

for workers in carbon-intensive industries, and for the poor and middle class families who will find it even harder to pay their bills when carbon constraints raise energy prices. Similarly, we cannot exacerbate the competitive advantage enjoyed by manufacturers in foreign countries. We must aggressively enforce our own trade laws, and address the fact that many of our trade competitors do not regulate carbon.

I have serious reservations about the underlying bill. The President quickly issued a veto threat. For myself, I will continue to support procedural votes to keep this debate moving forward, but let me be clear—I cannot support the bill in its current form. My amendment will improve the bill, but I believe the need for major, urgent, front-loaded CCS research, development, and deployment transcends the bill before us. I intend to bring it back on other legislation moving in the future, and we should not hesitate to act on CCS as soon as possible, regardless of the outcome of this debate.

Mr. GRAHAM. Madam President, over the past 5 years there has been a sea-change in the way we talk about climate change. I was hoping that this debate would serve as an opportunity to constructively discuss the issue. Unfortunately, we are unable to offer amendments or probe into the contents of this legislation. That is a real missed opportunity and I will be forced to oppose cloture.

Make no mistake about it; the Senate needs to discuss climate change. We need an in-depth debate about climate change legislation which will have profound environmental and economic impacts. Senators must be able to offer amendments in order to improve the legislation. That last time the Senate considered legislation with as broad an environmental scope, the Clean Air Act, we spent a total of 5 weeks debating the bill and took close to 180 votes. With this legislation, we are taking less than a week and voting on zero amendments.

I applaud the work that Senators WARNER and LIEBERMAN have done on this issue. The bill certainly advances the climate issue and they deserve our appreciation. This legislation marks a truly comprehensive effort to address this issue.

Despite their best intentions, the Boxer substitute amendment that is on the floor right now has some provisions that are troubling and omits important solutions to climate change that need debate.

Of particular concern to me was the inclusion of a provision in the legislation that limited the number of credits rural electric co-ops were eligible to receive. These credits were further narrowed by a pilot program that diverted 15 percent of the remaining credits to co-ops in Virginia and Montana. Co-ops and municipal power generators must be treated equitably with investor owned utilities, IOUs. In 2005, we passed an energy bill that left out co-

ops and municipalities from seeing the benefit of a nuclear production tax credit and federal loan guarantees. We need to be sure climate legislation does not do the same.

Additionally, the legislation that we are debating has no references to nuclear power. I had planned to address this through the amendment process but unfortunately, we were unable to advance the debate on this bill. However, make no mistake, if we are to seriously address climate change, nuclear must be part of the solution. The founder of Greenpeace, Dr. Patrick Moore, said it best:

Nuclear energy is the only large-scale, cost-effective energy source that can reduce these emissions while continuing to satisfy a growing demand for power. And these days it can do so safely.

When it comes to climate change legislation, I am not a scientist and I don't pretend to be. So instead of focusing on the science of the issue, I would like to focus on what I know. And that is: we have an obligation to limit what we emit into the atmosphere.

Additionally, there is growing alarm over the national security implications of climate change. From scarcity of food to increasing energy dependence, the imperative to address this issue is growing. We need to use climate change legislation as a driver for the new technologies that will enable us to break free from dependency on foreign energy sources.

There is a lot of concern over the economic impact of climate change legislation. This is an important debate. We have to be honest; addressing this issue will have a significant cost and significant benefits associated with it. However, I do believe that we can craft legislation that can achieve our goals in a manner that benefits both our environment and our economy.

Manufacturers of components for nuclear power plants, windmills, and solar power are looking to Washington to ascertain what the market will be for their products. Climate change legislation can send the signals to the market that will foster innovation and drive technology development; especially in the area of nuclear power.

Ultimately the Senate will come together in the next few years to thoughtfully address this issue. I look forward to being a part of that debate, and a part of the solution.

• Mrs. CLINTON. Madam President, the scientific consensus is clear: strong and swift action to reduce greenhouse gas emissions is needed to prevent catastrophic effects of climate change. That is why the debate this week in the Senate about the cap-and-trade bill crafted by Senators BOXER, LIEBERMAN and WARNER is so important. This bill makes steep reductions in emissions, encourages the development and deployment of clean energy technology, provides assistance for American families, training for workers that the clean energy industry will demand. I

congratulate Chairman BOXER for moving this bill to the floor. It is a first step toward Congress enacting a cap-and-trade bill as part of a broad, comprehensive effort to combat global warming and reduce our dependence on foreign oil, including aggressive steps to improve energy efficiency and deploy renewable energy that will benefit our economy and help create millions of new jobs. I believe that we can and should make this bill even stronger, and I hope that we can do that as we continue to consider the bill. For now, we need to move forward on this important legislation. That is why I would vote for cloture on this legislation if I were able to be present in the Senate for the vote. The time is now to move forward and deal with global warming, and I urge my colleagues to vote for cloture.●

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

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

Mr. CHAMBLISS. What is the present business before the Senate?

FOOD, CONSERVATION, AND ENERGY ACT OF 2008

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 6124, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 6124) to provide for the continuation of agricultural and other programs of the Department of Agriculture through fiscal year 2012, and for other purposes.

Mr. CHAMBLISS. Madam President, I believe under the unanimous consent, Senator HARKIN and I have 10 minutes equally divided, Senator COBURN has 20 minutes, Senator DEMINT has 30 minutes; is that correct?

The PRESIDING OFFICER. I believe the Senator is correct.

Mr. CHAMBLISS. At this time I believe Senator COBURN requests the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Madam President, I appreciate the cooperation of Senator HARKIN and Senator CHAMBLISS on allowing us to have some discussion on the farm bill. The attempt was made to pass this by unanimous consent. Unanimous consent means that every Senator in the body agrees with the bill, agrees it should be passed, agrees it should not be amended, and should not be debated.

I will offer no amendments in working with Senator CHAMBLISS and Senator HARKIN. However, I think it is very important, especially in light of

the recent WTO ruling which allows Brazil to administer approximately \$5 billion in punitive penalties on American products going to Brazil because we are WTO noncompliant. I come from a farm State and I want to tell you I think this bill is not good for my farmers. As a matter of fact, I know it is not good for my farmers, especially when we think out in the distance.

Input costs have more than doubled for production agriculture in this country and the assumption—not implicitly, but nevertheless in this bill is the assumption of good prices in the future. Anybody who has been around farm community for any period of time recognizes that farm prices are erratic. My thoughts are what do we have in the farm bill when corn prices are back at \$3 a bushel, when wheat prices are back at \$2.50 or \$3 a bushel, and when soybeans are back down at \$5 a bushel with input costs doubled? What we have done is we have cut \$3.5 billion from the commodity title in this program.

The one thing that WTO says is compliant is direct payments. We have cut them by \$313 million. I don't want farmers to get anything if they don't need it, but food is important to us and I do not disagree that we will use agriculture to help us in our energy needs. But I think in the long run we have not done what we need to do for the American farmer.

More importantly, and this is not to degrade the very hard work that was done by the Agriculture Committee and the conference committee, is that we have missed an opportunity to be good stewards with Americans' money. How can that be so? One is the bill extends ethanol provisions as livestock producers and consumers are struggling to pay for higher feed costs. It takes 2 pounds of feed to gain a pound of weight in a chicken. It takes 4 pounds of feed to gain a pound in a hog. So the input costs on food have risen dramatically.

We didn't eliminate the import duty on ethanol. If we think ethanol is an important aspect of our freedom in terms of energy independence, why do we have an import duty on ethanol coming into this country? Why did we not fix the dollar blending for biofuels, biodiesel? Now large quantities are coming into this country. A small quantity of diesel is being blended to it, they are collecting \$1 from the Federal Government and shipping the biodiesel fuel to Europe where they can get more money for it. What in fact we did not eliminate is the subsidy to European biodiesel in this bill.

This is basically a food bill, it is not an agricultural bill. Madam President, 73 percent of this bill goes for food and there are absolutely no metrics on what we are doing in terms of our food programs. There is no measurement, there are no performance indicators, there are no qualifications as to are we meeting the needs? Is the money we are spending accomplishing our goal?

We have no metrics in that. There are none.

The bill steals money, much to the chagrin of the leaders in the Senate, for true agricultural programs and puts it into things that are not agricultural at all. We took \$250 million in an earmark in this bill for the Nature Conservancy to buy land in Montana for one person. We are constructing a Chinese water garden in Washington, DC, in the Arboretum, from a gift from the Chinese—but now we are going to pay for it. We are spending \$3.7 million in a noncompetitive grant for the University of the District of Columbia to upgrade agriculture and food science facilities. Granted, it is a land grant college. Why should not it have to compete? How do we know that is the best place to spend the \$3.75 million?

We are spending money, at a time we are going to come close to a \$1 trillion deficit, on historic barn preservation? We are going to preserve falling-down barns at the time we add \$3,000 per man, woman, and child in this country to their debt? We create a farm and ranch stress assistance network. After this bill they are going to need it. They are going to need it—especially if crop prices fall. The safety net is gone.

We have the highest prices historically we have ever had for asparagus and yet we put \$15 million for asparagus prices from 3 years ago in this bill.

We have \$50 million for the Sheep Industry Improvement Center that has two employees in Washington, DC. It halts a previous law that was going to privatize the center.

We also have a wonderful study to study methane release from livestock operations. I would like for us to know, in the natural physiologic condition of cattle, how we are going to eliminate flatulence? How we are going to spend money? We know it is there. We know how much is there based on how many head of cattle there is. We are going to spend money to study it.

More importantly, this bill offends one of the most cherished beliefs of farmers and ranchers, and that is property rights—a guaranteed right in this country is put at risk under this bill. In addition to the \$250 million for the Nature Conservancy to buy more land, this bill authorizes the Community Enforced and Open Space Conservation Program, which will give grants to local governments—Federal money; we don't have it but we are going to give grants—and tribes, to buy up private forest land and put it into the hands of the Government. We are not going to have an option. We are going to let the Government agency give grants and we are going to take land away from private landowners. That is what we are going to do. That is ultimately what will happen.

We added 100 million acres in Government land in the last 5 years in this country. We added 100 million acres. What was the purpose for this? The guise of protecting water supply, hunt-

ing opportunities and, in the bill itself, preventing obesity. We are going to prevent obesity by buying land.

Finally, the bill fails to rein in the USDA. It is the fifth largest corporation in the world. It has 115,000 employees—11,000 here in DC. We are still going to have a top-heavy bureaucracy and we are going to spend money on the bureaucracy instead of on the production of food, efficiency in the farm, and guaranteeing that Americans will have a safe and secure food supply.

This is not to denigrate my colleagues. Most of this they didn't agree with. They had to trade to keep a half-way commonsense bill, so I don't want Senator HARKIN or Senator CHAMBLISS to think—and I know through my conversations with them that this is stuff they had to swallow, coming out of a conference committee. This bill was never going to be easy. Yet after nearly 2 years of debate, Congress is going to pass a bill that fails to prioritize agricultural spending in any meaningful way and what I believe, and it is my opinion, that what in the future will be is life very much more difficult for the American farmer and rancher.

Mr. DEMINT. Madam President, in a few minutes the Senate will once again vote on a farm bill that expands the Federal Government's management of farm and food programs while spending over \$600 billion during the next 10 years. I do not want to diminish in any way all the hard work of my Republican and Democratic colleagues and their very capable staff, but I rise today to ask my fellow Senators to stop and think about what we are doing to our country—not go just with this bill but what we have done as a Congress and as a Federal Government over the last few decades.

The farm bill is a symptom of a bigger problem. We are often so focused on specific problems and issues and legislation that we fail to see the cumulative effect of our work over many years. We can start with what we have done to our culture and the character of our people. For several decades, this Congress and our courts have turned right and wrong upside down and encouraged all kinds of costly and destructive behavior. Our welfare programs have encouraged an epidemic of unwed births that cost our country over \$150 billion a year and is the major contributor to child abuse, crime, poverty, and school dropouts.

Our courts have ruled that pornography, abortion, and gay marriage are constitutional rights. The Federal Government has expanded casino gambling by legalizing it on Indian reservations, even in States where gambling is illegal. All these decisions and policies have proved destructive and costly to our country.

The Federal Government's attempts to manage America's institutional services and economy have been equally devastating. Over the past 10 years, while I have been in the House and the

Senate, I have seen this Congress attempt to manage many aspects of our lives and our economy.

I will start with education. The quality of American education has declined since the 1970s, when the Federal Department of Education was established. By the year 2000, when President Bush took office, our Government-run education system was clearly not preparing our children to compete in the global economy.

No Child Left Behind expanded the Federal role and Federal spending even more. But there has been little discernible progress. We see some progress in charter schools and specialty schools and other types of schools that break away from the Federal mold.

But this Congress continues to restrict the flexibility of States and the freedom of parents to choose a school that works for their children.

We should also talk about what this Congress and the Federal Government has done to our health care system. Medicare and the Government fixed-rate system control virtually all the health care in America today. A few years ago, this Congress decided to add prescription drug coverage to Medicare, even though the program was already going broke.

Now, the program is hopelessly underfunded, and we continue to cut what Medicare pays doctors and hospitals to see our senior citizens. The problem is fewer and fewer doctors want to see Medicare patients because they lose money when they treat them. So they charge their patients with private insurance more so fewer Americans can afford private insurance.

And fewer and fewer students are going into medicine because it is clear they are not going to be paid enough to make a decent living. So we now expect and predict a physician shortage crisis as millions of baby boomers are retiring. The solution for us is to make sure every American has an insurance plan they can afford and keep, not to try to manage health care from Washington.

Social Security is another example of Government mismanagement. Instead of saving the taxes we take from workers for Social Security, Congress has spent every dime, trillions of dollars. Now, in less than 10 years, Social Security taxes will not be enough to pay benefits to seniors. Congress refuses to even talk about it.

Let's not forget what the Federal Government has done to our energy situation in this country. Congressional attempts to manage America's energy industry have been disastrous. To supposedly protect the environment, the Democrats shut down the development of new nuclear powerplants back in the 1970s. So America burns a lot more coal, while other countries expanded nuclear and reduced their coal consumption.

Now, the Democrats want to add huge taxes on coal to protect the environment, while still stalling development of nuclear generation. Go figure.

Two years ago, in the name of the environment, this Congress mandated a massive increase in the use of ethanol and gasoline. Since then, the price of gasoline has nearly doubled and food prices have increased dramatically around the world.

Why do I mention all these things that do not appear to relate to the farm bill? I do it to remind my colleagues and all Americans that this Congress cannot manage any aspect of our country, and it is not intended to. Our job is to create a framework of law where freedom can prevail.

Instead, we attempt to manage where we cannot, and there is no evidence we have ever created any program that effectively or efficiently managed any aspect of the American economy or any aspect of our lives. Why do we continue to produce these massive Government programs and spend trillions of dollars with the pretense that they will actually work and make America better?

This Congress reminds me of Steve Urkel from the 1990 sitcom series "Family Matters." Steve and his clumsiness regularly created a disaster wherever he went. He would always turn around and look at the destruction he caused and ask innocently: Did I do that?

Well, colleagues, when you look at the price of gasoline, the condition of our economy and our culture, the answer is: Yes, you did do that.

America is the greatest Nation in the world. We have been blessed in ways other nations can only dream of. Yet our future is uncertain. We face deficits as far as the eye can see. We are staring down the barrel of a looming financial crisis that threatens to bankrupt our country. Yet we continue to spend money like there is no tomorrow.

If action is not taken soon, we will reach a tipping point in our two major entitlement programs, Social Security and Medicare, in which the programs will pay out more money than they take in.

Our national debt is over \$9 trillion today. And still, Washington will spend over \$25,000 per household this year. We are hopelessly addicted to spending. It is no wonder Congressional approval numbers continue on a downward spiral. Nobody trusts us anymore, and, frankly, we do not deserve the trust of the American people because we continue to blindly spend their hard-earned tax dollars while racking up hedge debts for our children and grandchildren that they will be forced to repay.

Now, here we are again, taking a brief break from the climate tax bill that would cost the American people trillions of dollars to reconsider another big-spending boondoggle. The farm bill which weighs in at over \$600 billion over the next 10 years, is chock-full of pork and excessive subsidies for favored and special interests groups.

The bill has numerous wasteful spending provisions. I will name a few:

New programs for Kentucky horse breeders, Pacific Coast salmon fishermen, and spending to help finance the dairy industry's "Got Milk?" campaign, so we should see more commercials soon.

It increases the price supports for the sugar industry and guarantees 85 percent of the domestic sugar market at these guaranteed prices. There is a \$257 million tax earmark for the Plum Creek Timber Company, which is the Nation's largest private landowner, and a multibillion dollar company with a market capitalization in excess of \$7 billion. They are better off than we are as a government.

The language requires the U.S. Forest Service to sell portions of the Green Mountain National Forest exclusively to the Bromley Ski Resort. There is \$1 million for the National Sheep and Goat Industry Improvement Center; politically targeted research earmarks for agricultural policy research centers at specific universities instead of allowing all universities and colleges to fairly compete for funding based on merit.

According to Citizens Against Government Waste, this farm bill includes \$5.2 billion annually in direct payments to individuals, many of whom are no longer farming, without any regard to prices or income, 60 percent of which go to the wealthiest 10 percent of recipients.

From where I stand, this bill looks like another big-spending Washington, DC, giveaway to special interests. Do we not understand the mess we are in?

Total Government spending has now reached more than one-third of America's economy. U.S. tax rates keep getting more burdensome. Our top corporate tax rate and income tax rate is 35 percent, while Europeans are undercutting American companies by lowering their rates significantly.

Recently, a front-page article in USA Today found that American taxpayers are on the hook for a record \$57.3 trillion in Federal liabilities to cover the lifetime benefits of everyone eligible for Medicare, Social Security, and other Government programs.

USA Today's analysis went on to point out that this is nearly \$500,000, \$½ million, for every American household. When obligations of State and local governments are added, the total rises to \$61.7 trillion, or \$531,000 per household. That is more than four times what Americans owe in personal debt such as mortgages.

While we are spending and taxing our way to reelection, many of our global competitors are lowering their tax rates and streamlining their economies. Countries such as Ireland are lowering their tax rates and encouraging economic growth within their borders.

As a result, they are growing their economies and creating jobs. And we wonder why we are falling behind? We are falling behind because of political mismanagement. This is what happens

when politicians think more about their next election than they do about the next generation. When this happens, it becomes all about us and not about the American people.

This big-spending farm bill is a perfect example of this kind of political mismanagement. The leadership of this Congress was in such a hurry to pass a big-spending giveaway to special interests that they actually violated the Constitution to do it. Even a schoolchild knows the Constitution requires the House and the Senate to pass the same bill and then present it to the President for his signature.

But, apparently, the Constitution is not as important to some as passing a \$600 billion spending bill. The farm bill that was presented to the President for his signature or veto was not the bill passed by the House of Representatives and the Senate.

The bill Congress voted on differed materially from the version that was presented to the President. It contained a whole additional title, spanning 35 pages, dealing with international aid shipments and foreign trade. Quite simply, what the President vetoed and what the House and the Senate held a veto override vote on was not the bill Congress passed. It, therefore, failed the requirements of the Constitution and could not be treated as law. That is why we have this new bill on the floor today.

Regardless of the reasons for this constitutional, I will not say crisis, but mess, the fact is an officer of the House and an officer of the Senate usurped the will of the two bodies and materially changed the content of legislation.

Even worse, by holding a veto override, Congress attempted to make a bill it never passed the law of the land. This is why I voted "present" on the farm bill. Once we were aware of the mistake, we should have stopped and passed a temporary extension. This abuse of power or sloppiness may only be the consequence of incompetence, but if we do not draw the line in the sand and demand that our bills meet constitutional requirements, what will stop even greater, and possibly even more malicious, abuses of power?

The Senate needs to reject this bill, pass a year-long extension of the farm bill, and go back to the drawing board so the policy and the process are something we can be proud of and that will truly strengthen our Nation.

We must come to grips with the fact that our actions are hurting the American people. We cannot continue to spend and spend and expect our economy to remain strong and free. Already our spending is catching up to us. I hope we will think long and hard about our actions. What we are doing will hurt future generations.

I urge my colleagues to vote against the bill. I ask unanimous consent to have printed in the RECORD some information regarding enrollment and the problems we have been having with getting our bills sent to the President in the correct order.

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

To: House Republican Members.

Fr: Roy Blunt.

Dt: May 22, 2008.

Re: The Democrat Majority's Farm Bill Foul Up.

We all know that mistakes happen, but it is how you respond to a mistake once you are aware of it that matters. The attached memo outlines some of the most disturbing aspects of how the Democrat Leadership is handling the enrollment errors surrounding the Farm Bill.

What Did They Know, When Did They Know It, and What Did They Do About It?:

It appears the Democrat Leadership was informed by the Office of the Law Revision Counsel and the Committee on Agriculture that the bill sent to and vetoed by the President was erroneous PRIOR to consideration of the veto override.

Despite this knowledge and despite requests from staff from the Republican Leader's office, the Democrat Leadership proceeded with the veto override of a bill they knew was not the bill passed by both Houses of Congress.

Importantly, there were opportunities to correct the enrollment error consistent with past practice and in a constitutionally sound manner if the Democrat Leadership had not rushed ahead with the veto override. Once they moved forward, however, they foreclosed those opportunities.

When confronted on the House Floor by the Republican Leader, Whip, and Rules Ranking Member, the Majority Leader defended the Leadership's actions and professed a constitutional theory that so long as both the House and Senate had passed the same language, it didn't matter whether or not the Speaker sent the whole bill passed by the House and Senate or simply parts of it to the President.

The Dangers of the Democrats' New Theory:

Under the theory espoused by the Majority Leader, the Speaker of the House can simply pick and choose (either overtly or as a result of a mistake made by an enrolling clerk) which parts of final bills to send to the President. If she is uncomfortable with a provision that was included as part of a compromise, she could in theory exclude it from the bill when she sends it to the President.

Importantly, the Speaker's decision to omit language if challenged by Members of the House through a question of privilege, can simply be tabled by the majority.

Who Pressured the Enrolling Clerk to Quickly Complete the Enrollment:

In a memo prepared by the House Clerk on May 21, 2008, the Clerk asserts that part of the mistake was a result of a ten-year-old flawed enrolling process, yet she goes on to state that "During a review of this process, Enrolling Division staff expressed a concern in receiving direct calls from Leadership and the Committee to accelerate the enrolling process." Who pressured the enrolling staff?

To: Hon. Nancy Pelosi, Speaker;

Hon. John Boehner, Republican Leader;

Hon. Steny Hoyer, Majority Leader.

Form: Lorraine C. Miller, Clerk.

Re: Farm Bill Omission.

Date: May 21, 2008.

Today's issue with H.R. 2419, Food Conservation and Energy Act of 2008, was the result of a ten year old flawed enrolling process. The process did not validate the parchment copy of the bill against the Committee Conference Report.

Normally when a bill is received by the Enrolling Division in multiple sections from a

Committee, it is assembled, printed on regular white paper and proofed against the original Committee Conference Report. Once the bill has been reviewed it goes through an electronic conversion process and is printed on parchment paper but not compared to the Committee Conference Report again. We believe that Title III was dropped during the conversion process.

The current process of proofing the white paper copy was adopted ten years ago as a cost saving measure due to the high cost of parchment paper. That process has been rescinded effective immediately. We are instituting a new process whereby we will proof-read the parchment copy of the bill against the Committee Conference Report instead of the white paper copy. This procedure will eliminate potential issues with the document conversion process. We have begun a review of the electronic conversion process to insure that problems are identified early.

During a review of this process, Enrolling Division staff expressed a concern in receiving direct calls from Leadership and the Committee to accelerate the enrolling process. In order to effectively move the enrolling process of bills, we strongly urge that all communication is funneled through the Speaker's Office, thus allowing the Enrolling Division to have an orderly process.

We are working diligently to make sure it will not happen again.

[From Roll Call, June 5, 2008]

FARM BILL GLITCH STALLS HOUSE

(By Steven T. Dennis)

Two days before the Memorial Day recess, the House devolved into chaos Wednesday night over a technical error in the way the farm bill was sent to President Bush, who vetoed it on Wednesday morning.

According to House Majority Leader Steny Hoyer (D-Md.), the enrolling clerk inadvertently omitted the entire Title III section of the bill after the House and Senate had both passed it, but before it was sent to the president.

The mistake was not noticed by lawmakers or President Bush until after he had vetoed it. The House proceeded to override Bush's veto, 316-108, late on Wednesday.

But House GOP leaders quickly objected, raising constitutional issues and harkening back to Democratic protests over a \$2 billion enrolling error in the Deficit Reduction Act signed by Bush in 2006. That action resulted in a slew of lawsuits.

House Agriculture Chairman Collin Peterson (D-Minn.) said he hoped his bill would avoid that fate.

"There better not be any damn lawsuits. I'm tired of it," he said of the bill.

But Republicans were not so sanguine, with House Minority Leader John Boehner (Ohio) saying he might even make a motion to vacate the override vote.

"What's happened here raises serious constitutional questions," Boehner said. "I don't know how we can proceed with the override as it occurred."

"Nor do I think we should proceed with some attempt to fix it until such time as we understand what happened, what are the precedents of the House and how do we move forward," Boehner said.

Hoyer suggested that leadership from both sides of the aisle meet to hammer out a compromise with the current farm bill expiring on Thursday and a one-week recess set to start Friday night.

Noting that Title III was not controversial, Hoyer suggested that the House take it up under suspension of the rules on Thursday and then send it on to the president. He did not see any constitutional issues at first glance, the Democrat noted, because both

the House and Senate passed an identical farm measure.

But House Minority Whip Roy Blunt (R-Miss.) contended that a president could not selectively veto portions of a bill, and said such a move raised all kinds of constitutional questions.

"The concept that we can start sending bills over piecemeal . . . is a flawed concept," Blunt said.

Blunt later told reporters that the House and Senate should redo the farm bill in its entirety to avoid legal problems.

"I'd like to see a farm bill pass that no judge can say is not the farm bill," Blunt said.

Boehner conceded that mistakes happen, but said that the House should not have moved forward with an override vote once the mistake became clear.

"In deference to all Members, we could have waited before consideration of the override so all Members could understand what they're dealing with," Boehner said.

Peterson learned of the glitch late Wednesday, after President Bush vetoed the bill.

"For some reason, the machine didn't print it out and nobody noticed it," Peterson said. Peterson said he was told the president's staff noticed the error after he vetoed it.

Title III of the farm bill, dealing with trade and foreign aid provisions, was omitted as a result.

Peterson said that they had asked the Parliamentarians if they could simply re-enroll the bill and send it to the president, but the Parliamentarians objected.

"After all I've been through, I thought, 'What can happen today?'" Peterson said.

Peterson predicted that the provision on its own would still have enough support to override a veto, although he held out hope that Bush might sign it.

Mr. DEMINT. Mr. President, the Constitution requires Congress to observe certain processes to make statutory law. Contrary to the apparent assumption of some in this body, Congress does not possess the power to intentionally ignore requirements provided in the Constitution's text. Article I, Section 7, prescribes a bicameral requirement to present a bill to the President. H.R. 2419, as enrolled, did not pass both chambers of Congress.

The House and Senate passed Farm Bill included Title III. A clerical error omitted the entirety of Title III in the enrolled bill presented to the President. The bill sent to the President, no matter the significance of the error, did not receive the consent of both chambers of Congress, and therefore fails to fulfill the necessary predicate to presentment contained in the Presentment Clauses of Article I. In fact, the measure sent to the President does not qualify as a "bill" at all under Article I, Section 7. I implore the President to disregard H.R. 2419 as an unconstitutional measure, without the status of law.

Despite the dubious status of the Farm Bill, the Majority Leader assured the Senate that:

We have a good legal precedent going back to a case . . . in 1892, when something like this happened before. It is totally constitutional to do what we are planning to do. So no one should be concerned about that.

The Majority Leader alluded to *Marshall Field & Co. v. Clark*, in which the

Supreme Court announced the "enrolled bill rule," to assuage any constitutional consternation held by Senators. However the Senator from Nevada mischaracterizes the Supreme Court's ruling in *Marshall Field*, as the decision relates only to the:

. . . nature of evidence upon which a court may act when the issue is made as to whether a bill, originating in the house of representatives or the senate, and asserted to have become a law, was or was not passed by congress.

The *Marshall Field* Court did not adjudicate the constitutionality of an improperly enrolled bill, but rather only reached the question of justiciability. The Court did not find the issue of constitutionality justiciable. *Marshall Field* merely expressed the Supreme Court's deference to a "coequal and independent" department's internal authentication processes. A bill signed by the Speaker of the House and the President of the Senate, "in open session . . . is an official attestation by the two houses" that a bill received the consent of both chambers for the purpose of justiciability.

Marshall Field received renewed attention in recent years as courts grappled with circumstances similar to those presented by the Farm Bill. The Deficit Reduction Act of 2005 generated litigation that challenged the Act's constitutionality because "it did not pass the House in the form in which it was passed by the Senate, signed by the President, and enrolled as a Public Law." The litigation did not provide any ruling on the merits; the "enrolled bill rule" promulgated in *Marshall Field* precluded the district courts from any examination of "congressional documents . . . to ascertain whether the language in the enrolled bill comport[ed] with versions that appear in legislative sources which precede[d] enrollment." The "claim of unconstitutionality for a violation of Article I, Section 7, 'is not legally cognizable where an enrolled bill has been signed by the presiding officers of the House and Senate as well as the President.'"

The judiciary's reluctance to entertain the merits of claims under Article I, Section 7 does not bar members of the House and Senate from consideration thereof. President Jackson explicated the authority of each branch to interpret the Constitution independently:

The Congress, the Executive, and the Court must each for itself be guided by its own opinion of the Constitution . . . It is as much the duty of the House of Representatives, of the Senate, and of the President to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval as it is of the supreme judges when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges, and on that point the President is independent of both.

Upon election and in cases of subsequent reelection, every Member of Con-

gress swears allegiance to the Constitution of the United States in an Oath. Members "solemnly swear . . . [to] support and defend the Constitution . . . [to] bear true faith and allegiance to the same . . . and . . . [to] well and faithfully discharge the duties of the office" to which elected. The Oath of Office imposes an obligation on Members of Congress to interpret the Constitution and act within its framework.

The Presentment Clauses of the Constitution require the assent of both chambers for each bill presented to the President. Article I, Section 7, Clause 2 provides:

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated . . .

Article I, Section 7, Clause 3 elaborates:

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States . . .

The two clauses stipulate "the exclusive method for passing federal statutes." Bills enrolled and presented to the President must have received the assent of both the House and Senate, irrespective of authentication by the Speaker of the House and the President of the Senate.

So we've had bicameralism without presentment for the engrossed bill. And we've had presentment without bicameralism for the enrolled bill. Neither is sufficient. Contrary to the position of the Speaker of the House and the Senate Majority Leader, authentication of an invalid bill does not displace the bill's nugatory status; the signatures of the Speaker of the House and President of the Senate do not represent the will of the House and Senate and fall short of the bicameral requirement in the Presentment Clause. Congress may not jettison or suspend disagreeable parts of the Constitution. The Bill, as presented to the President, did not receive the consent of both chambers. As such, the bill is null and void, for it does not meet the requirements set forth in the Constitution. Shall this Congress crucify the Constitution on the cross of agribusiness?

Mr. DURBIN. Mr. President, for consideration of this version of the farm bill, I reference and reiterate the statements I made for the RECORD regarding the farm bill's nutrition assistance title when the Senate overrode the President's veto.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Madam President, I am sorry we have to be back on the floor again with the farm bill. I was hoping we might have a voice vote, since we have all voted on this twice before; I am sure no votes would change.

But I did wish to at least explain for the RECORD and for Senators why we are here. Now, the Senator from South Carolina talked about the missing title, and how it rendered the veto override process unconstitutional.

Well, I am as upset about it as anyone else. I know Senator CHAMBLISS is too. We are all upset about this. But let me try to put it in perspective as to what happened. The House passed a bill, we passed a bill. We got to conference. We worked it all out.

It went to the enrolling clerk in the House. How this happened I don't know. But somehow the enrolling clerk, in enrolling it, dropped title III. There are 15 titles to this bill. One title was left out. For some reason no one caught it. So the bill was held by the enrolling clerk for 3 or 4 days. The President was overseas. He came back on Monday night, on May 19th I believe, and the enrolling clerk then sent the bill down to the White House the next day. The White House didn't catch it either. The President vetoed the bill, sent it back down to the Hill. It was only then, before it came up for a veto override in the House, that it was realized that one title was missing. I don't believe there was any maliciousness to this. Nothing was materially changed. When the Senator from South Carolina spoke about this problem, it sounded as if there was some underhanded effort to materially change the bill. That was not the case. It was simply a mistake the enrolling clerk made. Again, why that happened and how, there has been a lot of talk about that. I don't know. I am fairly convinced that it was an inadvertent clerical error.

Secondly, I want to correct one other misstatement by the Senator from South Carolina. When we overrode the President's veto on 14 of the 15 titles, the Parliamentarian basically told us that those titles did become law. They are the law of the land. So 14 of the 15 titles are law. What is not law is title III that was left out. It was decided that rather than only taking up title III and passing it, we would take the whole bill back, include title III in it, as it was before, and send it back to the President. That is what we have before us. We have before us basically exactly what we voted on before, no changes. It is exactly what we voted on before in the conference report on May 15. I wanted to make that clear, that nothing has been changed. It is the same exact bill on which we had 81 votes in the Senate; 81 Members voted for the conference report that is exactly what we have before us today.

I wanted to take a couple minutes to underscore the critical importance of doing this and enacting the missing title. The other titles are law. It is critical that we enact title III which covers trade and international food aid programs. These provisions not only reauthorize but they reform a lot of our programs. As we speak, an emergency summit on the consequences of high food prices organized by the Food

and Agricultural Organization of the United Nations is wrapping up in Rome. The specific food aid programs authorized in this title are the title II Food for Peace program; the Food for Progress program; the McGovern-Dole Food for Education Program; and the holding of food stocks for emergency purposes under the Bill Emerson Humanitarian Trust.

Although authority for most of these programs expired on May 23, a short-term lapse, as I have talked with the U.S. Agency for International Development, does not cause serious problems. A longer lapse, however, would impede our ability to provide food aid. The new trade title needs to be enacted for these programs to be operational again. Right now, according to the USAID administrator, we cannot enter into any new agreements for assistance under the title II program. USAID has identified need for emergency assistance in Ethiopia and Somalia, and recently finalized a deal with North Korea for proper oversight of food aid provided to that country. None of these activities can move forward until we enact the trade title into law. USAID wants to provide additional food aid under title II to the people of Burma in the aftermath of the cyclone, but they can't do that until we enact this title. Were an event, God forbid, of the magnitude of the 2004 East Asian tsunami to occur or an earthquake or some other natural disaster, the United States Government would not be able to respond immediately with food aid unless we pass this title. That is why it is so important that we do this.

I might also add that the Government Accountability Office had given us numerous recommendations for reforming our food aid programs. I won't go through all of those, but there were three basic recommendations needing statutory changes. All three of those are addressed in the trade title. All in all, the provisions of this title are non-controversial and needed to ensure the continuity of U.S. food aid and trade promotion programs.

I hope we can complete this debate and get this title enacted into law as soon as possible.

I thank so much my colleague and friend from Georgia, Senator CHAMBLISS, for all his hard work on this bill. It has been a long grind, but we have a good bill. We have a farm bill that is supported by every major farm organization in the country, a bill that is supported by emergency food groups, the food banks, the religious groups. This was a broadly supported bill. It is a good bill. It is good for our States. It is good for our farmers and ranchers. It is good for the people of America. I thank Senator CHAMBLISS for all his hard work in bringing this bill to fruition.

To all Senators, I apologize that we have to be back here again. As I said, this was a mistake made by the clerk in the House, not by the Senate. Therefore, we have to be here again.

I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Georgia.

Mr. CHAMBLISS. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. CHAMBLISS. I yield 1 minute to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank Senator CHAMBLISS for this minute. I thank the chairman of the committee as well for his leadership in bringing this bill back because of the unfortunate clerical error made in the House that necessitates it. I wanted to report briefly to our colleagues on the budget circumstances, because we have seen misreporting in the press, and it needs to be made abundantly clear the budget circumstance we face.

The conference report on the Food, Conservation, and Energy Act that was overwhelmingly supported on a bipartisan basis in both the House and Senate is fully paid for over both the 5- and 10-year periods. That is not my determination; that is the determination of the Congressional Budget Office. They say over the first 5 years, it saves \$67 million; over 10 years, it saves \$110 million. The farm bill is fully pay-go compliant. It is fully paid for. It does not add a dime to the debt. The bill is identical to the conference report already passed and scored by CBO. The spending contained in the original bill has already been assumed. Therefore, this legislation has no additional cost.

I urge my colleagues to support this legislation. We have passed it overwhelmingly before. I wanted to make certain that this is in the RECORD so it is understood that this bill is fully paid for. It adds nothing to the debt.

Again, I thank our colleagues: the chairman of the committee, for his vision and leadership; and to our very able ranking member, the Senator from Georgia, who has been such a rock as we have gone through this process. We appreciate so much what they have done. This is good for the country.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, here we are, as Senator HARKIN said, back again for one more vote on the farm bill. As I told my colleagues at lunch today, I wish I thought this would be the last one. We may have one more, if the President vetoes this bill. We may be back here again. But what a great opportunity it has been to work with Chairman HARKIN and Senator CONRAD, who is my dear friend. We became much closer friends during this process because we spent a lot more time together than we did with our spouses as we got through final negotiation. What great assets they have been for American agriculture.

I appreciate my colleague from South Carolina and my colleague from

Oklahoma. I told them to come down and talk about anything they wanted to. They talked about the same things we have talked about over the last three debates on this bill. Is this a perfect bill? It absolutely is not. Farm bills are always massive pieces of legislation. It is a 5-year bill. It spends \$600 billion over 10 years. I had my staff check, though, and while I appreciate the comments of the Senator from South Carolina, the 2002 farm bill spent \$800 billion over 10 years. So we are \$200 billion below the 2002 farm bill on a 10-year basis.

Again, it is not perfect. But what it does do is provide a school lunch program to needy kids as well as kids who can afford to pay. We are providing food stamps to people in this country who would go hungry otherwise. We are providing a food bank supplement to our food banks around the country that provide such great, valuable services to hungry people in America. We are providing the right kind of tax incentives in the form of reforming the Endangered Species Act in a positive way. We have been trying to reform the Endangered Species Act in all of my 14 years in Congress. This is the first time we have been able to do it. We did it with 250 organizations supporting it. We have good tax provisions that allow the perpetuation of land so it can't be developed forever. My children and my grandchildren will have the ability to enjoy farmland in my part of Georgia that they might otherwise not have the opportunity to enjoy.

So is it a perfect bill? No. Do we provide a safety net for farmers? You bet we do. Prices are not always going to be high. We depend today on foreign imports of oil for 62 percent of our needs. We can never, ever afford to depend on importing food into this country in the same percentage that we import oil today.

While it is not a perfect bill, while there are things that, if I had to write it by myself, I might not have written it this way, overall it is a very good piece of legislation. It covers a broad swath of America, from farming to hunger to conservation to measures involving good tax policy.

With that, I ask for passage of this bill. On behalf of Senator DEMINT, who is not here—and I know a lot of my folks would like to have a voice vote, but because I know Senator DEMINT wants the yeas and nays, unfortunately, I will have to ask for the yeas and nays on behalf of Senator DEMINT and ask for a recorded vote.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. INHOFE. Mr. President, first of all, let me just speak as a conservative as we address the farm bill. First of all, I have been ranked as the most conservative Member, so I don't think I should have to prove my credentials.

Here is one of the things that people should understand: They should under-

stand that the vote today on the farm bill was not a vote on this farm bill or another farm bill; it was a vote on this farm bill or reauthorizing the 2002 farm bill.

A couple of things that are in here that people should know in a conservative way are, No. 1, under the previous farm bill that would have been reauthorized, a farmer could be making up to \$2.5 million and still get subsidies. This takes it down to a half million.

Secondly, the three-entity rule is out in this farm bill. Previously, someone could be claiming these benefits under three different farms; now they can't do that. So there are many reasons to vote for this bill other than those things that people have been talking about during the debate. I believe that is a conservative vote.

I yield the floor.

The PRESIDING OFFICER. The question is on the third reading and passage of the bill.

The bill (H.R. 6124) was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays are ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Illinois (Mr. OBAMA), and the Senator from Virginia (Mr. WEBB) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) would vote "yea."

Mr. KYL. The following Senators are necessarily absent: the Senator from New Hampshire (Mr. GREGG) 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 77, nays 15, as follows:

[Rollcall Vote No. 144 Leg.]
YEAS—77

Akaka	Crapo	Lincoln
Alexander	Dodd	Martinez
Allard	Dole	McCaskill
Barrasso	Dorgan	McConnell
Baucus	Durbin	Menendez
Bayh	Enzi	Mikulski
Bingaman	Feingold	Murray
Bond	Feinstein	Nelson (FL)
Boxer	Graham	Nelson (NE)
Brown	Grassley	Pryor
Brownback	Harkin	Reid
Bunning	Hutchison	Roberts
Burr	Inhofe	Rockefeller
Cantwell	Inouye	Salazar
Cardin	Isakson	Sanders
Carper	Johnson	Schumer
Casey	Kerry	Sessions
Chambliss	Klobuchar	Shelby
Cochran	Kohl	Smith
Coleman	Landrieu	Snowe
Conrad	Lautenberg	Specter
Corker	Leahy	Stabenow
Cornyn	Levin	Stevens
Craig	Lieberman	

Tester	Vitter	Wicker
Thune	Warner	Wyden

NAYS—15

Bennett	Ensign	Murkowski
Coburn	Hagel	Reed
Collins	Hatch	Sununu
DeMint	Kyl	Voinovich
Domenici	Lugar	Whitehouse

NOT VOTING—8

Biden	Gregg	Obama
Byrd	Kennedy	Webb
Clinton	McCain	

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

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

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. REID. Mr. President, it appears at this time, for the knowledge of all Senators, we are going to try to have a vote as early in the morning as possible on cloture on the global warming bill. Unless someone has some real concerns, we will probably try to do it around 9 o'clock in the morning so people can leave at a relatively early time tomorrow. That should be the only vote we are going to have. We were going to try to do a judge, but the committee's meeting was objected to today, so I didn't believe that was appropriate.

So we are going to do the vote in the morning, and we will have a couple of votes Tuesday morning. Monday is a no-vote day. Hopefully, tomorrow we won't be in too late, but we will be here as late as anyone wants to be here to talk about anything they want.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

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

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

CLIMATE SECURITY ACT

Ms. MURKOWSKI. Mr. President, I stand this evening to speak about the Boxer substitute to the Warner-Lieberman carbon cap-and-trade bill. I have had an opportunity for several days now to hear discussion from both sides. I think coming from a State such as Alaska where we can see the effects of climate change on the ground in my home State, it is a very important issue for me, and so I feel compelled to share with my colleagues some of my thoughts about what we are seeing up north.

We appreciate that there is not quite a consensus in Alaska about what is causing the change we are seeing. Most Alaskans, however, do seem to agree that something is happening. We are seeing a change in the north, and we have been seeing it for a period of decades. The results are having a significant impact on the lifestyle of Alaskans.