil? Yes. More natural gas? Absolutely, and do a lot of innovative things with it. More coal? I am for clean coal technology. I am for changing coal to liquids. I am for doing whatever we can with coal. I am for

hydro. We should have more hydroplants, but we have people who have reservations about that. It has environmental or conservation problems. And more nuclear. It is clean. It is safe. But what are we doing to get more of them on line? Nothing.

This bill has turned out to be really about alternative fuels, conservation, and green policies.

Now, for years, I have said I do not want any of that. I want production. By the way, in my State, we can do it. We can have more of everything: oil, gas, coal to liquid, lignite coal, ethanol. We are trying to do it all. We are going to be energy independent. In fact, we are going to wield our power to other parts of the country. So that is what I wanted, but I am over that. I want a national energy policy. I am prepared to accept alternative fuels, some renewables if they make sense, if they are justified in the market but not paid for by outrageous tax credits that don't produce anything. I am for conservation. We should encourage that. Get different light fixtures, look at the utilities we have in our houses, the appliances, are they using too much electricity; insulation, I am for all of that.

So let's have the grand compromise on energy. Let's do it all. This bill doesn't do it. To my colleagues, I want to say I believe America is in great danger because of our inability to come together and do it all.

I was in Russia 3 or 4 weeks ago. I had a chance to see their transmission network of gas and to look at their fields in Siberia, the oil and natural gas. I met with the leadership of Gazprom, the Russian Government-controlled energy company. It was scary. I have no doubt in my mind they intend to use gas as a weapon. They are going to be shipping natural gas that provides the power to all of Europe, Eastern Europe, Western Europe, all the way to Ireland. By the way, if they don't get what they want, they will cut it off.

Here we are in America. We are dependent for our energy sources, 80 percent on foreign oil. Is that good? No, that is bad. Look at whom we are depending on: Russia, Iraq, Iran, Nigeria, Venezuela, and then some who I guess are more stable for now: Saudi Arabia, Kuwait. Is that what we want? No, we don't want that. This is a dangerous situation.

So we should encourage and facilitate the whole package. Flexible fuels, I am for that. We should try to see what we can do with renewables. I don't believe for a minute we are going to get 15 percent of our energy needs from wind. Come on now. Wind and solar. There are people who think we are going to heat, power, and supply all our energy needs in the future from wind and solar. For heaven's sake, get real. We have already sunk billions of dollars into some of these ideas that might work or might not. I am willing to try them. I will buy the deal, but

this is not the deal. This is another tax increase: \$28.6 billion. I thought it would be \$15 billion.

By the way, let me make it clear. There is some good stuff in here. Some of it I supported, some of it I voted for. But overall, what we have is an energy bill that came out of the Energy Committee that now doesn't amount to very much; it is all about renewables and green policy. It is not going to produce another drop of oil, 1 cubic foot of natural gas. In fact, now, we are going to discourage oil and gas exploration in the Gulf of Mexico.

By the way, I should be able to talk about this because this is in my neck of the woods. I have lived in the shadow of oil and gas rigs for years in the gulf. The best fishing in the gulf is around the rigs. We have oil and gas out there. Our policy in America is we don't want to drill where it is. We don't want to drill in the gulf, we don't want to drill on the west coast, we don't want to drill on the east coast, we don't want to drill in ANWR. I have a novel idea of where we ought to drill: Drill where it is, and do it safely. We can do that. Finally, after a lot of huffing and puffing and stroking and scratching last year, we finally said: Yes, we are going to have more oil and gas exploration in the Gulf of Mexico. It is going to be in a defined area. It is not going to be close to the shore, which I think it should be, much closer to the Florida coast, for instance—and my coast, too, for that matter—but we did it for control in a responsible, acceptable way. The States, by the way, are going to get some royalties out of it for the first time ever, or for the first time in many years. We came up with a good deal.

Now, in this bill, we are going to go back, and we are going to levy a 13-percent tax on oil and gas production in the Gulf of Mexico that will cost \$10.6 billion on the oil companies. Now, look, I am not going to cry any tears for oil companies. I have a populist streak in me. I don't like gasoline prices. But, buddy, let me tell you, this bill is not going to reduce anybody's gasoline prices. This bill is not a national energy policy.

This bill will lead to less American production in the critical areas where we could do something quickly. By the way, we are going to tax them. Are we never going to learn when you tax something, you get less? If you get less, what do you think it is going to do to the price of gasoline? By the way, we are going to ride these cats—these companies—offshore. They are not going to put up with all these taxes. They are going to go get it somewhere else. They can do business internationally. The biggest company in the world, ExxonMobil—they are not the biggest company in terms of oil or gasoline in America, no; there are other companies that fit that role—much of their business is overseas.

So there is about \$21 billion more on the oil companies, and I think it is

being done in the wrong way. But we can't come out and talk about how we are going to make such great changes and that we are going to do something about energy prices and the price of gasoline, when the reverse is true. This bill would say that—exactly, it would effectively strike all the tax increases unless and until such time as the Energy Secretary can certify they will not result in increased gas prices or increased dependence on foreign sources of energy.

You are right, you know, they would not be able to certify that. This would not be good for the country.

Yes, again, I wish to say the Wyden amendment is in there. I support it. I voted against the amendment awhile ago that Senator KYL had. I am not pure either. I am over trying to be pure. But I do expect us to not do the wrong things on energy policy—don't do the bad things, even if we can't do the right things.

I am extremely upset about what we have come up with out of the Finance Committee and on the energy package as a whole. This is not going to do the job. It is not going to become law.

So here again, the Senate is spinning its wheels. Yes, well, we are making a statement. Maybe we will feel better. But in terms of addressing an energy policy, this will not do it.

I yield the floor. Thank you for the extra time.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from New York, but I don't see him yet. So I yield the balance—11 minutes plus 5 is 16—so I yield 11 minutes to the Senator from Oregon, Mr. WYDEN, and the remaining 5 to the Senator from New York when he appears on the floor.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I wish to pick up on the comments of my friend from Arizona and my friend from Mississippi, two Senators whom I have worked with on many issues and must unfortunately disagree with them on this one. I want the Senate to understand exactly what the implications would be if the Kyl amendment were to pass.

If the Kyl amendment were to pass, the major oil companies would receive billions and billions of dollars of subsidies that President Bush says the major oil companies do not need. I wish to be specific on this as we go to the debate with the Senator from Arizona and the Senator from Mississippi.

The President of the United States has said that when the price of oil is over \$55 a barrel, the oil companies do not need incentives to develop and explore. Let me repeat that. President Bush has said when the price of oil is over \$55 a barrel, the oil companies do not need incentives to explore and search for oil. The price of oil at this time is substantially over \$55 a barrel. So if the Kyl amendment passes and we refuse to strip these incentives the President says aren't needed, we are going to continue business as usual.

The Kyl amendment says, essentially: Let us continue these practices we have had for the last few years that have done nothing—nothing—to reduce our dependence on foreign oil.

What we have had in the past are billions of dollars of subsidies. For example, in section 199 of the Tax Code, not for investing in refinery capacity, not for investing in new production, not for investing in renewable fuels but essentially continuing the practices that have nothing—done nothing to reduce our dependence on foreign oil. I have always said we ought to target tax breaks and incentives where there is an opportunity for new production. That is why I have always favored looking at potential incentives for small companies.

But that is not what this amendment is all about. This amendment is about continuing the giveaways for the big companies, the giveaways the President of the United States says are not needed.

So where we are is oil is at almost \$70 a barrel, gas is over \$3, more imports than ever, and it seems to me continuing business as usual as the Kyl amendment would do is not a case you can make. The Finance Committee amendment changes our course. It ends the section 199 tax breaks for the major oil companies. It takes steps to end our addiction to oil. It takes steps to end our addiction to continuing billions of dollars of subsidies that the President says are not needed.

Let us not continue these billions and billions of dollars in the name of a modern energy policy. It is not. The idea that shoveling all these breaks, these billions of dollars of breaks at the oil industry is somehow going to be good for America is not borne out by the record. It is not borne out by the record, and in my view, until we take these steps to protect taxpayers and protect consumers and protect the security of the country, I think what will happen is we will continue to increase our addiction to foreign oil, we will continue to have these prices, these staggeringly high prices of \$70 a barrel and consumers will still get clobbered at the pump.

I am going to have more to say about this in the course of tomorrow, but I would say in closing—and I see my good friend from Arizona on the floor of the Senate—that if the Senate supports this particular amendment, the Kyl amendment, what it will be doing is it will be continuing billions of dollars in tax breaks that if you use the test applied by the President of the United States, those major companies do not need. No one has been able to make a case, it seems to me, that the President of the United States is wrong. In fact, every time this topic has come up, I have said I think the discussion ought to begin with the comment of the President. I credit the President for his statement because I think it reflects modern reality. The President knows a lot about the oil

business, and the President says you don't need these subsidies when the price is over \$55 a barrel.

But along comes the Kyl amendment, and the Kyl amendment says: No, I pretty much don't see it the way the President of the United States sees it. I am going to continue the billions and billions of dollars of subsidies when it is not needed.

The last point I would like to make very quickly deals with the Bingaman language. We have heard again and again that this somehow retroactively sweeps in and unravels previous agreements. That is untrue. Yesterday, I asked in the Senate Finance Committee the counsel about this. The counsel was very clear it applies prospectively, it does not apply retroactively, and it applies to all of the activity going on in the gulf.

The Government Accountability Office has said that in terms of our position in the world, we stand almost alone in terms of our position relative to getting a fair shake on revenue and protecting taxpayers. The reality—and the Bingaman amendment picks up on this—is taxpayers are getting fleeced by major oil companies when they drill on public land.

We are talking about our land, the people's land. We are not talking about private lands. We are talking about our lands. And the Bingaman amendment takes steps to correct that situation.

I hope my colleagues will reject the amendment of the Senator from Arizona. If I have made one point tonight, I want it understood, if the Kyl amendment is adopted, major oil companies would continue to receive billions of dollars of subsidies that the President of the United States has said they do not need.

Mr. President, I note that my colleague from New York has not arrived. The Senator from Arizona, I am sure, wants to respond. I reserve the time that was propounded in the request by Senator BAUCUS for Senator SCHUMER when he arrives. Since he is not here, and Senator KYL is, I yield the floor to him with the reservation for Senator SCHUMER when he arrives.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I wish to respond to some of the comments my colleagues made to remind everyone many of the dire predictions, including the ones of my good friend from Oregon, are a little beside the point.

If you look at the actual wording of my amendment, it does not say anything about subsidies to big oil companies or anything of the like. Maybe I better read it again:

Notwithstanding the provisions of this subtitle—

And those are the tax increases on oil companies, as well as the other tax increases in the legislation—

the amendments made by this subtitle shall not take effect unless the Secretary of Energy certifies that such amendments shall not increase gasoline retail prices and the re-

liance of the United States on foreign sources of energy.

That is all it says. There isn't any more. There isn't anything about subsidies to oil companies or anything of the like.

What the Senator from Oregon might be saying is that the provisions of the bill are not going to go into effect because it is true that the tax increases will, in fact, raise prices for American gasoline consumers and will increase our dependency on foreign oil. If, as the chairman of the committee said, that is not true, there is no relationship—in fact, his exact words were: It is fallacious to argue that these new taxes in the bill will raise fuel costs. If that is true, then there would not be any effect. The argument of the Senator from Oregon then falls. But if it is true the taxes in this legislation will raise prices for oil consumers or gasoline consumers and will further our dependence on foreign oil, then the Senator from Oregon at least has a point to argue because one provision out of the three major tax provisions relates to the general subject that he and I have worked on in the past and that he was talking about, which is the royalties that should be paid by offshore oil companies.

One of two things is true, but they can't both be true. It might be true the tax increases in this legislation are going to raise the cost of gasoline to American consumers and increase our dependency on foreign oil, and then at least one of the things the Senator from Oregon talked about would at least come into play.

Or it could be, as the Senator from Montana said, there would not be any effect because this would not raise gasoline prices, in which case the Senator from Oregon is simply incorrect when he says that the effect of my amendment is to provide subsidies for oil companies. They can't both be true.

What is the probability? I think the probability is that the tax increases in this legislation will raise prices for American consumers and will increase our dependency on foreign oil. And that is just not my guess, although it is fairly intuitive if you understand anything about economics. If you tax something, more generally the producer of that product is going to reflect the prices in what he charges to consumers, and the price, therefore, paid at the pump, in the case of gasoline, goes up.

A recent study by the Heritage Foundation found that the tax provisions alone in this legislation, setting aside the other mandates in the Energy bill, will likely increase gas prices by 21 cents per gallon over the next 8 years. Taking all of the provisions together, the Energy bill could increase the price of regular unleaded gasoline from \$3.14 a gallon to \$6.40 a gallon by the year 2016, a 104-percent increase.

For comparison, current policies will lead to gas prices climbing from \$3.14 to \$3.67 in the year 2016. And in just the

next year alone, consumers can expect to pay between \$3.16 to \$3.79 due to the impact of this bill.

During the next decade, between now and the year 2016, due to this bill alone, consumers can expect to spend an average of \$1,445 more per year on gasoline. Again, that is not just speculation. It is obviously the law of supply and demand. It is the law of economics. If you are going to impose this tax, it is going to be passed on by the people who pay the tax. So American consumers can expect to pay a lot more for gasoline at the pump.

I don't think anybody would argue that our dependence on foreign oil is going to decrease. In fact, because of one of the three provisions of this bill, the foreign tax credit tax increase, it is obvious our oil producers are going to be put at an economic disadvantage vis-a-vis those abroad, and it is obvious we are going to have to be more dependent on foreign oil, not less.

It was interesting that the Senator from Montana started out his argument saying the purpose of this bill is to get more energy, especially from renewable fuels. It is true the purpose of a good energy bill should be to get more energy. The problem is, this bill doesn't provide any more energy. It does focus some subsidies on renewable fuels, and the only way we are going to get more renewable fuel energy, obviously, is by subsidizing those particular energy sources. But the bill itself provides not a drop of new oil. Yet somehow or another it costs \$28.5 billion, and that gets to the second point the Senator from Montana made.

He said this is not a tax-increase bill; this is a tax-decrease bill. But then he lets the cat out of the bag by saying: Of course, we must still pay for what we are doing. Well, indeed. We do have to pay for what we are doing, and what we are doing is spending \$28.5 billion. So the bill raises taxes by \$28.6 billion. That is the estimate the Congress must use. That is what the Finance Committee is required to use, \$28.6 billion in new taxes. The reason: to pay for what we are doing, for what the bill spends.

Granted, some of the spending in the bill is in the form of tax breaks, such as the last tax break we talked about. Unfortunately, my amendment was not adopted, so a tax break is going to be misused, and we are going to be paying billions of dollars because of that misuse. But I think there is no question that the tax increases that are provided for in this bill will be seen as tax increases.

Mr. President, has my time expired?

The PRESIDING OFFICER. Yes, it has.

Mr. KYL. That is the end of my time. I will resume this argument tomorrow morning and remind my colleagues why it is that I think we don't want to pass the tax increases in the bill.

Mr. WYDEN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I believe I have a couple of minutes, and then Senator SCHUMER has time reserved. I ask unanimous consent that Senator KLOBUCHAR follow Senator SCHUMER.

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

Mr. WYDEN. Mr. President, I will be very brief. The Senator from Arizona makes the point that he always does eloquently about markets, and I come back to the fact that President Bush has said you don't need subsidies when the marketplace price is over \$55 a barrel. So what we want to do is cut back on the subsidies and begin to create the kind of market that I know the Senator from Arizona favors.

I also ask unanimous consent to have printed in the RECORD a Government Accountability Office report of May 1, 2007, which makes it very clear that taxpayers are being ripped off for the drilling by major companies on public lands.

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

UNITED STATES GOVERNMENT
ACCOUNTABILITY OFFICE,
Washington, DC, May 1, 2007.

Subject: Oil and Gas Royalties: A Comparison of the Share of Revenue Received from Oil and Gas Production by the Federal Government and Other Resource Owners

Hon. JEFF BINGAMAN,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate.

Hon. NICK J. RAHALL II,
Chairman, Committee on Natural Resources,
House of Representatives.

Hon. STEVAN PEARCE,
Ranking Member, Subcommittee on Energy and Mineral Resources, Committee on Natural Resources, House of Representatives.

Hon. MARY L. LANDRIEU,
U.S. Senate.

Amid rising oil and gas prices and reports of record oil industry profits, a number of governments have taken steps to reevaluate and, in some cases, increase the share of oil and gas revenues they receive for the rights to develop oil and gas on their lands and waters. For example, the State of Alaska has recently passed new oil and gas legislation that will increase the state's share of revenue received from oil and gas companies operating state leases. In January 2007, the Department of the Interior announced an increase in the royalty rate for future leases granted in the deepwater region of the Gulf of Mexico. Companies engaged in exploration and development of oil and gas resources do so under terms of concessions, leases, or contracts granted by governments or other resource owners. The terms and conditions of such arrangements are established by law or negotiated on a case-by-case basis. One important aspect of the arrangements is the applicable payments from the companies to the resource owners—in the United States, these include bonuses, rentals, royalties, corporate income taxes, and special fees or taxes. The precise mix and total amount of these payments, referred to as the "fiscal system" varies widely across different resource owners. The total revenue, as a percentage of the value of the oil and natural gas produced, received by government resource owners, such as U.S. federal or state governments is commonly referred to as the "government take." For example, a government take of 50 per-

cent means that the government receives 50 percent of the cash flow produced from an oil or gas field.

In fiscal year 2006, oil and gas companies received over \$77 billion from the sale of oil and gas produced from federal lands and waters, and the Department of the Interior's Minerals Management Service (MMS) reported that these companies paid the federal government about \$10 billion in oil and gas royalties. Clearly, such large and financially significant resources must be carefully developed and managed so that our nation's rising energy needs are met while at the same time the American people are ensured of receiving a fair rate of return on publicly owned resources, especially in light of the nation's daunting current and long-range fiscal challenges.

As requested, this report documents the information provided to your staffs in March 2007 on the U.S. government's take and implications associated with increasing royalty rates. Specifically, this report discusses (1) the United States' government take relative to that of other government resource owners and (2) the potential revenue implications of raising royalty rates on federal oil and gas leases going forward. To address the government take, our work included reviewing results of studies done by oil companies and industry consultants. We also collected and analyzed various studies generated by MMS, the agency responsible for collecting oil and gas royalties from federal lands and waters. In addition, we reviewed results of studies prepared over the last 13 years by various private and government sources on government take and interviewed Alaskan state and private consulting firm officials. In evaluating the study results we conducted interviews with study authors and an industry expert to discuss the study methodologies and the appropriate interpretation of the results. Based on these interviews and our review of study results, we believe the general approach that these study authors took was reasonable and that the study authors are credible. However, we did not fully evaluate each study's methodology or the underlying data used to make the government take estimates. Overall, because all the studies came to similar conclusions with regard to the relative government-take ranking of the U.S. federal government and because such studies are used by oil and gas industry companies and governments alike for the purposes of evaluating the relative competitiveness of specific fiscal systems, we are confident that the broad conclusions of the studies are valid. To address the revenue implications of raising royalty rates, we gathered information from reports, studies, and government documents, and drew from past GAO reports related to oil and gas royalties. We also discussed the material in this report with MMS officials and they made helpful suggestions about the factors affecting the revenue implications of raising royalty rates. Our work was done from January 2007 through March 2007 in accordance with generally accepted government auditing standards.

IN SUMMARY

Based on results of a number of studies, the U.S. federal government receives one of the lowest government takes in the world. Collectively, the results of five studies presented in 2006 by various private sector entities show that the United States receives a lower government take from the production of oil in the Gulf of Mexico than do states—such as Colorado, Wyoming, Texas, Oklahoma, California, and Louisiana—and many foreign governments. Other government-take studies issued in 2006 and prior years similarly show that the United States has consistently ranked low in government take

compared to other governments. For example, a study completed in 2006 for MMS showed that the U.S. federal government take in the Gulf of Mexico deepwater and shallow water was lower than 29 and 26, respectively, of the 31 fiscal systems analyzed. In deciding where and when to invest oil and gas development dollars, companies consider the government take as well as other factors, including the size and availability of the oil and gas resources in the ground; the costs of finding and developing these resources, including labor costs and the costs of compliance with environmental regulations; and the stability of the fiscal system and the country in general. All else held equal, more investment dollars will flow to regions in which the government take is relatively low, where there are large oil and gas deposits that can be developed at relatively low cost, and where the fiscal system and government are deemed to be relatively more stable. Regarding the deepwater areas of the U.S. Gulf of Mexico, the current size of the government take, the relatively large estimated amounts of oil and gas in the ground, and the proximity to the large U.S. market for oil and gas make this region a favorable place to invest. However, the high costs of operating in deepwater may deter some investment.

Increasing royalty rates on future federal oil and gas leases would likely increase the federal government take but by less than the percentage increase in the royalty rate because higher royalty rates would likely reduce some taxes and other fees and may also discourage some development and production. For example, the recently announced increase in royalty rates from 12.5 percent to 16.67 percent on future leases sold in the deepwater regions of the Gulf of Mexico will, according to MMS, increase overall federal revenues but will also cause reductions in some fees and in oil and gas production. Specifically, MMS estimates that the new royalty rate of 16.67 percent will increase revenue by \$4.5 billion over 20 years. MMS also estimates that, by 2017, this increased revenue will be partially offset by revenue losses of \$820 million over 20 years as a result of reduced rental fees as well as a decline in production of 5 percent. A lower royalty rate can encourage oil companies to pursue oil exploration and production and thereby provide an economic stimulus to oil producing regions. For example, according to a MMS study issued in 2006, as the industry expands output in the Gulf of Mexico, employment levels in all Gulf Coast states—including Alabama, Louisiana, Mississippi, and Texas—tend to rise to meet industry needs. As part of an energy strategy to meet the nation's energy needs and balance the impacts of energy use on the environment and climate, a healthy domestic oil and natural gas industry is essential, and that means that the United States must continue to create a market that is competitive in attracting investment in oil and natural gas development. Such development, however, should not mean that the American people forgo a competitive and fair rate of return for the extraction and sale of these natural resources, especially in light of the current and long-range fiscal challenges facing our nation. The potential trade-offs between higher revenue collections and higher oil production highlight the broader challenge of striking a balance between meeting the nation's increasing energy needs and ensuring a fair rate of return for the American people from oil production on federally leased lands and waters.

BACKGROUND

The Department of the Interior, created by the Congress in 1849, oversees and manages the nation's publicly owned natural resources, including parks, wildlife habitat,

and crude oil and natural gas resources on over 500 million acres onshore and in the waters of the Outer Continental Shelf. In this capacity, the Department of the Interior is authorized to lease federal oil and gas resources and to collect the royalties associated with their production. The Department of the Interior's Bureau of Land Management is responsible for leasing federal oil and natural gas resources on land, whereas, offshore, MMS has the leasing authority. To lease lands or waters for oil and gas exploration, companies generally must first pay the federal government a sum of money that is determined through a competitive auction. This money is called a bonus bid. After the lease is awarded and production begins, the companies must also pay royalties to MMS based on a percentage of the cash value of the oil and gas produced and sold. Royalty rates for onshore leases are generally 12 and a half percent whereas offshore, they range from 12 and a half percent for water depths of 400 meters or deeper (referred to as deepwater) to 16 and two-thirds percent for water depths less than 400 meters (referred to as shallow). However, the Secretary of the Interior recently announced plans to raise the royalty rate to 16 and two-thirds percent for most future leases issued in waters 400 meters or deeper. MMS also has the option of taking a percentage of the actual oil and natural gas produced, referred to as "taking royalties in kind," and selling this energy itself or using it for other purposes, such as filling the nation's Strategic Petroleum Reserve. In addition to bonus bids and royalties, companies pay taxes on corporate profits. The sum of all these and other payments comprises the government take. Because different governments set different levels of taxes, fees, and royalties, the relative size of any one component of government take generally varies across different fiscal systems.

STUDY RESULTS INDICATE THAT THE FEDERAL GOVERNMENT RECEIVES AMONG THE LOWEST GOVERNMENT TAKES IN THE WORLD

Results of five studies presented in reports or testimony to the Alaskan state legislature in 2006 indicate that the federal government receives one of the lowest government takes among the jurisdictions evaluated. The hearing was held to discuss a proposed new state tax on oil company profits. This proposal eventually was adopted and, in 2006, the State of Alaska enacted a new oil and gas production tax law which imposed a 22.5 percent tax on oil company profits. Two of the studies presented were from major oil companies, and three were from private consulting firms. The five studies had differing scopes and somewhat different estimates of government take. For example, one study focused primarily on comparing U.S. federal, state, and Canadian fiscal systems, while other studies focused on international comparisons. The results of the five studies are summarized below and in more detail in enclosure I.

BP (formerly British Petroleum), one of the world's largest oil companies, testified that the federal government's take for leases in the Gulf of Mexico (45 percent) was lower than 9 out of 10 other fiscal systems presented, including Colorado, Wyoming, Texas, Oklahoma, California, and Louisiana (between 51 percent and 57 percent).

ConocoPhillips, Alaska's number-one oil producer in 2005, testified that the federal government's take for leases in the Gulf of Mexico (43 percent) was lower than all 8 other fiscal systems presented, including the United Kingdom (52 percent) and Norway (76 percent).

CRA International (formerly Charles River Associates), a global firm specializing in business consultancy and economics, testi-

fied that the federal government's take in the Gulf of Mexico—both deepwater (42 percent) and shallow water (50 percent)—was lower than the 6 other fiscal systems it evaluated, including Australia (61 percent).

Daniel Johnston and Company, an independent petroleum advisory firm providing services to the oil and gas industry, testified that the federal government's take in the Gulf of Mexico for deepwater (between 37 and 41 percent) was 4th lowest and for shallow water (between 48 and 51 percent) was 8th lowest among 50 fiscal systems it evaluated.

Van Meurs Corporation—a company which provides international consulting services in several areas including petroleum legislation, contracts, and negotiations—reported that the federal government's take in the Gulf of Mexico (40 percent) was the lowest among 10 fiscal systems it evaluated, including Alaska (53 percent) and Angola (64 percent).

It should be recognized that the studies presented in this testimony were done before the recent increase in the royalty rate for future deepwater leases in the Gulf of Mexico. This action will, as new leases are added to the mix over time, cause the average government take in the Gulf of Mexico to rise somewhat. In addition, 4 of the 5 studies compared government take based on 11 fiscal systems or fewer. A comparison of a much larger number of fiscal systems provides more comprehensive information. In this regard, we found that other expanded government-take studies have been issued. These are summarized below and more details are presented in enclosure II.

A study issued in 2006 and done under contract with MMS by the Coastal Marine Institute of the Louisiana State University reported on 31 fiscal systems in 25 countries. The study showed, out of the 31 fiscal systems, Gulf of Mexico deepwater, at between 38 and 42 percent, was lower than 29 other systems and Gulf of Mexico shallow water, at between 48 percent and 51 percent, was lower than 26 systems. Three other offshore fiscal systems were also shown. This included Trinidad & Tobago offshore with a government take between 48 percent and 50 percent, Australia offshore with a government take of between 53 percent and 56 percent, and Egypt offshore with a government take of between 79 percent and 82 percent. Of the 31 fiscal systems presented, Mexico had the lowest government take at between 30 percent and 32 percent, and, at the other end of the spectrum, Venezuela had the highest government take at between 88 percent and 93 percent.

A second study, issued in 2002 by Wood MacKenzie, a private consulting firm, analyzed 61 fiscal systems within 50 countries. The study showed that, out of 61 fiscal systems, Gulf of Mexico deepwater ranked lower than 54 other systems with a federal government take of about 42 percent, while Alaska's government take was about 64 percent. Of the 61 fiscal systems analyzed, Cameroon had the lowest government take at about 11 percent, and at the other end of the spectrum, Iran had the highest government take at about 93 percent.

A third study, issued by Van Meurs Corporation in 1997, analyzed 324 fiscal systems in 159 countries. The study showed that, out of 324 fiscal systems, Gulf of Mexico water greater than 800 meters ranked lower than 298 other systems with a federal government take of about 41 percent and Gulf of Mexico water between 200 and 400 meters ranked lower than 276 systems with a federal government take of about 47 percent. The study also indicated that governments tend to compete regionally and that the regional average government take for countries within North America was about 57 percent.

Finally, one of the first expanded, or comprehensive, studies was completed by Van

Meurs Corporation in 1994 for the World Bank. That study showed that the government take from federal onshore lands, Gulf of Mexico deepwater, and Gulf of Mexico shallow, ranked lower than 194, 191, and 180 out of 226 fiscal systems in 144 countries, territories, and joint development zones analyzed.

The last few years of high oil and gas prices and record industry profits have been a factor in causing a number of resource owners to reevaluate their fiscal systems. For example, and as already discussed, the State of Alaska enacted in 2006, a new oil and gas production tax law which, among other things, imposed a 22.5 percent tax on oil company profits. In addition, at least five states—including New Jersey, New York, Pennsylvania, Washington, and Wisconsin—and Alberta Province in Canada are considering new oil and gas tax legislative proposals.

The level of government take can influence investment in oil and gas development and production. Resource owners are competing to some extent for finite private investment in oil and gas development, and in considering the ideal government take, the resource owners must consider that there may be a trade-off between the magnitude of government take and the level of investment. From the oil and gas industry's perspective, government take represents one of the costs of doing business. As with any industry, if the costs in one geographic area increase, industry may pursue locations elsewhere.

In addition to the overall government take, the mix of taxes, fees, and royalty rates that comprise the government take may also be important in determining the level of investment. For example, in commenting on Alaska's then-proposed revisions to its oil and gas tax law, a BP official testified that a fiscal system should be equitable to investors and the government alike and should be profit-related, that is, with a tax levied on profits not revenues. Similarly a ConocoPhillips official testified that a balanced fiscal system is critical for future oil and gas investment in Alaska and that Alaska must maintain its fiscal system competitiveness on a global basis.

Further, the size of oil and gas reserves, the costs of exploration and development, and the stability of the government and regulatory environment play a role in companies' investment decisions. In many regards, the United States is a desirable place to invest in oil and gas development and production. For example, of non-OPEC countries, the United States held almost 10 percent of oil reserves as of 2006. In addition, including the existence of a nearby market for all that is produced, the United States is generally considered a stable place to invest, especially when compared to many countries, such as Venezuela and Nigeria, that have large oil and gas reserves. For example, in Venezuela, it was reported last year that the government had taken a series of steps to increase the government take as well as take greater control over oil operations in that country, and in Nigeria, it was recently reported that there have been repeated instances of oil company employees being kidnapped or attacked. However, much of the estimated oil reserves in the United States, such as those in the deepwater areas of the Gulf of Mexico, and the smaller pockets of oil remaining in mature oil fields will be more costly to develop than oil in some other regions, and these higher costs are a deterrent for investment. In addition, to the extent that environmental regulations in the United States are stricter than in some other oil producing countries, this could increase compliance costs and necessitate to some extent a lower government take in the

United States. Further, to the extent that labor costs are a factor in determining the profitability of oil development projects, the United States may have higher labor costs than some other oil producing countries, and this would also necessitate, to some extent, a lower government take.

INCREASING ROYALTY RATES ON FUTURE FEDERAL OIL AND GAS LEASES WOULD LIKELY INCREASE THE FEDERAL GOVERNMENT TAKE

Increasing royalty rates on future federal oil and gas leases would likely increase the federal government take but by less than the percentage increase in the royalty rate itself because higher royalty rates will likely reduce some taxes and other fees and may also discourage some development and production compared to what it would be under lower government take conditions. For example, because the federal government assesses taxes on corporate profits, an increase in royalty rates would raise oil and gas company costs, thereby reducing their profits and, consequently, the corporate income taxes they pay. In addition, an increase in royalty rates may reduce the amount, in fees or bonuses, oil and gas companies are willing to pay for the rights to develop individual leases. Because such fees or bonuses are determined competitively, this may lead to lower government revenue. Finally, higher royalty rates may deter some development or production of oil and gas if companies can find more profitable investment opportunities elsewhere and for which other factors, such as stability and the amount of oil and gas reserves are comparable.

MMS' analysis that accompanied a recently announced increase in the royalty rate for new federal deepwater offshore Gulf of Mexico leases illustrates how the increase in royalty rates can be offset somewhat by reduced fees and production. MMS estimates that the increased royalty rate of 16.67 percent—from 12.5 percent—will increase revenue from royalty payments by \$4.5 billion over 20 years. However, MMS also recognized that this royalty rate increase will likely cause declines in bonus and rental revenues as well as reduce oil and gas production compared to what it would have been under the lower royalty rate. Specifically, MMS estimated a decline of bonus and rental revenues amounting to \$820 million over 20 years and a decline in production of 5 percent, or 110 million barrels of oil equivalent, over 20 years compared to what production would have been at the lower rate. Nonetheless, MMS estimates that by 2017, the net increase in total revenue will still be substantial.

In addition to revenue considerations, there are a number of other considerations that could be considered when establishing a royalty rate or the overall government take. These include environmental issues and socioeconomic effects. Royalties or other fees or taxes may reduce the amount of investment in oil and gas development and production and, therefore, to the extent that higher royalty rates reduce oil and gas development and production in the United States, could be used as a policy tool to reduce the domestic environmental impacts of oil and gas development. Regarding socioeconomic effects of oil and gas development and production, a 2006 study done under contract for MMS noted that as the oil and gas industry expands output in the Gulf of Mexico, employment levels in all Gulf Coast states—including Alabama, Louisiana, Mississippi, and Texas—tend to rise to meet industry needs.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the date of this report. At that time, we will send copies to appropriate congressional committees, the Secretary of the

Interior, the Director of MMS, the Director of the Office of Management and Budget, and other interested parties. We will also make copies available to others upon request. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staff have any questions or comments about this report, please contact me at (202) 512-3841 or gaffiganm@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made contributions to this report include Frank Rusco, Assistant Director; Robert Baney; Dan Novillo; Dawn Shorey; Barbara Timmerman; and Maria Vargas.

MARK E. GAFFIGAN,
*Acting Director, Natural Resources
and Environment.*

Mr. WYDEN. Mr. President, this General Accounting Office report makes it very clear that relative to all the other countries in the world, our taxpayers are not getting a fair shake. So this is ultimately about cutting back on subsidies the President says are not needed in order to create markets and to prevent the taxpayers of this country from being fleeced.

I thank my colleague. I know Senator SCHUMER has been patient.

Mr. KYL. Mr. President, I ask unanimous consent that Senator MCCONNELL be added as a cosponsor to my amendment.

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

Mr. SCHUMER. Parliamentary inquiry, Mr. President: Do I have 5 minutes?

The PRESIDING OFFICER. The Senator has 6 minutes.

Mr. SCHUMER. It is my lucky day, Mr. President.

I rise to speak against the amendment offered by my good friend from Arizona which will restore many of the tax breaks for big oil we voted to eliminate in the Finance Committee just yesterday.

After a wave of mergers in the industry over the past two decades, we now have an elite group of five very large integrated oil companies dominating our domestic petroleum market. These companies are price leadership. They all seem to set the same price. They don't get in a room and do it. One leads and the others follow. They wink at each other. It shouldn't be legal, but it is.

They have the power to block alternative fuels, such as E85, at their branded stations and, as we all know, they have the political power to secure billions of dollars in tax breaks they don't need and we can ill-afford.

It is time to get serious about our energy policy and stop giving away taxpayers' dollars that just end up in the pockets of big oil rather than going to renewable energy alternatives or curbing the cost of gasoline at the pump.

On the surface, it seems that big oil is pumping cash rather than pumping petrol. They don't try to find much new oil, and ExxonMobile alone bought back \$29 billion of its stock in the last year. The bottom line is, if they have

all this extra money to buy back their stock, why are we giving them tax breaks?

When the head of ExxonMobile, one of the big oil companies, came to us in the Judiciary Committee, he said he didn't believe in alternative fuels. I wouldn't either if I were the head of one of the five big oil companies that had an oligopolistic stranglehold on the market. I wouldn't want an alternative. So they are not going to do what most other businesses, where there was a semblance of competition, would do: find a new product because they know their old product is getting expensive and may run out someday.

So that is our job. We are taking back these taxes. We are not just putting them into the Treasury. It is not taxing for taxing sake. We are putting them into tax breaks for alternative fuels. Since the oil companies would not look at alternatives, we are going to take the money that we have given them in taxes, and never should have, and give it to other companies that will invest in alternative fuels.

This is a mature industry by any standard and no longer does it need tax breaks. I have actually introduced a bill to repeal every special tax break received by the major oil and gas companies.

The policy of giving them breaks has failed. Despite ever-increasing petroleum products and general Federal tax giveaways, the oil companies don't believe they need to compete. The oil companies believe they don't need to compete to create new domestic gasoline supply. We haven't had a new refinery built in 30 years. When they have merged, they have closed refineries. So it hasn't worked.

While ExxonMobile doled out \$29 billion, or 60 percent of its cashflow, on stock buyback alone, their overall production has barely budged since the 1999 merger. Exxon never should have been allowed to merge with Mobile. On the Joint Economic Committee, we are looking it over, seeing if we can look into undoing some of those unfortunate mergers, which occurred, by the way, under both Democratic and Republican Presidents. But at the same time, we have to get moving on alternative fuels.

The Finance Committee chairman and ranking member—bipartisan—were right to scale back the tax breaks that go to this very profitable industry and instead target them to renewable energy in a way that ensures technology will succeed.

The finance amendment extends tax breaks for alternative fuels by several additional years. When we were at our issues conference in New York City, DPC, Democratic Policy Committee, we heard a brilliant presentation by an investment banker from Goldman Sachs who said we are great at developing new technologies, but we are not very good at commercializing them, implementing them. That is because the tax breaks we give go for a year, 2

years, and no business wants to invest when they are not sure these breaks will continue.

The proposal in the bill, which I was proud to cosponsor, says the tax breaks will be extended for 5 years and longer so that companies will know they do keep those tax breaks and have an incentive to invest. So it makes eminent sense. Take the money away from taxes for the oil companies which refuse to engage in finding alternatives and give them to new companies that will. It is a policy that makes sense for the good of the consumer because, in the long run, it will lower prices; for the good of our foreign policy because it will decrease our dependence on dictators and potates we don't like, such as the heads of Iran and Venezuela; and it is good for our climate because as we move to alternative fuels, less CO₂ will be put in the atmosphere.

For the first time in 6 years, this Congress is willing to stand up to the oil companies. I know many on the other side of the aisle aren't. The previous energy bills reflect what the Bush administration believes: What is good for the oil companies is good for our energy policy is good for America. They are wrong, as the price at the pump, as the increase of CO₂ in our air reveals, and as our increasing imports of oil show. We are changing that policy.

I know others on the other side of the aisle are blocking us because of obedience to big oil, but we will succeed because the American people are behind us, and our country needs no less.

Mr. OBAMA. Mr. President, I was unable to be present during the vote on the Gregg amendment due to a previously scheduled conflict. But had I been present, I would have voted against waiving the Budget Act in relation to the Gregg amendment to eliminate the 54-cents-per-gallon tariff on imported ethanol.

This amendment to lift the tariff against Brazilian ethanol would merely replace our dependence on foreign oil with a new dependence on foreign ethanol. If we are serious about addressing national and economic security, we need to develop a robust renewable fuels industry in this country. This amendment would frustrate that goal.

Mr. KERRY. Mr. President, I would like to speak to the two amendments proposed yesterday, which invest in coal particularly as a transportation fuel and which threaten to increase the dangers of climate change rather than lessening them. These two amendments offer the Senate false choice: either to reduce our dependence on foreign oil or to worsen the rise of global climate change. But the truth is, we don't have to choose between our security at home and the security of our planet.

Energy policy today is more critical than ever because it touches on not one but two of our most vital national interests: namely, energy security and climate change. We cannot afford to

sacrifice our fight against climate change at the altar of energy independence. Promoting the conversion of domestic coal to liquefied fuel will dramatically increase CO₂ emissions and that is no better than robbing Peter to pay Paul.

The truth is, we can break the stranglehold of foreign oil, we can create new jobs in energy, and we can strengthen our hand addressing global climate change and we shouldn't settle for approaches that don't help us achieve all three of these national imperatives.

Here's what scientists are telling us: On nearly a weekly basis, we see mounting scientific evidence highlighting the need to act. The most recent report from the Intergovernmental Panel on Climate Change written by more than 600 scientists, reviewed by another 600 experts, and edited by officials from 154 governments has confirmed the threat and the need for urgent action.

Because it will set back the fight against climate change, coal to liquids offers us—at best—a Pyrrhic victory in our struggle to create a sensible, sustainable energy policy. Study after study has shown that liquid fuels derived from coal produce significantly higher CO₂ emissions than traditional fuels. Transforming coal into liquid fuel involves heating it to 1,000 degrees and mixing it with water to create a gas, which is then converted into fuel usable in cars and jets. If that sounds like an energy-intensive process, it is. And energy-intensive processes generate a lot of CO₂ emissions. Every gallon of liquid fuels derived from coal produces up to 2.5 times more well-to-wheels global warming emissions than gasoline or diesel fuel from crude oil. That means that even with 85 percent capture of CO₂ during production, well-to-wheels Coal to Liquid emissions are 19–25 percent higher than conventional gasoline or diesel.

I understand that all coal-to-liquids amendments are not created equal my Democratic coal State colleagues have attempted to build environmental safeguards into their amendments. And I thank them for that. The Bunning amendment, by contrast, is full of loopholes and hollow environmental mandates that crumble under scrutiny, leaving only big subsidies for big coal. But ultimately neither should pass. This is a question of priorities, and with limited Federal dollars available, we need to support those technologies that promise the greatest oil savings and the greatest emissions reductions.

We should be turning to increased fuel economy standards, increased energy efficiency standards for commercial and residential buildings, strong renewable electricity standards, and incentives for biofuels and advanced vehicles.

Let me repeat—this is a question of priorities.

I would like to briefly address several of the arguments that are being made

by coal-to-liquids industry supporters. These arguments are intended to confuse what is a very complicated process. I will do my best to unmask their arguments and make the reality as clear as possible.

First, many proponents cite the emissions reductions associated with coprocessing coal and biomass at coal-to-liquids production facilities. However, these benefits simply come from using a promising new clean technology to mask the flaws of coal. These coprocessing facilities, when equipped with carbon capture, may indeed result in lower emissions than traditional fuels, but this has nothing to do with the coal and everything to do with the biomass. We should be having a serious conversation about biomass and how it can be best integrated into our energy supply, which is a matter of some large debate, rather than blindly buying into the coal industry's assumption that coprocessing biomass and coal is the most direct road to a clean energy future.

Second, proponents focus on tailpipe emissions and argue that diesel fuel produced from coal-to-liquids has fewer emissions than traditional gasoline.

Again, we need to make sure we are comparing apples to apples. The tremendous increase in well-to-wheels CO₂ emissions comes during the production process, not at the point of tailpipe emissions. In fact, tailpipe emissions from diesel generated from crude oil and diesel generated from coal are roughly the same. Same story with gasoline generated from crude oil and gasoline generated from coal. Comparing diesel to gasoline is just a distraction diesel engines are more efficient than gasoline engines and therefore emit less CO₂, regardless of whether you are talking about traditional fuels or coal-to-liquids.

Third, proponents talk about the environmental benefits associated with coal-to-liquids. This is frankly laughable.

I have spoken about the doubling of emissions associated with the coal-to-liquids production process. But if we are talking about the environmental impacts of coal mining, we have to look even beyond the emissions and consider the severe impacts to water quality. In Appalachia alone, mountaintop removal has destroyed more than 2,500 mountain peaks and leveled more than 1 million acres. This waste is dumped into river valleys and contaminates over 1,200 rivers and streams throughout the region. That waste, combined with acidic mine runoff, destroys habitat for fish and wildlife everywhere that coal is mined today. Before we jump-start a new industry in this country and ramp up coal production, we need to have a serious conversation about these and other impacts.

There are too many unknowns associated with coal-to-liquids technology, but here is what we do know: well-to-wheel emissions are two and a half

times those of traditional fuels, and even when carbon capture is applied which has not yet been demonstrated on a commercial scale emissions are 19-25 percent greater than traditional fuels.

The cost of these plants is exorbitant. MIT estimates that the cost of constructing a coal-to-liquids plant is four times that of a traditional refinery. The same study estimated that it would cost \$70 billion to build enough plants to replace 10 percent of American gasoline consumption.

Finally, I would like to close by saying a few words on another issue that will be coming to a vote later this afternoon. Senators CARDIN and MIKULSKI have introduced an amendment addressing the siting of liquefied natural gas terminals. This is an important amendment, and I am proud to support and cosponsor it. This is a contentious issue in Fall River, MA, where powerful interests are fighting to construct a LNG terminal far too close to a major population center. This proposal is strongly opposed by Governor Patrick and numerous State and Federal representatives. I strongly support Senators CARDIN and MIKULSKI's amendment, which would require state approval of LNG siting decisions. While LNG is an important part of our clean energy mix, it is essential that these facilities be sited in safe and appropriate locations. This amendment guarantees the state its appropriate and necessary role in approving these decisions. I urge my colleagues to support it.

Mr. KENNEDY. Mr. President, I strongly support the important legislation under consideration. Like many of the bills the Senate has taken up this year, it is the product of Democrats and Republicans working together, and I commend its authors for their hard work.

The bill before us does the things the Nation must do to become more energy self-reliant, starting with raising fuel economy standards for cars and trucks. Over 30 years ago I cosponsored Scoop Jackson's legislation which first established fuel economy standards to improve the fuel efficiency of automobiles. Unfortunately, very little progress has been made since then.

There is no silver bullet for ending our dependence on foreign oil or slowing the rate of greenhouse gas emissions, but raising CAFE standards is the single most important step we can take to make positive changes in this area. Increasing the average efficiency of passenger cars by just over 5 miles per gallon would eliminate the need for American oil imports from the Persian Gulf. The CAFE provision the Commerce Committee reported will increase fuel economy in cars from 27.5 miles a gallon to 35 miles per gallon by 2020. It is the best chance this Congress will have to raise fuel economy standards, and I hope that the Senate will preserve the Commerce Committee's strong provisions.

The bill will make more cars capable of running on biofuels. Ethanol, in particular, has incredible promise as a biofuel, and it will emit far less carbon dioxide than conventional oil. The bill will ramp up production of biofuels over the next 15 years and mandate that a growing number of new vehicles be able to run on these kinds of fuels. It also provides funding to ensure that these new biofuels can reach fuel stations across the country. This provision is particularly important to New England, which has just one E85 pump located in Chelsea, MA. Brazil has shown us the way by producing ethanol from sugarcane in amounts equivalent to 300,000 barrels of oil each day. The United States must invest in biofuels, so that we too can reduce our dependence on foreign oil.

The bill also reauthorizes the Weatherization Assistance Program, which is especially important for low-income families struggling with high energy costs throughout the Nation. In Massachusetts, energy costs are among the highest in the Nation, but this program has weatherized more than 10,000 homes in the last decade. Vulnerable families can't afford to make these expensive improvements themselves, so these wise investments by the government will help families save on energy and reduce the Nation's fossil fuel emissions.

Another critical issue is the inclusion of a strong renewable electricity standard. The RES will provide the certainty the renewable energy market needs to invest in innovative technologies. In April, Senators DURBIN, SNOWE, and REID led a bipartisan letter expressing support for mandating that major utilities generate a percentage of their electricity from renewable sources. I was one of the 50 Senators who signed the letter, and I commend Chairman BINGAMAN for his work on a renewable electricity standard.

I also commend the Finance Committee for its work to provide tax incentives for renewable energy technology, and repealing tax breaks for oil and gas companies. While most Americans are seeing less and less in their paychecks, the Big Oil companies are making money hand over fist. During the first quarter of this year, Big Oil reaped \$29.5 billion in profits. Repealing these tax breaks will save taxpayers billions of dollars in subsidies to Big Oil and allow the Nation to invest in clean energy technologies.

Last week, I joined Senator SALAZAR, Senator SMITH and several other Senators in urging the Finance Committee to extend tax incentives for fuel cell technology. Hydrogen fuel cells are an energy storage technology, like batteries, that can deliver clean and reliable power. They have a broad range of uses for vehicles, auxiliary power units, and electronic devices, and they are helping us diversify our fuel supply and find better ways to deliver clean energy. Massachusetts is among the world's major centers of this tech-

nology, with more than 60 companies involved in fuel cell and hydrogen technologies. I commend Chairman BAUCUS and the Finance Committee for allowing tax credits for this important technology.

Overall, this bill brings us closer to a cleaner and more secure energy future for our nation, and I look forward to its enactment.

Mr. President, I yield back the remaining time.

Ms. KLOBUCHAR. Mr. President, I ask to speak as in morning business.

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

EMPLOYEE FREE CHOICE ACT

Ms. KLOBUCHAR. Mr. President, I am here to speak for a few minutes in support of the Employee Free Choice Act, which the Senate will be voting on, we hope, this week. I listened to Senator SCHUMER talk about evening the playing field in the area of energy, where the oil companies have long dominated, and now it is time to give some renewable companies a chance so we can actually have an even playing field for energy, and so we can stop depending on these foreign oil companies and stop spending \$200,000 a minute on foreign oil. I am here today to talk about evening the playing field in another way, and that is with the Employee Free Choice Act.

I support this act because I believe we need to level the playing field for working people in this country, and this bill will do that by protecting the workers and by creating a fair and a smooth process for organizers.

It is getting harder and harder for working families in America to get by. Millions of workers have been left behind in this economy. With only a very small number of people doing incredibly well, millions of workers have been left behind. They are struggling to make ends meet with stagnant wages and declining benefits.

I see this in my State. I go to small towns, and about 100 people will show up in a cafe, and I think, why are all these people here? I realize that when the cost of college has gone up 100 percent in 10 years, as it has in our State, when you are a middle-class person and you can hardly make it day to day, you feel it first. When you have gas at \$3 a gallon, you feel it in your pocketbook. When health care costs go up 100 percent, as they have in our State, you feel it first when you are a middle-class person. That is what we are seeing all over this country.

Unions help all workers, not just those that are in a union. Unions helped build this country and have lifted millions of Americans out of poverty. As we go forward as a nation, unions will continue to be the friend of working men and women everywhere.

But for too many workers, forming unions at their workplace simply is not an option. Approximately 60 million workers—that is 60 million—say they