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Floor Statement of Sen. Chuck Grassley
Cloture Votes on Energy Act, House Tax Extenders Bill
Delivered Tuesday, June 10, 2008

Earlier today I voted to invoke cloture on the motion to proceed to S.3044 the so-called “Consumer-First Energy Act,” also known as the “Anti-Price Gouging” bill. The legislation includes provisions that I’ve long supported, including the No Oil Producing and Exporting Cartels legislation. I am an original cosponsor of the NOPEC Act. This bill would authorize the Department of Justice and the Federal Trade Commission to bring lawsuits against oil cartel members for antitrust violations.

As our gas prices continue to rise, it’s time to say “enough is enough” to OPEC’s anti-competitive activities. It’s past time to let OPEC know that we’re committed to stopping any illegal pricing. This legislation also includes provisions aimed at reducing speculation in oil markets. I can’t say for certain whether the provisions included in this bill will have the desired effect. I can say, however, that something needs to be done to address what seems to be out of control speculation in crude oil markets. I’m pleased that the Commodity Futures Trading Commission has finally taken steps in recent days and weeks to increase their access to data and information that will hopefully allow them the proper oversight and transparency of energy markets.

I asked Acting Chairman Lukken and Commissioner Chiltren very pointed questions during a recent confirmation hearing in the Agriculture Committee on the CFTC’s oversight responsibilities. In addition, I sent the CFTC a letter today seeking more information about the CFTC’s actions to reign in speculation by investment banks and traders on foreign exchanges.

I voted to proceed to the bill because I think we need to have a debate on the critical issue of energy prices. However, that doesn’t mean I support everything included in S. 3044. The bill included a windfall profits tax on oil companies. I saw firsthand the result of a windfall profits tax the last time it was enacted. It didn’t do anything to produce more energy. If you tax something, you get less of it. Why would those on the other side believe that if you tax energy production, you’d get more energy produced? It’s counterintuitive.

Yet, this bill doesn’t include a single provision to increase the production or supply of traditional energy resources. Why aren’t we considering policies to develop the resources that God gave us here at home? We’ve got a huge supply of oil and gas on Alaska’s North Slope. We could be opening areas of the Outer Continental Shelf to exploration. We could be looking at federal lands onshore

for energy production. These are things we could do today that would increase supply and drive down prices. Yet, they've been blocked time after time by the other side. My constituents need to know why they're paying \$4 at the gas pump, yet we here in Washington have done little to increase our own supply. The U.S. is dependent on oil cartels and foreign countries like Iran and Venezuela, yet we've done nothing to help ourselves.

Oil is trading today at over \$135 a barrel, yet there is an overwhelming aversion to environmentally sound resource development at home. We ought to be developing our domestic resources. There is no rational reason not to -- and at \$4 a gallon gas, consumers ought to be outraged that we're not exploring for domestic resources.

Another component of this bill that I find overwhelmingly alarming is the Democratic Leadership's continued attempts to use permanent tax provisions to fund their out of control spending. No matter how they attempt to disguise the cause or motivation -- let's call it what it is -- tax and spend. And in this case, they do not even try to disguise the spending.

This bill takes billions of permanent tax provisions and dumps them into a special piggy bank designed to let Appropriators dole out special interests checks for their favorite spending projects. Now, I know the rhetoric you have heard today is to make "Big Oil" pay to lower the price of gasoline. But I can promise you that there is absolutely nothing in this bill that accomplishes that charge. This bill was flawed and would have to be amended. Any permanent tax provisions on the backs of the energy industry should immediately go back into tax benefits that expand conservation and clean energy tax provisions currently in the Internal Revenue Code.

We cannot put the cart before the horse. It's irresponsible to change taxes for future undisclosed spending. It's even more irresponsible to do this before we make certain the current tax benefits available for wind, solar, alternative fuels, or much-needed conservation in buildings and homes. It was wrong for the Democratic leadership to dump permanent tax provisions into a slush fund for future appropriations. But those types of wrongs cannot be fixed if we never proceed to the bill.

I turn now to the tax extenders bill. I voted today, along with 43 other Senators, against invoking cloture on the motion to proceed to H.R. 6049, the House extenders bill. Earlier today, the Democratic Leadership released a description of a substitute extenders bill that included numerous provisions that were not extenders. As you know, I joined Senator McConnell in filing an extenders bill last Friday that is not offset. Here are some of the reasons I oppose the Senate Democratic Leadership bill and support the Senate Republican Leadership bill:

The Senate Democratic Leadership bill contains numerous provisions that do not either extend or make permanent expiring tax provisions. On the other hand, the Republican bill really is an extenders bill, with all of the provisions in the Senate bill extending or making permanent expiring tax provisions.

Included in the Senate Democratic Leadership bill is a proposal to give \$1.2 billion in tax credits to New York City even though New York City does not pay federal tax. This proposal is widely reported to fund the building of a train from Manhattan to John F. Kennedy Airport, through the use

of New York Liberty Zone tax credits. According to the Joint Committee on Taxation, Congress has never before provided a limited tax benefit such as this to a governmental unit before.

The bill provides a new \$1.6 billion tax benefit just for trial lawyers. It allows trial lawyers to deduct their up-front expenses in contingency fee cases, even though they expect to recover them when they win or settle the case. And these trial lawyers do expect to win or settle their case. Otherwise, they wouldn't take the case on a contingency fee basis. Why should trial lawyers get a deduction for something they expect to get back? We don't give lenders a current deduction when they make a loan. Some would argue this is a large chunk of pork that the Democratic Leadership bill is trying to feed to trial lawyers.

The Democratic Leadership bill, for the first time in history, makes tax benefits directly conditioned on the Davis-Bacon Act prevailing wage requirement in the New Clean Renewable Energy Bonds provision.

The Senate Democratic Leadership bill only extends provisions that expire at the end of 2007 until the end of 2008, setting up another extenders fire drill for next year. In contrast, the Senate Republican Leadership bill generally extends provisions that expire at the end of 2007 until the end of 2009.

The Democratic Leadership bill contains permanent tax provisions to offset temporary extensions of current law.

Anonymous Democratic lobbyists are misstating the Republican position on offsetting expiring tax relief provisions. The lobbyists have been quoted in Roll Call and other publications stating that part of Republican theology is opposition to offsets.

Republicans will support offsets if they make sense on the policy merits. If the revenue-raising proposal makes policy sense and offsets the revenue loss for new tax policy, then it will likely garner majority support in the Senate Republican Conference.

However, one of the revenue raisers in the Democratic Leadership bill is a proposal to delay the effective date of the world wide interest allocation rules. This provision was enacted in the American Jobs Creation Act in 2004, with a delayed effective date for revenue reasons. The decision to reform the interest allocation rules was bipartisan. The reform came out of a Finance Committee working group set up by Chairman Baucus in 2002 and passed the full Senate by a vote of 92 to 5. The current rules actually penalize domestic manufacturers that compete in global markets by making it more likely they will be double-taxed on their foreign income.

The Senate Democratic Leadership bill would delay the effective date even further by nine years--giving it an effective date of 2018. This provision raises almost 29 billion dollars over ten years. The President issued a Statement of Administration Policy noting that "the Administration strongly opposes the provision in the bill that would subject U.S. companies to continued double taxation by delaying the effect of new rules for allocating worldwide interest for foreign tax credit purposes." Now let's look at the Senate Republican Leadership bill. It contains Alternative Minimum Tax relief and extensions of individual and business tax provisions with no offsets. It also includes the

Ensign/Cantwell energy tax incentives, an un-offset provision which was approved by the Senate by a vote of 88 to 8. This means that an overwhelming majority of Senators were willing to pass these energy extenders without requiring offsets.

The bottom line is that we need a package that can garner 60 votes in the Senate and a signature by President Bush. Senate Republicans will seek to proceed to the Senate Republican Leadership bill, which contains a package of proposals that have bipartisan agreement.