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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, May 23, 2011, at 2 p.m.

Senate

TUESDAY, MAY 17, 2011

The Senate met at 10 a.m. and was called to order by the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Merciful God, our shelter in the time of storm, use our lawmakers to bring help to others, credit to themselves, and honor to You. Empower them to persevere through life's challenges, never forgetting that You continue to direct their destiny. Lord, guide them to be at peace with themselves, with others, and with You. May they strive to live for Your glory, knowing that though Your will may be hindered, it will ultimately prevail. Give them, and all of us who work with them, Your strength to endure and Your courage to triumph in what we attempt for the good of this land we love.

We ask this in Your righteous Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JEANNE SHAHEEN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. INOUYE).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 17, 2011.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JEANNE SHAHEEN, a Senator from the State of New Hampshire, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mrs. SHAHEEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, following any leader remarks, the Senate will be in executive session to consider the nomination of Susan Carney, of Connecticut, to be United States Circuit Judge for the Second Circuit. There will be 2 hours of debate. A rollcall vote on confirmation of the Carney nomination will begin shortly after noon today. There is a celebration going on in the Rotunda, and we want to make sure it does not interfere with that. So we will hold the vote open to make sure any stragglers can vote.

Following the vote, the Senate will recess until 2:15 p.m. to allow for our weekly caucus meetings.

At 2:15 p.m., the Senate will begin consideration of the motion to proceed to S. 940, the Close Big Oil Tax Loopholes Act, with 4 hours of debate. There will be a rollcall vote at approximately 6:15 p.m. this evening on the motion to proceed to the bill with a 60-vote threshold.

Additionally, the Senate will debate the motion to proceed to the Republican alternative to the Close Big Oil Tax Loopholes Act, which is S. 953, the Offshore Production and Safety Act. That will be tomorrow. There will be a rollcall vote on the motion to proceed to that bill tomorrow afternoon. That also will have a 60-vote threshold.

MEASURE PLACED ON THE CALENDAR—H.R. 1231

Mr. REID. Madam President, I am told that H.R. 1231 is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (H.R. 1231) to amend the Outer Continental Shelf Lands Act to require that each 5-year offshore oil and gas leasing program offer leasing in the areas with the most prospective oil and gas resources, to establish a domestic oil and natural gas production goal, and for other purposes.

Mr. REID. Madam President, I would object to any further proceedings at this time.

The ACTING PRESIDENT pro tempore. Objection having been heard, the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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bill will be placed on the calendar under rule XIV.

BIG OIL SUBSIDIES

Mr. REID. Madam President, as we learned today from articles around the country—I will refer briefly to one in USA Today:

> As gas prices hover near $4 a gallon, nearly seven in 10 Americans say the high cost of fuel is causing financial hardship for their families, a new USA TODAY/Gallup Poll finds.
>
> More than half say they have made major changes to compensate for the higher prices, ranging from shorter trips to cutting back on vacation travel.
>
> For 21 percent, the impact is so dramatic they say their standard of living is jeopardized.

It goes on to indicate that the situation involving gas prices is very focused and, in the lives of some, drastic.

The other issue the American people face—and they should—is we have to do something about raising the debt ceiling. We can only do that—Democrats, Republicans, Independents agree—by doing something about bringing down the deficit, and it has to be something that is meaningful. A place to start in that regard would be to focus on these gas prices, how concerned people are and, in addition to that, the deficit.

We have a bill we will vote on this evening that says these subsidies given to oil companies, the five big oil companies, which in the last quarter made $36 billion; that is net profit—we are saying those subsidies are no longer necessary.

We have had over the years a number of executives from these companies say they are not necessary. They are now trying to justify these: Well, if we don't do this, it is going to cause gas prices to go up.

We had a report by the Congressional Reference Service, an independent body, which said in three different places in that report that it will not affect gas prices at all. They said it in different ways, but they said it.

No. 1, of course, we have to do something about the exorbitant gas prices, and the best way to start with that is to do something about the five big oil companies getting subsidies they do not need. The other thing we have to be concerned about is the huge deficits we have had. We can accomplish both of those to some degree today by doing something this evening when we vote on taking away those huge subsidies that the oil companies no longer need.

RECOGNITION OF THE MINORITY LEADER

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

ENERGY POLICY

Mr. McCONNELL. Madam President, last week, as gas prices continued to climb, squeezing family budgets and putting more pressure on already struggling businesses, Democrats here in Congress sprang into action. Instead of actually doing something about high gas prices, our Democratic friends staged what one of my Republican colleagues accurately described as a dog and pony show. They rounded up what they believed were a few unsympathetic villains whom they could blame for high gas prices, hoping nobody would notice they do not have a plan of their own to deal with those high gas prices.

That has been the Democratic strategy from the beginning: Blame this crisis on somebody else, and see if they can't raise taxes while they are at it. They have been so shameless about it, in fact, that they have not even pretended they are doing anything to lower gas prices, readily admitting the bill we will vote on today will not lower gas prices by a penny. As the Democratic chairman of the Finance Committee put it last week: ''That's not the issue.''

Well, I would submit that for most Americans, high gas prices are in fact, the issue. This week, Democrats will show once again how little they care about it when we take up an energy plan that several more of them have admitted will do absolutely nothing to lower the price of gas at the pump. One Democratic Senator, a member of their own leadership team, called the bill a ''gimmick.'' Another Democratic Senator called it ''laughable.''

I would also argue that with Americans looking for real relief, symbolic votes such as this that aim to do nothing but pit people against each other will only frustrate the public even more. Americans are not interested in scapegoats. They just want to pay less to fill up their cars.

That is why this Democratic bill to tax American energy is an affront to the American people, and so is the President's announcement over the weekend that he now plans to let these same energy producers lease lands throughout the United States that his administration had previously blocked off.

The administration knows perfectly well that leasing—the act of leasing—is just the start of the development process, which is why its only hope is that the American people do not pay close attention to the details of the plan.

Permits, Madam President—permits—are what matter, and by refusing to issue permits in any meaningful way, the administration is showing its true colors in this debate. If the administration were serious about increasing domestic energy production, it would increase leases and, most importantly, it would increase permits.

In the end, the only thing Democrats will actually achieve this week is to make Republican arguments for comprehensive energy legislation seem even stronger than they already are. By pretending to want an increase in domestic energy production, the President is not only acknowledging that the United States has vast energy resources of its own waiting to be tapped, he is also acknowledging that tapping these resources would at some point help drive down the price of gas at the pump.

That is what Republicans have been saying all along. Now the President is acknowledging that: Supply matters. And American supply matters even more.

So the only thing that seems to be standing between Republicans and Democrats at this point is the Democrats do not seem to have the political will to follow through on their conclusions. And in this, today's Democrats are no different from their predecessors. Literally for decades, Democrats from Jimmy Carter to President Obama have sought to deflect attention from their own complicity in our Nation's overdependence on foreign oil. Every time gas prices go up, they pay lip service to the need for domestic exploration while quietly supporting efforts to suppress it.

But President Obama's energy policy puts the current administration in a whole new category. Over the past 2 years, the President has mounted nothing short of a war on American energy, canceling dozens of leases, imposing a moratorium off the gulf coast, arbitrarily extending public comment periods, and increasing permit fees. On the crucial issue of permits, the administration has held them up in Alaska, the Rocky Mountain West, and particularly offshore. Every one of those decisions has had a major impact on future production—and on future jobs, since every permit the administration denies is another job creation opportunity denied.

So the truth of the matter is, the Obama administration has done just about everything it can to keep our domestic energy sector down and to stifle the jobs that come along with it.

Until now, the President has stuck to attacking Republicans for being stuck in the present without preparing for the future. But this has always been a disingenuous argument. It ignores history, since we have repeatedly supported alternative fuels and renewable energy, as well as comprehensive energy legislation that commits us to the development of cleaner technologies. It ignores science, since even if a million electric vehicles are sold here by 2015, they would still only account for less than one-half of 1 percent of the entire U.S. vehicle fleet. However much we desire it, the transition from oil will take decades, and serious energy policy must account for that.

With this latest gambit, the President may have acknowledged the wisdom of our approach. But his plan to allow a few lease sales without corresponding permits falls short. Energy producers might end up with a lot of expensive land, but the rest of us would have nothing to show for it. A better

approach to this crisis is the Republican alternative that we will get a vote on tomorrow.

Our bill would return American offshore production to where it was before this administration locked it up, require Federal bureaucrats to process permits—to make a decision one way or the other: process the permit, make a decision one way or the other—rather than sitting on the permits. And it would improve offshore safety. Our plan not only acknowledges the importance of increasing domestic production, it does something about it, while ensuring environmental safety.

If President Obama and his party are serious about lowering gas prices, making us less dependent on foreign oil, and creating the thousands of jobs that American exploration is proven to produce, they would embrace our plan and stop pretending to care about a crisis they have done so much to create and, their latest public relations efforts notwithstanding, continue to ignore.

NATIONAL POLICE WEEK 2011

Mr. MCCONNELL. Madam President, this week we commemorate National Police Week 2011, and honor the service and sacrifice of the many men and women in Federal, State, and local law enforcement across America.

Washington welcomes thousands of police officers who come to celebrate National Police Week. They will honor their fallen fellow officers and rededicate themselves to their mission of serving and protecting their neighbors and their communities.

Among the visitors are hundreds of officers from my home State of Kentucky. I wish to personally welcome them to the Nation's Capital and express my gratitude to them for bravely laying their lives on the line to protect towns small and large all across the Commonwealth.

Approximately 900,000 peace officers are serving today across our country. Every year, between 140 and 160 of them are tragically killed in the line of duty, and 2011 is already proving to be a difficult year as 69 law enforcement officers nationwide have been lost in the line of duty so far, compared with 59 at this point a year ago. To recognize those peace officers who have lost their lives in the line of duty, and their loved ones, I was pleased to cosponsor a resolution designating May 14, 2011, as National Police Survivors Day. This resolution, which passed the Senate unanimously, calls on the Nation to honor the families of fallen law enforcement officers and to pay respect to the courageous men and women who have made the ultimate sacrifice while serving to keep our communities safe.

In my State, in the town of Richmond, the Kentucky Law Enforcement Memorial Monument stands as a permanent reminder of the high cost of protecting the peace. At a solemn ceremony last week, 24 names were added to its rolls, bringing the total to 485.

I know my colleagues will join me in saying the Senate has the deepest admiration and respect for police officers in every community across America. We recognize theirs is both an honorable job and a dangerous one. They bravely risk their lives for ours. America appreciates everything they do, and America is grateful to them and to their families.

I have here a list of 24 names that were added to the Kentucky Law Enforcement Memorial Monument this year. I ask unanimous consent that the names of those heroes be printed in the RECORD.

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

2011 HISTORICAL ADDITIONS TO THE KENTUCKY LAW ENFORCEMENT MEMORIAL MONUMENT

Officer Bryan J. Durman
Lexington Division of Police
End of Watch: April 29, 2010

Chief Jerry Lee
Frankfort Police Department
End of Watch: September 18, 1882

City Marshal Ambrose Wilson
Sadieville Police Department
End of Watch: October 13, 1883

City Marshal Jesse Offut
Franklin Police Department
End of Watch: August 19, 1884

Sheriff Henry H. Winters
Hickman County Sheriff's Office
End of Watch: December 31, 1887

Constable W. F. Deskins
Magoffin County
End of Watch: January 3, 1893

Officer John Horan
Louisville Police Department
End of Watch: November 15, 1900

Deputy Nicholas J. Bodkin
Kenton County Sheriff's Office
End of Watch: November 13, 1902

Deputy Bert Casteel
Laurel County Sheriff's Office
End of Watch: March 21, 1903

Constable William M. Shelton
Clinton County
End of Watch: April 17, 1904

Deputy James F. Day
Letcher County Sheriff's Office
End of Watch: May 29, 1904

Constable J. Martin Wright
Letcher County
End of Watch: August 24, 1916

Deputy Walker Deal
Pike County Sheriff's Office
End of Watch: January 10, 1921

Officer William O. Barkley
Georgetown Police Department
End of Watch: April 11, 1922

Deputy Foster Messer
Knox County Sheriff's Office
End of Watch: November 23, 1923

Jailer Charles A. West
Knox County Sheriff's Office
End of Watch: November 23, 1923

Chief James V. Gross
Lynch Police Department
End of Watch: April 1, 1924

Sheriff James O. West
Fulton County Sheriff's Office
End of Watch: April 11, 1925

Captain William H. Poore
Paducah Police Department
End of Watch: November 29, 1928

Town Marshal J. Wes Perkins
Williamsburg Police Department
End of Watch: February 24, 1930

Sheriff John F. Cable
Pike County Sheriff's Office
End of Watch: October 2, 1940

Chief Pryor Martin
Eminence Police Department
End of Watch: February 25, 1951

Chief Ronnie C. Carter
Carrollton Police Department
End of Watch: April 8, 1969

Sheriff William R. Wimsett, Sr.
Nelson County Sheriff's Office
End of Watch: May 6, 1972

Mr. MCCONNELL. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

EXECUTIVE SESSION

NOMINATION OF SUSAN L. CARNEY TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination.

The legislative clerk read the nomination of Susan L. Carney, of Connecticut, to be United States Circuit Judge for the Second Circuit.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 2 hours of debate equally divided and controlled between the Senator from Vermont, Mr. LEAHY, and the Senator from Iowa, Mr. GRASSLEY, or their designees.

Mr. MCCONNELL. Madam President, I suggest the absence of a quorum, and I ask that the time be charged equally to both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BLUMENTHAL. Madam President, I rise today to voice my strong support for the nomination of Susan Carney to serve as an appeals court judge on the Second Circuit Court of Appeals, one of our most distinguished

appeals court panels among the Federal circuits. I hope the Senate will move swiftly to confirm her to fill one of the open seats on this critically important court.

Ms. Carney has truly impressive credentials for appointment to the Federal bench. She graduated cum laude from Harvard College in 1973 and magna cum laude from the Harvard Law School in 1977. She then went on to clerk for Judge Levin Campbell on the Court of Appeals for the First Circuit.

She currently serves as deputy general counsel for Yale University, one of the country's great institutions of higher learning, and previously served as an associate general counsel for Yale. In her capacity at Yale, she advises the university on a wide range of legal issues, some of them complex and challenging, relating to intellectual property, international transactions, and commercial matters.

Ms. Carney's time at Yale has exposed her to a broad array, a diverse swath of Federal law, giving her a breadth of experience that truly qualifies her to serve on the Second Circuit, which handles Federal appeals on legal issues arising within New York, Vermont, and Connecticut. In various matters, Ms. Carney has advised Yale in reaching very successful results, and that experience will serve her well on the bench. Her experience as an advocate has given her a perspective that will give her the kinds of qualities—a respect for other advocates who come before the court, a respect for the legal principles at stake, for the factual findings of courts below—and of all the considerations that are so critically important to ability and integrity on the Federal court of appeals.

She spent 17 years working as a private practice attorney in Washington, DC, and Boston, and there, too, she represented a wide array of clients on major issues, including, for example, the Major League Baseball Players Association and a Tennessee union that stopped work due to its employees' exposure to uranium. In the Tennessee court, the NLRB determined that striking employees could not be replaced, and the DC Circuit issued a similarly posited verdict.

As impressive as her commercial and private litigation is is her commitment to pro bono public service work. She engaged in such work throughout her time as a lawyer, offering free legal counsel to pro bono clients and even volunteering as a tutor. Her commitment to the community as well as appropriate legal representation for all clients demonstrates a real respect for the legal system and the fairness, the fundamental fairness of the legal system that I believe should be and is broadly shared by members of the Federal bench.

Her nomination comes at a particularly pressing and challenging time for the Second Circuit. The vacancy she is slated to fill has been designated as a ''judicial emergency.'' The vacancy has existed since October 10, 2009. There are two open seats from Connecticut on this court, which is currently more than 15 percent understaffed. So the arrival of Susan Carney to the Second Circuit will have immediate impacts. It will help immediately to address the understaffing problem and the work burden that has accumulated as a result of it. It will ensure that this caseload can be addressed quickly and efficiently.

We hear in this body the famous saying that ''justice delayed is justice denied.'' Truly, it is often justice denied if it is delayed. In practical circumstances, people have a right to their day in court, which includes a day in the court of appeals. In the Federal courts, that appeal is generally one of right, it is not discretionary, and to deprive people of that right is truly a denial of justice.

I have been impressed since I came to the Senate by the good faith that has been shown by both sides in working to address this growing judicial vacancy issue. Some have thought it an epidemic. In many circuits, it has been characterized as a ''judicial emergency,'' and it has been spurred by respected figures from across the spectrum, from Chief Justice Roberts to Attorney General Holder. The Senate has been moving very responsively and responsibly to address this issue.

I am hopeful that this nomination of Susan Carney and others that will follow, as some have preceded it, will lead to a new era in addressing the judicial vacancy problem throughout our Federal courts. The American people expect us to work together, just as they expect the courts to give them justice. So far, I have been encouraged to see Members of both parties working in the Senate to act expeditiously on these nominations, some of them very long delayed. I hope the Senate will continue this trend with the swift confirmation of Susan Carney to the Second Circuit.

BIG OIL PROFITS

On the issue of emergencies, I would like to address a second topic.

Over the last decade, what we have seen is a pattern of rising profits on the part of oil companies. The emergency for consumers is one of rising prices now.

I believe we have an obligation to ensure fundamental fairness in our Tax Code by eliminating, in effect, the tax subsidies and loopholes and giveaways that are such an offense to the justice and fairness of our system.

In spite of the big five oil companies earning more than $1 trillion in profits, they have enjoyed tens of millions of dollars in taxpayer subsidies, which are unconscionable, they are unacceptable, and they must end.

That is the purpose of the legislation we are going to consider later today. I strongly support it in the interest of consumers, but, more importantly, in the interest of taxpayers and to repair a part of our deficit.

While families and businesses in Connecticut are paying more than $4.25 a gallon, putting a strain on all of our family budgets, the big oil companies continue to rake in record profits and continue to enjoy subsidies that put a dent in our fiscal situation. The companies made over $30 billion in profits in the first quarter of this year alone, representing a 50-percent increase in profits from last year.

The long and short of this debate is, big oil doesn't need these subsidies. They don't need the help of American taxpayers to do exploration or any of the other activities that are involved in producing the profits they enjoy so abundantly.

Ending these subsidies, despite claims to the contrary, will not increase prices at the pump and, instead, will provide for basic fairness so Americans no longer have to pay for these giveaways and tax breaks to some of the most profitable companies in the world.

People in my home State of Connecticut and across the country remain concerned about reducing our debt and deficit. We cannot do it if we have this plethora of subsidies and giveaways and breaks going to special interests and corporations, such as Big Oil, which simply don't need it.

Ordinary Americans, in Connecticut and elsewhere, are struggling to stay in their homes, find jobs, keep their families together and they regard these subsidies as offensive to fundamental fairness and they are right.

I urge this body to act later today in eliminating those loopholes and subsidies.

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

Mr. INHOFE. Madam President, it is my understanding that I have 10 minutes as in morning business. I ask unanimous consent to use that time now.

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

Mr. INHOFE. Madam President, we are going to be voting on a bill this afternoon to dramatically increase taxes on America's oil and gas companies. I only suggest that it is not going to pass. I can recall when the Senator from Vermont, just a few months ago, had a bill that would have done essentially the same thing—pass tax increases on these oil and gas companies. I remember coming to the floor at that time and giving my argument against it. It ended up that we voted on it, and we had 61 votes against it, so it worked out that about 30 were for it.

Afterward—and I have to say this about Senator SANDERS—Senator SANDERS said that was probably one of the healthiest and honest debates he had seen during the years he has been in the Senate. I agreed with that. The idea that we can somehow tax these people and accomplish something—let me just say that the Congressional Research Service—and when I talk about

CRS, it is nonpartisan and nobody argues with them.

We in the United States have the largest recoverable reserves of oil, gas, and coal of any country in the world. There is no reason we cannot be completely independent of the Middle East. All we have to do is explore our own resources—oil, gas, and coal.

This same Congressional Research Service has looked at the issues and told us that raising taxes on energy companies will do two things—decrease supply and increase our dependence on foreign countries. In other words, this vote we are going to have this afternoon, if it were successful, would decrease the supply and increase our dependence upon the Middle East.

In addition to the CRS, let's go back to the 1970s, under the Carter administration, when we had the windfall profits tax. The same exact thing happened. It decreased supply and increased our dependence on foreign competition. The interesting point is—and my wife is not the only one complaining about the price of gas, but she is certainly loud and clear in that position—nobody is saying that by increasing the taxes, with the vote we are going to have on oil and gas companies this afternoon, somehow that will have the effect of lowering prices at the pump. It will raise them. In fact, I think several Members have come down—Senator MENENDEZ, the sponsor of the legislation, said:

> Nobody has made the claim that this bill is about reducing gas prices.

If it is not about reducing gas prices, then what is it for? The answer to that is, they say—as the Senator from Connecticut just stated, this is going to be something that is going to be reducing the deficit. Our problem is, President Obama and his Democratic support in the House and Senate—in the first 2 years, they had a large majority in the House and the Senate—in his 3 years of the budget, they have increased the deficit and budget by over $5 trillion. I can remember coming to the floor of the Senate during the Clinton years, in 1995, saying this is outrageous. This was a $1.5 trillion budget. That was to run the entire United States. This last budget by President Obama was an increase of $1.65 trillion—just the deficit. Let's do our math. That is 365 days a year, and it works out to be $4 billion a day.

We have a President and his majority giving us a $4 billion-a-day deficit, and this says it is going to cut the deficit by $2 billion. So we can tax all these oil companies to come up with enough money to reduce the deficit just by $2 billion. That is worth one-half day's deficit of this administration. I know the majority of people understand that, and they will not be duped into doing that.

By the way, I have to say that fortifying me was this morning's editorial in USA Today. They talk about how ludicrous this idea is that we can increase taxes on oil and gas companies. They say it is an example of the sort of political gamesmanship that substitutes for serious deficit reduction. It says:

> But the initiative is also government at its arbitrary worst, further complicating the tax code by singling out five companies—ExxonMobil, Chevron, ConocoPhillips, Shell, and BP—for special taxes not paid by smaller energy concerns. . . .

So we have a little class warfare going along with it. Only yesterday, the same USA Today was criticizing me in their editorial policy because I don't want to pass a cap and trade—a tax increase. The same paper that yesterday was critical of a position I have taken is now strongly in favor of the position I have taken in avoiding any additional taxes on the energy companies or anybody else.

The last thing I will say—because I will stay within my timeframe is that people say if we want to do something about the deficit—and that is what they are saying they are doing—this is one-half day's deficit if they pass these tax increases, which they will not—they say there are only two ways to handle the debt; one is to decrease spending and another is to increase taxes.

I suggest there is a third way. That way is to go after all these regulations we currently are operating under as a result of this administration. We are talking about cap-and-trade regulations, greenhouse gas regulations, boiler MACT regulations, ozone, which could create over 600 nonattainment areas, and the cost of that is $90 billion. If we add all the costs of all these different regulations—greenhouse gas, $300 billion to $400 billion; ozone, $60 billion to $90 billion; boiler MACT, $1 billion; and utility MACT, $184 billion—when we add that, it is $1 trillion. If we take the $1 trillion, that is 7 percent of the $14 trillion that we would say the GDP would amount to.

CRS says that for every 1 percent increase in economic activity or increase in GDP, that translates into revenue of $50 billion. This is 7 percent, so that would be $350 billion. If we want to go after the deficit, deficit spending, and the debt, go after the regulations too. But to think we can tax oil and gas companies and somehow come up with $2 billion to reduce the deficit, that is just one day's deficit under the Obama administration. This body is not going to pass that.

With that, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I congratulate the Senator from Oklahoma for making an obvious and compelling point, which is that the problem is high gasoline prices. Why is the Democratic solution to raise them more? That is all their tax would do.

The Republican plan for dealing with high gasoline prices is to find more American energy and use less. The Democratic plan seems to be to find less and tax more. That is not going to solve the problem. We need to use less. We agree with that.

There are a variety of ways to do that: through conservation and electric cars, which I favor, and finding research for crops—for alternative fuels from crops we don't need. More important, we need to find more American energy and natural gas offshore, on Federal lands, and in Alaska. That will not completely solve the problem of high gasoline prices, but it will help. If less oil from Libya is a factor in raising gasoline prices, more oil from the United States would be a factor in lowering gasoline prices. We are, after all, the third largest producer of oil in the world.

I thank the Senator from Oklahoma for an excellent point. The Democratic proposal is to find less American energy and to tax more.

NLRB AND BOEING

Madam President, I wish to speak about the events of the last few weeks that have followed the decision by the National Labor Relations Board general counsel to file a complaint against the Boeing Company, alleging basically that the fact that they are expanding their production of airliners at a new plant in South Carolina, which is a right-to-work State, is prima facie evidence of an unfair labor practice. This would, in effect, establish for the first time since the Taft-Hartley Act was passed in 1947, the idea that it is against the Federal law for a company that is producing in a union State to move or expand its facilities in a right-to-work State, of which there are 22.

We are talking about the first new plant in 40 years to build large airplanes. The Boeing Company builds most of its planes in Washington State. It is the Nation's largest exporter. It has 170,000 employees around the world, and 155,000 of them are employees in the United States. These are good jobs.

But at the Senate Health, Education, and Labor Committee hearing on Thursday, the general counsel of Boeing said the company expects to lose their appeal of the general counsel's complaint when it is heard before an administrative judge on June 14. Then they expect to lose the appeal of that decision to the National Labor Relations Board because the company assumes that the general counsel is following the same view of the law that the President's appointees on the NLRB are following. However, then Boeing expects to win the case when it goes to the U.S. court of appeals or, perhaps, even to the Supreme Court. But it will take 2 to 5 years for all that to happen.

I ask, what happens to American jobs in the meantime? Well, first, this complaint against Boeing will slow the number of good, new jobs into my State of Tennessee, which has a 9-percent unemployment rate, and it has had that for 2 years. I have watched our State grow over the last 30 years,

from the time I was Governor. We had a hearing last week that Senator HARKIN called, chairman of the Health, Education, and Labor Committee, about middle-class incomes. What I said at the hearing was that the effect on middle-class income in Tennessee—the State I know the most about—is that 30 years ago we were the third poorest State. Because the auto industry chose to come to our State, partly because it was a central location in the population market and because it is a right-to-work State with a different sort of labor environment in it than other States—because the auto industry came to Tennessee, middle incomes have gone up.

One-third of the manufacturing jobs in our State are now auto jobs. Nissan is there. General Motors is there. Volkswagen just came there. Hundreds of suppliers have come to Tennessee. They like the environment. They like the road system. They like the central location. But they like the right-to-work law.

Suddenly any supplier or any manufacturer who wants to create a new facility in 1 of the 22 right-to-work States, including Tennessee, according to the National Labor Relations Board counsel, is going to have to think twice because that company, which could be a small company, may not want to spend 2 to 5 years before the National Labor Relations Board. I think this counsel knew exactly what he was doing. He was trying to freeze job expansion in the United States at a time when we need job expansion the most.

There is an unintended consequence to this. If jobs cannot move into Tennessee and other right-to-work States because of the Boeing complaint, they may not move into the States that do not have a right-to-work law. Why is that? According to Jim McNerney, the CEO of Boeing:

> An unintended consequence of the Boeing complaint [is that] forward thinking CEOs also would be reluctant to place new plants in unionized States—lest they be forever restricted from placing future plants across the country.

If you want to put a plant in, say, Michigan, which is a unionized State, you might not do that because under the general counsel of the NLRB's rule of law, you then could not move to South Carolina or Tennessee or Arkansas or any other State with a right-to-work law.

If you cannot go to a unionized State, and if you cannot go to a right-to-work State, then where do you go if you want to make things? You go overseas. This action by the NLRB general counsel is the single most important action I can imagine that would make it more difficult to create good, new jobs in Tennessee and would make it more likely that manufacturing jobs would go overseas.

The President of the United States asked the chief executive of Boeing, Mr. McNerney, to chair the President's Export Council. I presume what President Obama would like for Mr. McNerney to do is to export airplanes, not export jobs. But what the NLRB ruling will do is cause the export of jobs, not the export of airplanes.

Boeing has 170,000 employees. About 90 percent of them are in the United States. But Boeing sells its airplanes everywhere in the world, and Boeing can make its airplanes anywhere in the world. There may be other countries that come to Boeing and to other manufacturers in the United States and say: We want you to make in our country what you sell in our country. After this NLRB decision, they may be more tempted to do that.

Fortunately, there are other trends suggesting that manufacturing companies around the world may be more likely in the next few years to make here what they sell in the United States. That is what President Carter said to the Governors 30 years ago: Governors, go to Japan. Persuade them to make in the United States what they sell in the United States. Off I went to Tokyo. I asked Nissan to come to Tennessee, as most States. They chose us because of our central location and right-to-work law, just as other auto jobs have done that. Nissan tells me soon 85 percent of what they sell in the United States will be made in the United States. Thirty years ago they were making almost none of what they sold in the United States in the United States. They were making it in Japan. We were worried then Japan was going to take us over. That has changed. Now they are making here what they sell here.

The Economist article this week says there may be a manufacturing renaissance coming. What is happening in China where they are making things today is a lot like what happened in Japan 30 years ago. As China becomes more prosperous, wages will go up. As Japan became more prosperous 30 years ago, wages went up. In the auto industry, where wages only constitute maybe 20 percent of the total cost of what a supplier may have to spend to make a part for a Volkswagen assembly plant, wages get to be less important.

People look at other things. Manufacturing would look at a variety of actions by a government before the manufacturer decides where to make the airplane or where to make the car or where to make the appliance that might be sold in a country.

They are going to have plenty of incentives naturally to make a lot of products in the United States because the country that produces 25 percent of all the money in the world, which we do, is going to be buying a lot of stuff unless we do our best to throw a big wet blanket on making here what we sell here, which is precisely what this administration has been doing.

We have a high corporate income tax. Give the President the credit. He said maybe we want to change that. We should because it makes it better for manufacturers to make products overseas.

The health care law takes profits away from companies that they might use to create new jobs here. I have had heads of restaurant companies tell me they are not going to invest anymore in the United States because the health care taxes take away all of their profits. Regulations make credit harder to get, and regulations drive up energy and gasoline prices. All of this makes it harder to make here what manufacturers sell here.

Now we have a regulation from the National Labor Relations Board that may have the effect of law for 2 to 5 years that says it is prima facie evidence of an unfair labor practice if a company that is producing in a union State expands or moves to a right-to-work State. This is an assault on every middle-income Tennessean and on millions of middle-income Americans who have manufacturing jobs—certainly, everyone in the 22 right-to-work States. But as the Boeing chief executive said, it could be just as much of a disincentive to a State such as Michigan or Illinois or some other State that does not have a right-to-work law because why would you put a plant in Michigan if later you would not be allowed to put it in Tennessee?

If General Motors has plants in both right-to-work and non-right-to-work States, we are going to make it more difficult for General Motors to expand in America. Where are they going to expand? They can expand overseas. They can be making there what they sell there instead of making it here.

Some of my friends on the other side of the aisle like to talk about outsourcing jobs. This is the mother of all outsourcing jobs plan—the idea that it is prima facie evidence for a company that expands in a right-to-work State, that is an unfair labor practice.

For the next 2 to 5 years, we have the unhealthy situation for jobs that any manufacturer who wants to expand will have to think twice about expanding in a right-to-work State and then think at least once about coming in the first place to a State that does not have a right-to-work law. The only other option I can see for those jobs is to make them overseas. That will not only slow job growth in the United States where we desperately need it, but it will be speeding up the sending of American jobs overseas.

Madam President, I ask unanimous consent to have printed in the RECORD two articles—one by George Will this week on the South Carolina Boeing plant and the action of the National Labor Relations Board complaint, and the second, an article from the Economist magazine.

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

[From The Economist, May 12, 2011]

MULTINATIONAL MANUFACTURERS—MOVING BACK TO AMERICA

THE DWINDLING ALLURE OF BUILDING FACTORIES OFFSHORE

''When clients are considering opening another manufacturing plant in China, I've started to urge them to consider alternative locations,'' says Hal Sirkin of the Boston Consulting Group (BCG). ''Have they thought about Vietnam, say? Or maybe [they could] even try Made in USA?'' When clients are American firms looking to build factories to serve American customers, Mr. Sirkin is increasingly likely to suggest they stay at home, not for patriotic reasons but because the economics of globalisation are changing fast.

Labour arbitrage—taking advantage of lower wages abroad, especially in poor countries—has never been the only force pushing multinationals to locate offshore, but it has certainly played a big part. Now, however, as emerging economies boom, wages there are rising. Pay for factory workers in China, for example, soared by 69% between 2005 and 2010. So the gains from labour arbitrage are starting to shrink, in some cases to the point of irrelevance, according to a new study by BCG.

''Sometime around 2015, manufacturers will be indifferent between locating in America or China for production for consumption in America,'' says Mr. Sirkin. That calculation assumes that wage growth will continue at around 17% a year in China but remain relatively slow in America, and that productivity growth will continue on current trends in both countries. It also assumes a modest appreciation of the yuan against the dollar.

The year 2015 is not far off. Factories take time to build, and can carry on cranking out widgets for years. So firms planning today for production tomorrow are increasingly looking close to home. BCG lists several examples of companies that have already brought plants and jobs back to America. Caterpillar, a maker of vehicles that dig, pull or plough, is shifting some of its excavator production from abroad to Texas. Sauder, an American furniture-maker, is moving production back home from low-wage countries. NCR has returned production of cash machines to Georgia (the American state, not the country that is occasionally invaded by Russia). Wham-O last year restored half of its Frisbee and Hula Hoop production to America from China and Mexico.

BCG predicts a ''manufacturing renaissance'' in America. There are reasons to be sceptical. The surge of manufacturing output in the past year or so has largely been about recovering ground lost during the downturn. Moreover, some of the new factories in America have been wooed by subsidies that may soon dry up. But still, the new economics of labour arbitrage will make a difference.

Rather than a stampede of plants coming home, ''higher wages in China may cause some firms that were going to scale back in the U.S. to keep their options open by continuing to operate a plant in America,'' says Gary Pisano of Harvard Business School. The announcement on May 10th by General Motors (GM) that it will invest $2 billion to add up to 4,000 jobs at 17 American plants supports Mr. Pisano's point. GM is probably not creating many new jobs but keeping in America jobs that it might otherwise have exported.

Even if wages in China explode, some multinationals will find it hard to bring many jobs back to America, argues Mr. Pisano. In some areas, such as consumer electronics, America no longer has the necessary supplier base or infrastructure. Firms did not realise when they shifted operations to low-wage countries that some moves ''would be almost irreversible'', says Mr Pisano.

Many multinationals will continue to build most of their new factories in emerging markets, not to export stuff back home but because that is where demand is growing fastest. And companies from other rich countries will probably continue to enjoy the opportunity for labour arbitrage for longer than American ones, says Mr. Sirkin. Their labour costs are higher than America's and will remain so unless the euro falls sharply against the yuan.

THERE'S NO PLACE LIKE HOME

The opportunity for labour arbitrage is disappearing fastest in basic manufacturing and in China. Other sectors and countries are less affected. As Pankaj Ghemawat, the author of ''World 3.0'', points out, despite rapidly rising wages in India, its software and back-office offshoring industry is likely to retain its cost advantage for the foreseeable future, not least because of its rapid productivity growth.

Nonetheless, a growing number of multinationals, especially from rich countries, are starting to see the benefits of keeping more of their operations close to home. For many products, labour is a small and diminishing fraction of total costs. And long, complex supply chains turn out to be riskier than many firms realised. When oil prices soar, transport grows dearer. When an epidemic such as SARS hits Asia or when an earthquake hits Japan, supply chains are disrupted. ''There has been a definite shortening of supply chains, especially of those that had 30 or 40 processing steps,'' says Mr. Ghemawat.

Firms are also trying to reduce their inventory costs. Importing from China to the United States may require a company to hold 100 days of inventory. That burden can be handily reduced if the goods are made nearer home (though that could be in Mexico rather than in America).

Companies are thinking in more sophisticated ways about their supply chains. Bosses no longer assume that they should always make things in the country with the lowest wages. Increasingly, it makes sense to make things in a variety of places, including America.

[May 13, 2011]

THE DREAMLINER NIGHTMARE

(By George Will)

NORTH CHARLESTON, S.C.—This summer, the huge Boeing assembly plant here will begin producing 787 Dreamliners—up to three a month, priced at $185 million apiece. It will, unless the National Labor Relations Board, controlled by Democrats and encouraged by Barack Obama's reverberating silence, gets its way.

Last month—17 months after Boeing announced plans to build here and with the $2 billion plant nearing completion—the NLRB, collaborating with the International Association of Machinists and Aerospace Workers (IAM), charged that Boeing's decision violated the rights of its unionized workers in Washington state, where some Dreamliners are assembled and still will be even after the plant here is operational. The NLRB has read a 76-year-old statute (the 1935 Wagner Act) perversely, disregarded almost half a century of NLRB and Supreme Court rulings, and patently misrepresented statements by Boeing officials.

South Carolina is one of 22—so far—right-to-work states, where workers cannot be compelled to join a union. When in September 2009, Boeing's South Carolina workers—fuselage sections of 787s already are built here—voted to end their representation by IAM, the union did not accuse Boeing of pre-vote misbehavior. Now, however, the NLRB seeks to establish the principle that moving businesses to such states from non-right-to-work states constitutes prima facie evidence of ''unfair labor practices,'' including intimidation and coercion of labor. This principle would be a powerful incentive for new companies to locate only in right-to-work states.

The NLRB complaint fictitiously says Boeing has decided to ''remove'' or ''transfer'' work from Washington. Actually, Boeing has so far added more than 2,000 workers in Washington, where planned production—seven 787s a month, full capacity for that facility—will not be reduced. Besides, how can locating a new plant here violate the rights of IAM members whose collective bargaining agreement with Boeing gives the company the right to locate new production facilities where it deems best?

The NLRB says that Boeing has come here ''because'' IAM strikes have disrupted production and ''to discourage'' future strikes.

Since 1995, IAM has stopped Boeing's production in three of five labor negotiations, including a 58-day walkout in 2008 that cost the company $1.8 billion and a diminished reputation with customers.

The NLRB uses meretricious editing of Boeing officials' remarks to falsely suggest that anti-union animus motivated the company to locate some production in a right-to-work state. Anyway, it is settled law that companies can consider past strikes when making business decisions to diminish the risk of future disruptions.

The economy is mired in a sluggish recovery. But the destructive—and self-destructive—Obama administration is trying to debilitate the world's largest aerospace corporation and the nation's leading exporter, which has 155,000 U.S. employees and whose 738 million shares are held by individual and institutional investors, mutual funds and retirement accounts. Why? Organized labor, primarily and increasingly confined to government workers, cannot convince private-sector workers that it adds more value to their lives than it subtracts with dues and work rules that damage productivity. Hence unions' reliance on government coercion where persuasion has failed.

The NLRB's complaint is not a conscientious administration of the law; it is intimidation of business leaders who contemplate locating operations in right-to-work states. Labor loathes Section 14(b) of the 1947 Taft-Hartley Act, which allows states to pass right-to-work laws that forbid compulsory unionization. But 11 Democratic senators represent 10 of the right-to-work states: Mark Pryor (Arkansas), Bill Nelson (Florida), Tom Harkin (Iowa), Mary Landrieu (Louisiana), Ben Nelson (Nebraska), Harry Reid (Nevada), Kay Hagan (North Carolina), Kent Conrad (North Dakota), Tim Johnson (South Dakota), and Jim Webb and Mark Warner (Virginia). Do they support the Obama administration's attempt to cripple their states' economic attractiveness?

The NLRB's attack on Boeing illustrates the Obama administration's penchant for lawlessness displayed when, disregarding bankruptcy law, it traduced the rights of Chrysler's secured creditors. Now the NLRB is suing Arizona and South Dakota because they recently, and by large majorities, passed constitutional amendments guaranteeing the right to secret ballots in unionization elections—ballots that complicate coercion by union organizers.

Just as uncompetitive companies try to become wards of the government (beneficiaries

of subsidies, tariffs, import quotas), unions unable to compete for workers' allegiance solicit government compulsion to fill their ranks. The NLRB's reckless attempt to break a great corporation, and by extension all businesses, to government's saddle—never mind the collateral damage to the economy—is emblematic of the Obama administration's willingness to sacrifice the economy on the altar of politics.

[From the Wall Street Journal, May 11, 2011]

BOEING IS PRO-GROWTH, NOT ANTI-UNION

(By Jim McNerney)

Deep into the recent recession, Boeing decided to invest more than $1 billion in a new factory in South Carolina. Surging global demand for our innovative, new 787 Dreamliner exceeded what we could build on one production line and we needed to open another.

This was good news for Boeing and for the economy. The new jetliner assembly plant would be the first one built in the U.S. in 40 years. It would create new American jobs at a time when most employers are hunkered down. It would expand the domestic footprint of the nation's leading exporter and make it more competitive against emerging plane makers from China, Russia and elsewhere. And it would bring hope to a state burdened by double-digit unemployment—with the construction phase alone estimated to create more than 9,000 total jobs.

Eighteen months later, a North Charleston swamp has been transformed into a state-of-the-art, green-energy powered, 1.2 million square-foot airplane assembly plant. One thousand new workers are hired and being trained to start building planes in July.

It is an American industrial success story by every measure. With 9% unemployment nationwide, we need more of them—and soon.

Yet the National Labor Relations Board (NLRB) believes it was a mistake and that our actions were unlawful. It claims we improperly transferred existing work, and that our decision reflected ''animus'' and constituted ''retaliation'' against union-represented employees in Washington state. Its remedy: Reverse course, Boeing, and build the assembly line where we tell you to build it.

The NLRB is wrong and has far overreached its authority. Its action is a fundamental assault on the capitalist principles that have sustained America's competitiveness since it became the world's largest economy nearly 140 years ago. We've made a rational, legal business decision about the allocation of our capital and the placement of new work within the U.S. We're confident the federal courts will reject the claim, but only after a significant and unnecessary expense to taxpayers.

More worrisome, though, are the potential implications of such brazen regulatory activism on the U.S. manufacturing base and long-term job creation. The NLRB's overreach could accelerate the overseas flight of good, middle-class American jobs.

Contrary to the NLRB's claim, our decision to expand in South Carolina resulted from an objective analysis of the same factors we use in every site selection. We considered locations in several states but narrowed the choice to either North Charleston (where sections of the 787 are built already) or Everett, Wash., which won the initial 787 assembly line in 2003.

Our union contracts expressly permit us to locate new work at our discretion. However, we viewed Everett as an attractive option and engaged voluntarily in talks with union officials to see if we could make the business case work. Among the considerations we sought were a long-term ''no-strike clause'' that would ensure production stability for our customers, and a wage and benefit growth trajectory that would help in our cost battle against Airbus and other state-sponsored competitors.

Despite months of effort, no agreement was reached. Union leaders couldn't meet expectations on our key issues, and we couldn't accept their demands that we remain neutral in all union-organizing campaigns and essentially guarantee to build every future Boeing airplane in the Puget Sound area. In October 2009, we made the Charleston selection.

Important to our case is the basic fact that no existing work is being transferred to South Carolina, and not a single union member in Washington has been adversely affected by this decision. In fact, we've since added more than 2,000 union jobs there, and the hiring continues. The 787 production line in Everett has a planned capacity of seven airplanes per month. The line in Charleston will build three additional airplanes to reach our 10-per-month capacity plan. Production of the new U.S. Air Force aerial refueling tanker will sustain and grow union jobs in Everett, too.

Before and after the selection, we spoke openly to employees and investors about our competitive realities and the business considerations of the decision. The NLRB now is selectively quoting and mischaracterizing those comments in an attempt to bolster its case. This is a distressing signal from one arm of the government when others are pushing for greater openness and transparency in corporate decision making.

It is no secret that over the years Boeing and union leaders have struggled to find the right way to work together. I don't blame that all on the union, or all on the company. Both sides are working to improve that dynamic, which is also a top concern for customers. Virgin Atlantic founder Richard Branson put it this way following the 2008 machinists' strike that shut down assembly for eight weeks: ''If union leaders and management can't get their act together to avoid strikes, we're not going to come back here again. We're already thinking, 'Would we ever risk putting another order with Boeing?' It's that serious.''

Despite the ups-and-downs, we hold no animus toward union members, and we have never sought to threaten or punish them for exercising their rights, as the NLRB claims. To the contrary, union members are part of our company's fabric and key to our success. About 40% of our 155,000 U.S. employees are represented by unions—a ratio unchanged since 2003.

Nor are we making a mass exodus to right-to-work states that forbid compulsory union membership. We have a sizable presence in 34 states; half are unionized and half are right-to-work. We make decisions on work placement based on business principles—not out of emotion or spite. For example, last year we added new manufacturing facilities in Illinois and Montana. One work force is union-represented, the other is not. Both decisions made business sense.

The world the NLRB wants to create with its complaint would effectively prevent all companies from placing new plants in right-to-work states if they have existing plants in unionized states. But as an unintended consequence, forward-thinking CEOs also would be reluctant to place new plants in unionized states—lest they be forever restricted from placing future plants elsewhere across the country.

U.S. tax and regulatory policies already make it more attractive for many companies to build new manufacturing capacity overseas. That's something the administration has said it wants to change and is taking steps to address. It appears that message hasn't made it to the front offices of the NLRB.

Mr. ALEXANDER. Madam President, I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. Madam President, I ask unanimous consent that the quorum call time be equally divided.

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

Mr. ALEXANDER. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LIEBERMAN. Madam President, I rise to offer my full support for Susan Carney of my State of Connecticut, who is the President's nominee, now approved by the Judiciary Committee, to serve on a very important circuit court—the U.S. Court of Appeals for the Second Circuit.

Susan Carney's legal education and long career of public service will make her a valuable addition to the Federal bench. I thank President Obama for his decision to nominate Ms. Carney, and I urge my colleagues across party lines to confirm her nomination when it comes to a vote in a short while today.

Ms. Carney, as a matter of record, was quickly reported out of the Judiciary Committee with a bipartisan vote of 15 to 3 on February 17 of this year. This, in fact, was the second time her nomination had been reported out of the committee with broad bipartisan support. If confirmed, Susan Carney will fill one of two judicial vacancies on the second circuit—vacancies which the Administrative Office of the U.S. Courts has declared to be emergency vacancies. As I have said, she has been thoroughly vetted twice by the Judiciary Committee and earned bipartisan support both times.

I would like to take a moment to provide some background on the nominee's credentials. Susan Carney has a very diverse background, both in private practice, working for the Peace Corps, and most recently serving as the deputy general counsel at Yale University. For the past 12 years, she has served in that position. As Yale's President Richard Levin put it:

Susan Carney has served the University with insight, intelligence, and superb legal skills.

He added that she has never failed to be guided by what he referred to as her ''firm ethical compass.''

In her capacity as general counsel, Ms. Carney was the second highest legal officer at Yale—which is of course not just a great educational and research institution but has an operating budget of more than $2 billion annually, more than 12,000 employees, and more than 11,000 students. So there was a lot of legal work to do there.

Ms. Carney's portfolio included a lot of complicated areas covered by Federal law, including scientific research, intellectual property, and health care. She also managed other legal elements of Yale's transactions with institutions throughout this country and the world.

Ms. Carney served as a law clerk to Judge Levin Hicks Campbell on the U.S. Court of Appeals for the First Circuit before entering private practice. She has been admitted to practice in seven courts, including the U.S. Supreme Court, the U.S. Court of Appeals for the First Circuit, and the U.S. Court of Appeals for the Ninth Circuit. She is a member of three different bars: the Massachusetts bar, the District of Columbia bar, and the Connecticut bar, and has also served on the board of directors of the National Association of College & University Attorneys.

This is a superbly qualified individual with a broad background in a host of different legal fields which she will bring to the bench. I think most significant of all—and she obviously impressed both parties on the Judiciary Committee—she is balanced, she is openminded, and she will adjudicate according to what President Levin called ''her firm ethical and moral compass.'' Therefore I hope there will be a strong vote of support to send Susan Carney to the Second Circuit Court of Appeals where she will serve the cause of justice in America very well indeed.

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

The PRESIDING OFFICER (Mr. TESTER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. 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. GRASSLEY. Mr. President, I come to the floor to address my colleagues and the public on the nomination of Susan Carney, nominated to the Second Circuit, and which we will soon vote. Today's vote marks the 24th judicial confirmation this year and the 16th for a seat designated as a judicial emergency. This also marks the fourth vacancy to the Second Circuit that has been filled by an Obama nominee.

Over the past 2 weeks, nominations-related work has taken up the vast majority of the Senate's time. In fact, after today, we will have confirmed seven judges in just 9 days. Last week alone, we had a cloture vote on the nominee to be Deputy Attorney General, debate and votes on three district court nominees, and two Judiciary Committee markups. This year, the committee has reported 51 percent of President Obama's nominees. Yet it seems the more we work with the majority on filling vacancies, the more complaints we hear. Furthermore, as we work together to confirm consensus nominees, we are met with the majority's insistence that we turn to controversial nominees. So I wish to address some of the complaints we have heard.

I think about the American Constitution Society blog and some of my colleagues in the Senate who say we are not moving fast enough on President Obama's nominees. I wish to point out to them that is intellectually dishonest. They may be ignorant about some of the statistics that involve the nominees we have approved so far versus what has been done in other administrations, but I wish to show that it is an outright, flat lie that we are not processing nominees fast enough. Given the pace of activity in our committee and on the floor, there is no credibility to the arguments that we are not moving fast enough.

Last week, it was stated that the Senate is well behind on President Obama's nominations, so I would like to provide perspective on that assertion. For comparable time periods, we have processed and confirmed a greater percentage of President Obama's nominees. When we complete the vote we are going to have in about 30 minutes, we will have confirmed 33 percent of President Obama's nominees nominated this year. That compares to only 28 percent of President Bush's nominees confirmed in a comparable time period.

Furthermore, President Obama's nominees are moving much faster through the committee process. President Obama's circuit court nominees have waited only, on average, 72 days from nomination to hearing. President Bush's had to wait, on average, 275 days during his first term. For his entire Presidency, that average was almost 247 days. President Obama's district court nominees are also faring better, waiting, on average, only 70 days for their hearings. President Bush's district court nominees had an average wait of closer to 100 days during his first term, and an average of 120 days throughout his entire Presidency.

These statistics, and our continued action to move on consensus nominees, refutes the argument made by those who continue to falsely claim there is a systematic delay and partisan obstruction of judicial nominees by Republicans in the Senate. I hope those who continue to make dishonest comments take note of the statistics I just gave.

Today, we are going to vote on the nomination of Susan Carney, and this will be for a U.S. circuit judge for the Second Circuit. Ms. Carney received her A.B., cum laude, from Harvard University in 1973 and her juris doctorate, magna cum laude, from Harvard Law School in 1977. Upon graduation from law school, she clerked for Judge Campbell on the First Circuit and then entered private practice. After 8 years of private practice, Ms. Carney was self-employed for the next 6 years, engaged in contract legal work and consulting. In 1994, the nominee returned to legal practice as a counsel to Bredhoff & Kaiser here in Washington, DC. In 1996, she moved to the Peace Corps, where she served as Associate General Counsel for 2 years. In 1998, she joined the general counsel's office at Yale University, where she has been the deputy general counsel for the past 9 years.

My concern with Ms. Carney's nomination is her lack of experience. She has no judicial experience and has limited litigation experience. She has never authored any scholarly legal works of note, and much of her work product provided to the committee consists of presentations about various legal issues faced by research universities.

Her qualifications for the court of appeals and, indeed, the reason for the President's decision to nominate her to the Second Circuit remains somewhat of a mystery. According to her questionnaire, Ms. Carney appeared in court occasionally over the course of her career, and the word ''occasionally'' is her own. She has never tried a case to verdict, judgment, or final decision—an absence she explains by saying that she ''spent [her] law career as an appellate lawyer and in-house counsel.'' Her questionnaire suggests she has never argued a case in any appellate court.

During her most recent legal job, Ms. Carney has focused largely on contractual issues such as scientific research partnerships between academic researchers and for-profit industry, international partnerships involving Yale, and intellectual property ownership issues. Her questionnaire reveals no litigation experience in the last 15 years of her career, and it is unclear how her position with Yale University might have prepared her for the Federal judicial appointment, much less one on the court of appeals.

The American Bar Association Standing Committee on the Federal Judiciary gave her the rating ''substantial majority qualified, minority not qualified.'' Even though the reasons behind the ratings are not released, I suspect the ''not qualified'' rating stems from her lack of litigation experience.

This nominee does not have the concrete judicial experience I favor. I know others share this view. The Judiciary Committee reported this nominee by a vote of 15 to 3, with three Republicans in opposition, not including this Senator. I take their views seriously and fully understand why Senators would not support this nomination.

Nevertheless, with little enthusiasm for her nomination, I will give her the benefit of the doubt and support the nominee.

I yield the floor and 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. LEAHY. 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. LEAHY. Mr. President, today, the Senate finally considers the nomination of Susan Carney of Connecticut to fill a judicial emergency vacancy on the Court of Appeals for the Second Circuit. Ms. Carney has twice been considered by the Judiciary Committee and has twice been reported with strong bipartisan support, first last year and again in February. The majority of the Republicans on the Judiciary Committee have twice joined in supporting this nomination. I expect that she will be confirmed with significant bipartisan support.

This is one of several judicial nominations that the minority refused to consider, despite being favorably reported by the Judiciary Committee last year. Hers will be the 16th nomination confirmed this year that could and, in my view, should have been considered last year. That is right: Of the 24 judicial nominations the Senate will have considered and confirmed this year, including Ms. Carney, almost 70 percent were delayed from last year. We have only been able to confirm eight judicial nominees who had hearings and were reported for the first time this year. So when some say we are taking ''positive action'' on large percentages of nominees, what this shows is how many unobjectionable nominees were stalled last year by objections from the minority.

This is only the third circuit court nomination the Senate has been allowed to consider all year. There are several others awaiting final Senate action. Caitlin Halligan is an outstanding nominee to the DC Circuit. Bernice Donald of Tennessee has the support of her home State Republican Senators, and should be confirmed promptly to the Sixth Circuit. Henry Floyd of South Carolina has the support of his home State Republican Senators and should not be delayed from serving on the Fourth Circuit. The circuit nominee stalled the longest is Professor Goodwin Liu of California. He is nominated to the Ninth Circuit and is strongly supported by his home State Senators. He is qualified and will make an outstanding judge. He is brilliant and understands the role of a judge. He has been reported three times by the Senate Judiciary Committee. The stalling on his nomination should end. The Senate should vote and confirm Goodwin Liu.

Susan Carney, currently the deputy general counsel of Yale University, has a career of distinguished service. After graduating with honors from Harvard College and Harvard Law School, Ms. Carney clerked for Judge Levin H. Campbell of the Court of Appeals for the First Circuit. She then spent 17 years in private practice, obtaining significant appellate litigation experience, before becoming the associate general counsel of the Peace Corps. Ms. Carney has spent the last 13 years in the Office of the General Counsel at Yale University, and is now Yale's second highest ranking legal officer.

Ms. Carney's nomination has the strong support of both of her home State Senators, Senator LIEBERMAN and Senator BLUMENTHAL, along with the Federal Judiciary Committee of the Connecticut Bar Association and the New York City Bar Association's Committee on the Judiciary. Ms. Carney's nomination also had the strong support of Mr. Dodd, the distinguished former Senator from Connecticut. Before he retired from the Senate, Senator Dodd introduced Ms. Carney to the Judiciary Committee at her nomination hearing. He said of Ms. Carney:

> Throughout her career, Susan Carney has developed a professional versatility and breadth of legal knowledge well suited to serve on the Second Circuit Court of Appeals. And perhaps even more important, I believe she has exhibited the kind of temperament and unflinching respect for the rule of law that are absolutely critical components, in my view, of serving on the Federal courts.

It is no surprise that Ms. Carney's nomination has received such strong bipartisan support on the Judiciary Committee. The Senate should have been able to debate and vote on her nomination before Senator Dodd left the Senate. I am pleased we are finally going to vote on it today.

I am sorry that another outstanding nominee from Connecticut, Judge Robert Chatigny, was also prevented by the minority from receiving consideration and a vote by the Senate. After he was favorably reported last year, Senate Republicans refused to agree to a debate and vote on his nomination, and insisted on returning it to the President without Senate consideration. He is a fine judge whose record was distorted in their opposition to him. That was a shame.

I thank the majority and Republican leaders for agreeing to schedule the vote on Ms. Carney's nomination today. The Senate's agreement to debate and vote on long-delayed nominations like that of Ms. Carney and of Judge Edward Chen of the Northern District of California last week show that the delays that have slowed our progress on nominations are unnecessary. With the breakthrough earlier this month when 11 Republicans joined in ending the filibuster against another long-stalled nomination, that of Judge Jack McConnell of Rhode Island, we have begun to make progress and, in fact, take ''positive action'' or judicial nominations held up for months by the minority. With vacancies still totaling almost 90 on Federal courts throughout the country, with another dozen future vacancies on the horizon, we need to do more to ensure that the Federal judiciary has the resources it needs to fulfill its constitutional role.

Including Ms. Carney's nomination, there are 15 judicial nominations on the Senate Executive Calendar, more than half of which have been ready for final Senate action for weeks and, in some cases, many months. I thank the Judiciary Committee's ranking member, Senator GRASSLEY, for working with me to consider nominations in the Judiciary Committee. We have a fair but thorough process, including reviewing extensive background material on each nominee, and giving all Senators on the committee, Democratic and Republican, the opportunity to ask the nominees questions at a live hearing and following the hearing in writing. All of these nominees which the committee reported to the Senate have a strong commitment to the rule of law and a demonstrated faithfulness to the Constitution. All have the support of their home State Senators, both Republican and Democratic. They should not be delayed for weeks and months needlessly after being so thoroughly and fairly considered by the Judiciary Committee.

Our ability to make progress regarding nominations has been hampered by the creation of what I consider to be misplaced controversies about many nominees' records. I hope no Senator cites one such invented controversy as a basis for opposing Ms. Carney's nomination. In the time that the Senate has been prevented from voting on Ms. Carney's nomination, some on the far right have made baseless allegations about Ms. Carney. Their false claim is that Ms. Carney engaged in a coverup after another Yale administrator had erroneously confirmed to a Korean institution that a prospective hire earned a Ph.D. from Yale. In fact, the opposite is true. It was Ms. Carney who informed the Korean institution that Yale had erred. I hope no Senator is taken in by this smear campaign against a good nominee.

Concerns that Ms. Carney lacks sufficient experience to be an appellate judge are also misplaced. She has been a lawyer for 30 years and has a wealth of experience, including, as I mentioned, 17 years in private practice with experience in appellate litigation. I have, nonetheless, heard this purported concern raised by the handful of Republican Senators who oppose Ms. Carney's confirmation. I believe that Ms. Carney's wide range of experience as a lawyer in private practice and as deputy general counsel of one of the world's leading educational and research institutions—one with an annual budget that exceeds $2 billion—have prepared her well to serve on the Second Circuit. Along with Connecticut and New York, it is Vermont that is served by the circuit court to which Ms. Carney has been nominated.

All Senators from States within the Second Circuit support her confirmation. I also note that I did not hear Republican Senators raise any concerns about lack of judicial experience when President Bush nominated, and the Senate confirmed, 24 nominees to circuit courts with no prior judicial experience, and a number with little trial litigation experience.

Even as some Republicans have opposed this nominee by saying that she does not have sufficient litigation experience, Republican Senators have recently tried to twist nominees' litigation experience against them. Their partisan attacks are not consistent. When a nominee has extensive experience and is a successful trial lawyer, they complain that the nominee has too much experience and will be biased by it.

Republicans opposed Judge McConnell of Rhode Island because he was an excellent trial lawyer. They opposed Judge Chen of California despite his 10 years as a fair and impartial Federal judge magistrate and disregarded his judicial record. The Republican opposition to President Obama's judicial nominees has been anything but consistent. Now some will turn around and oppose Ms. Carney, a nominee with more than 30 years of legal experience, by saying she has not had sufficient experience as a trial advocate.

This reminds me of the story of the mother who sent her son two neckties as gifts. When she visited, the son picked her up at the airport dutifully wearing one of the ties, only to hear his mother complain: ''What's the matter? Don't you like the other tie?''

Let us turn away from such double standards and return to the longstanding Senate practice of judging nominees on their merits, not based on caricatures. Our ability to finally reach a time agreement and have a vote on the nomination of Susan Carney is a welcome sign of progress. We still have a long way to go to do as well as we did during President Bush's first term, when we confirmed 205 of his judicial nominations. We confirmed 100 of those judicial nominations during the 17 months I was chairman during President Bush's first 2 years in office. So far, well into President Obama's third year in office, the Senate has only been allowed to consider 84 of President Obama's Federal circuit and district court nominees, well short of 205. We need to work together to ensure that the Federal judiciary has the judges it needs to provide justice to Americans in courts throughout the country.

I congratulate Ms. Carney and her family on her confirmation today.

Mr. President, I yield the floor and suggest the absence of a quorum, and ask unanimous consent that the time be charged equally to both sides.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAPO. 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. CRAPO. Mr. President, I yield back all time.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Susan L. Carney, of Connecticut, to be U.S. Circuit Judge for the Second Circuit?

Mr. CRAPO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Vermont (Mr. SANDERS) is necessarily absent.

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

The result was announced—yeas 71, nays 28, as follows:

[Rollcall Vote No. 71 Ex.]

YEAS—71

Akaka	Gillibrand	Merkley
Alexander	Graham	Mikulski
Ayotte	Grassley	Murkowski
Baucus	Hagan	Murray
Begich	Harkin	Nelson (NE)
Bennet	Hatch	Nelson (FL)
Bingaman	Hutchison	Portman
Blumenthal	Inouye	Pryor
Boxer	Johnson (SD)	Reed
Brown (MA)	Kerry	Reid
Brown (OH)	Kirk	Rockefeller
Cantwell	Klobuchar	Schumer
Cardin	Kohl	Shaheen
Carper	Kyl	Snowe
Casey	Landrieu	Stabenow
Cochran	Lautenberg	Tester
Collins	Leahy	Toomey
Conrad	Levin	Udall (CO)
Coons	Lieberman	Udall (NM)
Corker	Lugar	Warner
Cornyn	Manchin	Webb
Durbin	McCain	Whitehouse
Feinstein	McCaskill	Wyden
Franken	Menendez	

NAYS—28

Barrasso	Heller	Risch
Blunt	Hoeven	Roberts
Boozman	Inhofe	Rubio
Burr	Isakson	Sessions
Chambliss	Johanns	Shelby
Coats	Johnson (WI)	Thune
Coburn	Lee	Vitter
Crapo	McConnell	Wicker
DeMint	Moran	
Enzi	Paul	

NOT VOTING—1

Sanders

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:47 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. WEBB).

CLOSE BIG OIL TAX LOOPHOLES ACT—MOTION TO PROCEED

Mr. REID. Mr. President, under the previous order, I move to proceed to Calendar No. 42, S. 940.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

Motion to proceed to the bill (S. 940) to reduce the Federal budget deficit by closing big oil tax loopholes, and for other purposes.

OFFSHORE PRODUCTION AND SAFETY ACT OF 2011—MOTION TO PROCEED

Mr. REID. Mr. President, under the previous order, I move to proceed to Calendar No. 43, S. 953.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

Motion to proceed to the bill (S. 953) to authorize the conduct of certain lease sales in the Outer Continental Shelf, to amend the Outer Continental Shelf Lands Act to modify the requirements for exploration, and for other purposes.

The PRESIDING OFFICER. Under the previous order, there will be 4 hours of debate equally divided prior to the vote on the motion to proceed to S. 940.

The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I rise to follow on the majority leader's bringing this legislation to the floor, which I am privileged to sponsor with a whole host of my colleagues, and really to speak out for taxpayers and against continuing to provide subsidies to multibillion-dollar big oil companies. We are talking about the big five. We are not talking about any other entity, just the big five.

A positive vote on my bill presents a simple choice for everyone in this Chamber: Are you on the side of working class families or are you on the side of Big Oil? There are lots of ways to cut the deficit. Many of our colleagues, particularly in the other body, want to end Medicare and cut student loan programs. What I and my cosponsors want to do is end wasteful oil tax breaks for a wealthy industry that does not need them.

Clearly, we all need to tighten our belts to help address the deficit—all of us—even the oil companies. We all know oil companies are among the largest, most profitable companies in the world, but sometimes it is hard to understand the true scale of their wealth. So this chart is a simple attempt to give some perspective.

The median income in the United States is about $50,000. ExxonMobil, just one of these big five, is projected to earn in profits $42.6 billion this year—$42.6 billion. Now, it is impossible to show this disparity on a chart,

but if this chart were to scale and each bundle of money equaled $50,000, then we would need more than 850,000 stacks of bills to equal ExxonMobil's profits over the next year. So 850,000 stacks of bills on this poster would be about 170,000 feet high or about 32.2 miles straight up, through the ceiling of this Chamber, and beyond the stratosphere.

Now, the printing and graphics department is very good at the Senate, but 32 miles of posters was probably a bit much. So I decided not to do that. I appreciate the Parliamentarian acknowledging that I shouldn't have done that.

My bill would close several loopholes for Big Oil—loopholes that, given the current budget climate, would let Big Oil get away without making any sacrifices at the very time we are asking middle-class families, the disabled, and the elderly to tighten their belts and help reduce the deficit. There simply is no commonsense explanation for balancing the budget on the backs of working families and letting multibillion-dollar oil companies keep billions in taxpayer dollars.

At the same time the median income is $50,000 for Americans, here is what it is if you are a CEO of one of the big oil companies. In the last year alone, the CEO of ExxonMobil got paid $29 million. The ConocoPhillips CEO last year was paid about $18 million and Chevron about $16 million. Most Americans will never see that in their lifetime of work. So to have these executives come last week before the Finance Committee and say, as one of the companies put out, the suggestion about taking away some—not all, some—of their tax subsidies was un-American is pretty outrageous.

Let me explain the provisions of my proposal. The first provision has to do with foreign tax credits. U.S. taxpayers are taxed on their income worldwide, but they are entitled to a dollar-for-dollar tax credit for any income taxes that are paid to a foreign government. They get that taken off. It makes sense because we don't want to tax the same activity twice, but U.S. oil and gas companies have pretty smart lawyers and clever accountants. They have figured out if they can convince a foreign government, such as Indonesia, to charge them taxes instead of a royalty, which is, in essence, a fee they pay for the purpose of drawing that oil out of that country, they can get a big break on their U.S. taxes. But what this amounts to is that the U.S. taxpayer is subsidizing foreign oil production. This bill would close that loophole and return $6.5 billion to the Treasury.

Another one. In 2004 Congress created the domestic manufacturing tax deduction. It was designed to help U.S. manufacturers that export a product to a foreign market; so cars, iPhones, iPads, all of that. Well, few would see the extraction of oil from the ground as manufacturing, but, again, Big Oil's lobbyists earned their money. They saw an opportunity, some made phone calls, and, lo and behold, according to the Tax Code, oil companies are in the manufacturing business.

This legislation closes that loophole and saves taxpayers almost $13 billion. That would be $13 billion more toward deficit reduction.

Now, the American people understand this bill. They understand Big Oil makes enormous profits. There is nothing wrong with making profits, by the way, but they don't need to have our tax dollars in order for them to make those profits. The American people understand Big Oil does not need taxpayer subsidies, and they understand if Big Oil wants to lower gasoline prices, they could put a lot less money in stock buybacks and a lot more in lowering prices or producing more oil.

But in order to combat this straightforward, commonsense bill that even the CATO Institute supports, Big Oil and its supporters have come up with some pretty straining rhetoric. The strangest by far, as I alluded to before, is suggesting that those who support cutting these wasteful subsidies are un-American. It seems to me when a company stoops so low as to question the patriotism of those who would suggest that maybe they can do without $21 billion in taxpayer subsidies when they are going to make anywhere between $125 billion in profits—not proceeds, profits—to $140-some-odd billion, to question the patriotism of those who suggest they don't need further taxpayer subsidies is to suggest they don't have very good arguments on their side.

The charge of un-American is outrageous, and I think the 74 percent of Americans who support ending oil subsidies know they are more American than that point of view.

Another argument I keep hearing is that oil companies are entitled to these breaks. This argument seems to suggest that the wealthy and powerful deserve what they get, and working class families should know their place and know better than to ask oil companies to do their fair share as well. Warren Buffett, one of the richest men in America, said:

> There's class warfare all right, but it's my class, the rich class, that's making the war and we're winning.

This bill says even the most rich and powerful among us must do their fair share to help us reduce the deficit. Their high-priced lobbyists cannot stop us from doing what is fair and what is right.

Some in the industry have also claimed that cutting $2 billion in annual oil subsidies to the big five oil companies will somehow make oil and gasoline more expensive. That argument is absolutely false. This bill would save taxpayers $21 billion over 10 years, roughly a little over $2 billion per year. Compare $2 billion in taxpayer subsidies to the projected—anywhere between $125 billion and $144 billion in profits the big five oil companies are expected to make this year. So if the big five oil companies could just live with $142 billion in profits in 2011, they could pay their fair share in taxes, help lower the deficit, and not raise the price of gasoline.

Let's put it a different way. The Finance Committee recently went through the corporate filings of the big five oil companies and found their costs of extracting oil is about $11 per barrel. When oil is trading at nearly $100 per barrel, it is simply absurd to suggest that the costs oil companies are facing is what is determining the price of oil or that cutting $2 billion per year in subsidies will somehow force oil companies to raise prices.

In addition, the nonpartisan Congressional Research Service just came out with a definitive report echoing the sentiments of countless economists and other disinterested observers concluding that my legislation would not increase gas prices at all.

So it is time for the big five to do what is right for a change and pay their fair share. This should not be hard since in 2005, the CEOs of some of the big five oil companies testified they agreed with former President Bush that they do not need subsidies to drill for oil when it is selling at $55 per barrel. Well, it is selling at nearly $100 per barrel right now, so it is quite strange that anyone thinks they need government handouts to drill when the marketplace is driving them that way. We simply cannot expect the average working family to shoulder the burden of lowering the deficit alone.

I hope some of the favorable comments I have been hearing from my Republican colleagues in recent weeks means they are ready to join in this effort and lower the deficit because all of the savings go directly to deficit reduction under the legislation, and do so in an equitable and effective manner.

What is fair is fair, but nothing about continuing these subsidies is fair. Those on the other side would end Medicare as we know it in the name of deficit reduction while continuing to pump billions of dollars in corporate welfare into a $100 billion profit industry. That is the height of hypocrisy. It is not fair to working families. It is not a wise use of limited Federal resources. If this body does the right thing today, it is not going to continue. There is nothing fair about the suggestion of ending Medicare in favor of Big Oil subsidies.

Big oil has to do the right thing by America. They can be part, and should be part, of the solution to our deficit challenge, and that is the opportunity we have today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that I be recognized for up to 15 minutes, and that the following list of Republican speakers be recognized for up to 10 minutes each, not necessarily in this order. But the Senators to be recognized will be

MCCAIN, CHAMBLISS, CORNYN, BARRASSO, PAUL, HATCH, HUTCHISON, and VITTER.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Ms. MURKOWSKI. Thank you, Mr. President.

I have also come to the floor today to speak about the proposal to raise taxes on the five largest domestic energy producers. I think it is important we remember we are speaking about five energy producers, five oil companies. We are not talking about a tax proposal that is broad and wide and encompassing. We are talking about a proposal to raise taxes on the five largest domestic energy producers.

I have to admit, I had some hesitation about even engaging in this floor debate at all because I think we recognize that the words and the statements we are delivering here are just that; they are just talk, they are just words. This proposal is designed to fail. But in failing, it is designed to score some political points, and it seems as if that is where we are today. But as a Senator who represents a State—Alaska; an oil and gas producing State, a State that would clearly be hurt by this proposal—I am obliged, obligated to outline why I feel this is so deeply flawed.

I want to start by stating the obvious here. This legislation will not reduce energy prices, but, if anything, it will increase our energy prices. It will not substantially reduce our deficit or our debt, but, if anything, it will add to those burdens by shutting off production and forcing the government to forgo production revenues.

I think it is important we put this in context because people around the country—as they look at the price at the pump go up day after day—are saying: What are you doing in Congress to lower the prices? What are you doing to deal with the higher price of gasoline in this country?

I think it is important we recognize this legislation we have in front of us does nothing to reduce our energy prices. It is not just me who says that. The chairman of the Finance Committee has indicated that. We have heard several Members on both the Republican side of the aisle and the Democratic side of the aisle say this is not going to reduce our prices. So what exactly is it we are seeking to do, other than send a message?

This proposal, I think it is important to recognize, will hurt poor and working families across our country. We all know what the price of gas is in our respective States. I will remind my colleagues that as much as Alaska benefits from high prices of oil, as we are a producer, it is a fact that it kills us in our local communities in our economies because we are the State with the highest gas prices across the country right now.

There was a news story last week back home. In Kotzebue, which is the northwest region up in the State, they are paying $7.55 in Noorvik, $8.25 in Kobuk, and $8.95 in Ambler. I was in Fort Yukon a couple weeks ago. There they are at a $5, $6, $7 gas figure. But the spring barge, which will be coming in in about 4, 5 weeks now, will be delivering fuel at prices that were set some weeks ago, and people have been alerted that on the day the barge delivers the fuel, the price will go up at the pump one additional dollar. We are not talking cents here; we are talking an additional dollar paid by the people in Fort Yukon.

So we know very well what high prices mean to us, and our constituents are asking us to do something about it: What can you do to lower those prices, to develop a coherent energy policy that starts to work now, and then yields progress over time? Our constituents are not asking us to make this problem worse. Yet that is precisely what these proposed tax increases will do.

I heard my colleague here say that, no, this is not designed to increase the prices that are out there. Well, it might not be designed to do that, but that is what we can expect if, in fact, these tax increases do go into play.

It has been a few years since I got my degree in economics, but even though it was more than a few years ago, I do remember some of these very early entry level classes I took. I remember learning that raising taxes on something is going to tend to make it more expensive. And I remember learning that when you tax something, you tend to wind up with less of it. That is just basic economics.

I think there is at least some understanding of these concepts around here because I do not see anyone who is proposing to raise taxes on solar panels or raise taxes on wind turbines to bring down their costs.

The reality is, this proposal—and I believe the point is conceded by its supporters—this proposal will not cause gasoline prices to drop. Instead, it could very well cause them to rise. I understand a memo from the Congressional Research Service suggests that no significant impact on prices will be seen in the short run. But that is the key phrase here: in the short run. Because what we need to be doing is looking longer term than next week or next month.

Whenever corporations face increased costs, they have a responsibility to their investors to recover those costs wherever possible, and usually what happens is, they pass them on to the consumers. To the extent the costs of this proposal cannot be passed on, and these companies will simply have less to invest in new projects.

That is talking about what does not happen with the price of gas. But this proposal is also not about reducing the debt either. I think it is important to put that in context. At best, it may be a drop in the bucket. According to the CBO, the President's budget for fiscal years 2012 through 2021 would result in nearly $9.5 trillion in new debt. This proposal, assuming it has no negative economic impact, would raise $21 billion, or about 0.2 percent of that debt. We would still need something like 450 times more revenue to break even, never mind the $14 trillion debt we have already incurred. We all know we hit the debt ceiling yesterday, so it does cause you to wonder: Is this the best we can do when we are talking about balancing the Federal budget?

I understand this proposal is not all it will take, and no one is proposing that it do so. But I think it is important we be honest with the American people when we talk about what this would mean in terms of a reduction in the deficit. If we are being honest with each other, we are going to see this proposal for what it is. Essentially a ''yes'' vote tonight to raise taxes on oil and gas companies is simply a vote to try to take a pound of flesh from these five major companies that, yes, in fact, are making money, yes, in fact, are making a profit. A ''no'' vote on this proposal tonight is a vote to try—try—to keep our prices under control, and it is a vote to help preserve America's competitiveness within the global economy.

I also want to take a moment to kind of set the record straight on subsidies. There are no payments from the Federal Government to the major energy producers as some have implied. Past Congresses have decided that those companies—and most other companies in America, I might add—deserve certain tax reductions. This is a critical distinction because we have not decided the Federal Government should actually give more to these companies. What we have decided is, the Federal Government should take less from them.

If that is the same as a subsidy, then new homeowners are direct recipients of subsidies because we deduct mortgage interest payments, and that means almost every company in our country—whether it is a Hollywood studio or the New York Times, whoever it is—almost every company then is somehow or other subsidized.

If we are talking about leveling the playing field by eliminating all the incentives within our Tax Code, especially in the context of broader reform that makes our Tax Code simpler and more fair, I welcome that discussion, and I think many in this Chamber do. It would be a much different conversation if we were considering a reduction in the corporate tax rate. But, instead, we are here debating whether to give different tax treatment to essentially punish a handful of companies in just one sector of our economy, and there is no policy justification for it other than they can afford it, they are making money, they can afford it.

I would ask my colleagues, is this the kind of business climate we want for the United States? I have to wonder, then, if the answer to that is yes, who

the next target will be, if making large profits signals to Congress you should be taxed at a higher rate.

In reality, domestic energy producers are already amongst the most heavily taxed companies in this country. While the effective tax rates for all corporations averaged 26.5 percent last year, the oil and gas industry's tax rate was at a much higher 41 percent. Instead of being subsidized by the Federal Government, the industry is actually a very large taxpayer.

The Federal Government taxes gasoline at a rate of 18.4 cents a gallon. It also receives billions of dollars each year in nontax revenues from the industry. Producers must pay the government for the rights of each of their leases. They have to pay the annual ''rents'' to hang on to those leases. They pay the royalties on any production that ultimately results from them.

So in terms of what is paid out, according to one estimate, the oil and gas industry's total payments to the government amounted to $86 million per day—per day—in 2010.

I would also remind my colleagues that the President has established a goal of cutting oil imports by 3 million barrels a day by 2025. If we intend to achieve that goal, which is a good goal, raising taxes on domestic oil production defies logic. To reduce imports, we will need to increase our domestic production. That will not happen if we impose a hostile tax environment for the companies that operate here—companies that are already challenged to produce the oil and gas resources we know we have but we have not been allowed to explore.

Before I conclude, I want to mention an article that recently appeared in the Financial Times. It noted that in 2011—this year—OPEC nations stand to take in more than $1 trillion from exporting oil. Our Nation—the United States—will provide a pretty good share of that money, likely tens of billions of dollars. And what do we hear about it? Nothing from the people who are proposing these tax increases, nothing about the tremendous sums of money we send overseas each year for foreign oil—just the far smaller sums that could be collected from domestic companies through higher taxes. That is missing the forest here, to cut down the one tree that happens to be growing in our line of sight.

So here we are. Instead of doing everything we can to halt the hemorrhage of Americans dollars to foreign countries, the Senate is now focused on an effort to raise taxes on five companies that actually operate here. The day after we hit the debt ceiling, we are debating a measure that would hardly make a dent in our debt. We are on pace to spend trillions of dollars outside of our economy in the years ahead, and we are on pace to incur trillions in Federal debt, but so long as a few companies pay higher taxes, somehow or other it makes us all feel better. No wonder the American people have lost so much faith in the legislative process. No wonder so much blame for high energy prices is placed on the Federal Government.

The proposal before us today is not an answer for high gas prices or the Federal debt. It is more likely to raise our energy prices, reduce our Nation's oil production, and deepen our annual deficits. I had hoped we would have a good, substantive, reasoned debate and discussion about how we are going to solve all these problems. But instead we are left to debate a measure that is all but certain to fail.

I think the Senate can do better. We will have a debate tomorrow about the Republican alternative—a bill that while it is not perfect will increase production, generate revenues for the government, create new jobs, and improve the safety of our offshore operations. If we are looking for good policy, I think that is where we need to start.

We have a long way to go. But I think what we have before us today is unfortunate.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, what is the order?

The PRESIDING OFFICER. There is 4 hours of debate equally divided on the question of proceeding to S. 490.

Mrs. BOXER. Is there a specific time limit on each individual Senator?

The PRESIDING OFFICER. The majority leader has 107 minutes remaining.

Mrs. BOXER. I ask for such time as I may consume, probably less than 15 minutes.

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

Mrs. BOXER. I want to say that the Senator from Alaska does an excellent job of representing the oil companies. She puts forward the oil companies' arguments magnificently. She is very good at it. She was an economics major, and so was I. She said what she learned in her time, and let me tell you what I learned.

I learned that corporate welfare is wrong, that corporate welfare to companies that are on the Fortune 500 list is particularly wrong.

ExxonMobil, No. 2 on the Fortune 500—excuse me if I do not cry for Exxon. Forgive me if I shed no tears for Chevron—they are No. 3—and forgive me, ConocoPhillips. You are No. 4, but you are working on it. I tell you whom I shed tears for—my people at home who are having to pay ridiculous prices and who also have to face a Federal deficit and are looking to us for leadership here. And leadership requires us to say: How long do you have to give corporate welfare to oil companies that have been getting it for 100 years? Count them—100 years. And they are so huge. They are multinational. They are multibillion. I will get into what their people earn, what their CEOs earn in a minute.

So I learned that corporate welfare is bad. It distorts the market. And to compare the tax deductions Big Oil has with the home mortgage deduction gets right under my skin because the people who benefit from the home mortgage deduction are primarily the middle class of this country. So do not come here and compare home mortgage deductions with corporate welfare for the biggest companies in our country.

When are the defenders of Big Oil going to decide how much corporate welfare is enough? When are the defenders of Big Oil going to answer this question: How high does the deficit have to go before you are willing to step up to the plate and end corporate welfare for the biggest corporations that are cleaning our clocks all the way to the bank? I would hope the time is now.

I am going to try to lay out in a series of charts why I believe that. So let's go with the first one.

First of all, we see the first quarter profits: ExxonMobil, $10.7 billion; as a percentage increase from last year, 69 percent. I am supposed to cry for them. I don't think so. BP, with all of their troubles, corporate profit, $7.1 billion—this is just in the first quarter—up 17 percent; Shell, up 30 percent; ConocoPhillips, up 44 percent; and Chevron, up 74 percent. Yet Big Oil has the defenders on this floor saying: Wah wah. We cannot allow them to pay their fair share.

Well, I tell you, we have a deficit problem. If we cannot ask the wealthy few in this country to do their share, I do not know where we are headed.

Let's cry for Big Oil—or let's not. Mr. President, $14.5 million is the average compensation for the big five oil company CEOs. That is 307 times the average salary of a firefighter, it is 273 times the average salary of a teacher, it is 263 times the average salary of a police officer, and it is 218 times the average salary of a nurse. So we actually have people in this Senate coming here not only to defend these corporations but the CEOs who are crying to us that their companies cannot pay a few dollars more to help us solve our deficit problem.

Do you know what? We could lose this vote. They are filibustering it. We need 60. Let the American people see who is on their side.

Well, who is on the side of these corporations? The effective tax rate for Exxon is 18 percent on their $7.7 billion in income. A family of two teachers has an effective tax rate of 19 percent. Can you believe this? We have people coming to this floor crying for the oil companies when they pay an effective tax rate less than a family of two teachers. ExxonMobil, 18 percent on their billions; a family of a truckdriver and a dental hygienist, 19 percent. So the effective tax rate of these humongous, multibillion-dollar, multinational corporations is less than our middle-class families, and people are coming here to cry tears for these oil

companies, and the companies were whining in front of that committee. I mean, they may be very nice people, but they are out of touch. I agree with that. I think it was Senator ROCKEFELLER who made that statement.

What we could do with the $21 billion over the next 10 years. We can continue these handouts, this corporate welfare to Big Oil, or we could fund the entire COPS Program for all of those 10 years and we could also provide afterschool care for 2 million kids. So I am asking people, would you rather have a cop on the beat at home and know our police are out there and they are protecting our families, would you rather make sure 2 million kids are kept off the street and have quality afterschool programs, or would you rather continue corporate welfare for these five corporations in the Fortune 500—three of the American companies are in the Fortune 500.

We could also provide 10 years of Federal Emergency Management Administration disaster relief. We are looking across this great Nation of ours, and we are seeing flooding, evacuations, sandbagging—all of the problems—typhoons, hurricanes, and in California we know about earthquakes. FEMA is running out of money. Would you rather make sure they are ready for the next disaster or would you rather continue corporate welfare for these five corporations? You have to answer that question, America, because it does not look as though we are going to win this one.

These are issues you have to decide when you vote. That is the beauty of this country—people make a decision when they vote. If they agree with the Senator from Alaska that these five big oil companies still need corporate welfare, they know whom to vote for.

What could we do with $21 billion over the next 10 years? We could fund the Ryan White Program, which handles the AIDS epidemic at the level the President requested, and get rid of that dreadful disease.

You heard the sort of veiled threats from my colleague from Alaska, an oil State. I fully respect her; I just disagree with her entirely. But she has the absolute right to say what she said and believe what she said. I think it is parroting what the oil companies say. That is fine. That is her option. But the Joint Economic Committee said that repealing the oil subsidies would have no effect on consumer energy prices in the immediate future. So all of those threats that they are going to raise prices—I ask you rhetorically, Mr. President, for all of the years they have been getting all these subsidies, have they ever lowered their prices? No, they have not. The Congressional Research Service said that a small increase in taxes would be unlikely to reduce oil output and hence increase petroleum prices. So the experts are saying that nothing in this bill to make them pay their fair share is going to adversely impact gasoline prices.

The former CEO of Shell Oil said that with high oil prices, such subsidies are not necessary. He said that in February—their own people. Their own people. Yet, when they come to the committee, they are all whining about it.

Then you hear from those from the oil-producing States: Well, we do not have enough rigs in operation. This administration is not drilling.

Excuse me. There are such things called the facts. Let's look at them in this chart. We see more drilling than ever before. This administration is moving forward. The oil companies have over 50 million acres of leased land and offshore that they can drill on today, and all they want is more, more, more. They want to come to California, drill off our pristine coast, and threaten tens of thousands of jobs we have in our fishing industry, our tourism industry. They do not have to do that. They are sitting on these leases. They are drilling many more.

So let's just have the facts be part of the debate. That is what I am trying to do today with these charts, is to lay out the facts.

Now, how do we reduce gas prices? I had a press conference actually in an independent gas station last month. The independent gas station owner was wonderful. He said: I agree with you, Senator.

There I was, coming out with this plan. Here is how we can reduce gas prices:

End Big Oil subsidies and take that money—some of it—reduce the deficit, and take the rest and invest in alternatives so we have alternative clean fuels and batteries that can run our vehicles so we do not have to have these automobiles that are gas guzzlers.

Crack down on fraud and speculation. A lot of this increase is due to that.

Use it or lose it, say to the oil companies. You own all of these leases; drill on those leases.

Release oil from the SPR. We know the Strategic Petroleum Reserve has a tremendous amount of oil. This is the time to tap it. The last time we did it, prices went down 30 percent.

Invest in clean energy and efficiency.

Reduce exports. Can you believe that the producers right here in America are exporting their oil—some of their oil? Keep it home. We need it here.

So that is a plan we can take. But let me conclude my remarks this way. In the land of the free and the home of the brave, we need to have some fairness in our lives. It is crucial.

All the talk about competition—we want competition. You do not have competition. When you are looking at these huge companies—and my colleague from Alaska talked about comparing them to these little bitty solar companies that are just getting started. When companies are just getting started with a new technology, that is one set of circumstances, but when you give these tax subsidies to Big Oil, you distort the price of the commodity. You distort the price of the commodity and you bring it down. Therefore, it is anticompetitive with other sources of energy.

This is the moment. We are looking to cut the deficit. We are looking for ways to bring billions of dollars home so that we can get out of the red. What could be more perfect than this opportunity in the name of fairness, in the name of competition, in the name of deficit reduction, frankly, in the name of the consumer? Let's have some fairness. Let's not come down to the floor and compare these corporate giveaways to the mortgage deduction our middle class so needs.

I thank you very much for this opportunity. I hope we will have the courage to vote to end this corporate welfare.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. Mr. President, I ask unanimous consent that all the time not used be charged equally to both sides.

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

Mrs. BOXER. 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. VITTER. 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. VITTER. Mr. President, I ask unanimous consent to speak for up to 15 minutes.

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

Mr. VITTER. Mr. President, American families all around the country, certainly including Louisiana, are suffering as the price at the pump goes up and up. It does so just as we are trying to get ready to enjoy a little vacation time with our families, use more gasoline maybe driving places. That is always tough. But it is not just a typical summer experience. This is worse than ever. I have the sinking feeling this is more permanent. I am afraid this is not a blip, that this is a long-term trend and it is hitting American families in the pocketbook hard. It is hitting Louisianans in the pocketbook hard.

At the same time we see historic turmoil in the Middle East. We see so many signs that we need to get hold of our energy picture. So energy and the need for, among other things, increased domestic energy production is absolutely crucial.

That is why it is so darn disappointing what we are going to do or,

perhaps more appropriately, not do on this crucial subject in the Senate this week.

First of all, it is disappointing because we are going to end up doing nothing. We are going to have some votes—we are going to have some debate—that are more or less messaging votes and nothing comes of it. That is disappointing because America needs leadership and action, not just posturing.

Secondly, it is disappointing, in my opinion, when we look at the two proposals before us. Because I am deeply disappointed in them, I am going to vote against both proposals—the Menendez bill and the McConnell bill—although for very different reasons.

The first vote will be later today on the Menendez bill. I am afraid this bill is just pure political demagoguery—attacking Big Oil because I suppose the author and some Members think that is an easy target and meanwhile doing nothing substantive about the real problem, providing no relief to Americans who are paying more and more at the pump.

The bill purports to do away with taxpayer subsidies to Big Oil. Let me give the factual translation of that. The factual translation is to increase taxes on certain energy companies by disallowing them from claiming the same sort of deductions and credits that thousands of other American businesses and manufacturers can claim, some of which go back and are almost as old as the income tax itself. That is the factual translation.

Let me also give the translation of what it would do, according to nonpartisan sources, such as the Congressional Research Service. It would decrease gasoline supply and increase price at the pump. What a great result. American families are suffering as it is going into the summer with historically high prices. Measures are being proposed on the floor that would actually decrease supply and increase price, exactly the opposite of what we need.

I am completely open to doing away with all sorts of deductions and exemptions in the Tax Code, but we should do that overall, across all industries, across all groups in America as part of fundamental tax reform. We should not just demagog the issue and target one industry and a few companies.

The President's own deficit commission suggested that brand of fundamental tax reform. I agree with that general approach. Unfortunately, so far the President has not led on that issue, perhaps because it would mean not just impacts on big oil but maybe favorite companies of his, such as GE, that might have to pay some taxes or maybe gold mining companies in Majority Leader REID's State of Nevada would also have to sacrifice very attractive special tax benefits.

Let's get serious about two serious issues: fundamental tax reform and let's look at that and lead on that and let's get serious about energy.

I also have to say I am deeply disappointed with the McConnell bill. It does some positive things at the margin in terms of opening access. But meanwhile, the very first section of the bill, the very first substantive section, which is section 2, actually increases the regulatory burden in the permitting process.

I can tell you, living in the gulf, we have been trying to slog through that overly burdensome permitting process to let energy companies get permits to begin with. That process is already too burdensome, too cumbersome, too long. It virtually shut down the gulf, produced less energy, and has thrown a lot of Louisianans and Americans out of work. We need to streamline that process. We need to accelerate that process, not add any new burdens and any new hurdles in it.

Unfortunately, section 2 of the McConnell bill does exactly that. It increases the burdens and requirements and hurdles of even the new Obama regulations that have been put in place since the BP disaster. Specifically, since the BP disaster, the Obama administration has required containment plans to be presented and approved by the Interior Department before exploration plans and drilling permits are issued.

This bill would go further than that and add a new layer and a new level and a new requirement that even before submission to Interior, these containment plans would have to be third-party reviewed. Again, I think this is a completely unnecessary extra burden, extra hurdle, extra layer of requirement. We need to make the permitting process smoother, more streamlined, more accelerated, not move in the opposite direction.

Secondly, while the McConnell bill opens a little bit more access, it is very modest. It does not touch the eastern gulf. It hardly touches the Atlantic. It does not touch the Pacific coast. It does nothing onshore, including in our western shale areas, where there are enormous oil resources trapped in that western shale which we can access because of new and safe technology. I am also disappointed that the bill is so modest in terms of increased access.

To summarize, this week is pretty darn frustrating for me. It is frustrating because we are not going to do anything. There is going to be a whole bunch of sound and fury, in the end signifying nothing—all too common an experience in the Senate.

When we look at the two specific proposals, they are darn frustrating—the first pure demagoguery; the second moving in the wrong direction in terms of the permitting process and not being big and bold enough in terms of opening access.

The United States is the single most energy-rich country in the world, bar none. Only Russia even comes close. No Middle Eastern country—Saudi Arabia, anyone else—comes close to our overall energy richness, our resources. But we are the only country in the world that puts 95 percent of all those resources off-limits under law; says, no, can't touch the eastern gulf, can't touch the Atlantic, can't touch the Pacific, can't touch Alaska offshore, can't touch ANWR, going to make it difficult in western shale.

Over and over we make it difficult to impossible to produce good, reliable American energy right here at home. Most recently we have done that by virtually shutting down the only productive part of the United States in terms of energy—the western Gulf of Mexico. That is what we need to change. We need to change that in a big way.

In closing, let me say, I am a proponent of all of the above. It is not either/or. It is not just oil and gas. But it is also not just new, undeveloped, advancing forms of technology and energy. We need all of the above in a big way. Let's come together around that commonsense wisdom of the American people who favor all of the above, and let's start doing all of the above aggressively. But that surely has to include much more domestic production of energy, open access to all these vast resources we have. We can do it. We can do it safely. We need to do it to provide some relief to American families.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MANCHIN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak for up to 15 minutes from the time reserved on the majority side on this issue.

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

Ms. LANDRIEU. Mr. President, this is a very important issue we are debating today, and there are very different views about how we should proceed. I rise to object to the Menendez bill that is on the floor. I urge my colleagues to vote no, and I wish to give at least five reasons why.

I don't think this bill is the right approach. It will not solve the problem of high prices at the pump. I think, in many ways, it is actually a waste of time to be taking a whole day on an issue that is not going to result in lower prices at the gas pump or in more domestic supply, which are two things we need to attempt to do sometime in the next short period.

I have a great deal of respect for my colleague from New Jersey—as I do my colleague from California, who spoke in favor of this direction—but I want to give a couple of thoughts about why I will be voting no and why I am urging my colleagues to do the same.

According to economic analysis, the bill Senator MENENDEZ presents to us

today to remove tax credits and subsidies from the five major oil companies will do nothing to lower prices at the pump. So as everyone goes to fill up their cars, their trucks, or their minivans today, even if this bill passed—which it will not, because it will not get near the 60 votes needed to move it forward—it will not lower prices at the pump by 1 penny.

Mr. President, I ask unanimous consent to have printed in the RECORD a document I am going to refer to, which is information from an independent economic analysis.

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

WRITTEN TESTIMONY OF JAMES J. MULVA, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, CONOCOPHILLIPS

Good morning Chairman Baucus, Ranking Member Hatch and members of the Committee. My name is James J. Mulva. I am Chairman and Chief Executive Officer of ConocoPhillips. I am particularly pleased to be here today to tell our side of the story in this important debate, which I believe will help shape the future of our industry and our country. Naturally, I am very concerned about the misinformation being circulated about our industry and my company in particular—especially the misinformation surrounding our corporate tax liabilities and attempts to use these false impressions to justify further increases in our company's tax burden. I feel that it is imperative to make you aware of the impacts that the tax proposals will have, not only on our company, but on American jobs, energy consumers and national energy security.

While there is much discussion about high energy prices and proposals to increase taxes on oil and natural gas companies like ConocoPhillips, there seems to be far less information about the rest of the story—how much we pay already in taxes. As depicted in this chart, our industry already has one of the highest tax rates among all U.S.-based businesses. Of the top 20 Fortune 500 non-financial companies (ranked by market capitalization), the three U.S.-based oil and gas companies represented here today are the top taxpayers on the list. In fact, ConocoPhillips tops the entire list, with a 46 percent effective tax rate. By comparison, the top 20 companies together pay an average effective rate of 27 percent. While there have been some media reports on our industry's actual tax burden, this fact seems to be consistently and unfortunately overlooked in the debate inside the Beltway.

Ms. LANDRIEU. Mr. President, it might make us feel better to beat up on Big Oil, it might present a scapegoat in some quarters, but it will not lower prices at the pump, and that is what we need to talk about. The economic recovery we are in—slow and spotty in places, but underway—can be stalled out by prices as high as $4.37 a gallon—a price I saw at a station right here in the Washington, DC area. That is frightening to consumers, to families, to small businesses, and to large industry that are seeing their cost of business go up because of these prices. We should be working on real solutions, and this is not one of them.

According to the Joint Economic Committee report on this bill, published last week, repealing these tax incentives ''would have little or no impact on consumer energy prices in the immediate future. The impact in the long term will also be negligible.'' So why are we doing it? Why would we want to harm five large oil and gas companies that work internationally, that employ 9.2 million people in the United States directly—good, hard-working Americans working in and for these companies? Why are we doing this? That is a good question.

No. 2. The industry pays its taxes and then some. I think there is some real misunderstanding that these large oil and gas companies pay either little or no taxes. Maybe people have been told, and believe, that they have so many tax subsidies they do not pay taxes. I want to put that issue to rest. First of all, three companies, ConocoPhillips, Chevron and ExxonMobil—I am sorry I don't have this chart blown up. I would like to, and I don't know if the camera can pick up this small 8-x-11 sheet here—you will see by the red lines here, these three companies have paid approximately 49 percent, 43 percent and 42 percent. This is their tax rate. I think that is pretty high.

They are making billions of dollars, that is true, because prices are high and there is an increase in demand. That is the American way. That is the profit incentive. I know people are angry they are making these profits, but they are paying significant amounts in taxes. In fact, these companies pay more than $86 million to the Federal Government in income tax and production fees every day. That is $86 million today, $86 million tomorrow, and the next day and every day. So the thought that they are not paying their taxes, that they are hiding behind some extraordinary loopholes in the Tax Code doesn't measure up.

People might say: Well, Senator, what are those blue lines on your sheet? I will tell you what those blue lines are. This is Walmart. Walmart is a big company. They make a lot of money and they are in all of our States. Their tax rate is 33 percent.

One of the most successful investment companies—Berkshire Hathaway—makes tons of money, has profits for shareholders, has made thousands of millionaires—and congratulations to them, people who have invested in Berkshire Hathaway. They have made millions of dollars. Warren Buffet is one of the most respected investors. I personally have a great deal of respect for him. But you know what their tax rate is? Thirty-one percent.

What is Intel? Intel is one of the largest companies in the world—27 percent. Phillip Morris, a tobacco company, 27 percent; IBM, 27 percent; all the way down to telecommunications companies—Verizon and Coca Cola, 21 percent; all the way down to GE, one of the largest companies in the world. You know what they paid last year? Nine percent.

In fact, people were shocked—myself being one of them—that GE paid zero taxes to the Federal Government last year when these five big companies are paying $86 million a day. GE paid nothing any day—all year—zero. Yet these five oil companies are paying $86 million a day and we have to have this discussion?

Should some of these subsidies be looked at? Absolutely. When should they be looked at? In the Finance Committee, when we look at all the subsidies in the Tax Code for these other industries—both oil and gas and non-oil and gas, resource based and not, both retail, telecommunications and software companies, such as Intel, Microsoft, et cetera. I will be the first to stand and say that many of these subsidies—or some of them—need to be eliminated, particularly when the taxpayers are looking to close the deficit and reduce our debt.

Most certainly we need revenues. Should this be on the table when that serious, thoughtful, deliberate debate happens? Yes. But today, this is entertainment. And it is not funny and it is not laughable. It is very serious.

I am going to submit this for the RECORD. These are all the large companies—these five large oil companies that everybody enjoys beating up on. I understand they are making a lot of money today, but that is no reason to go after them, singling them out, particularly because of the 9.2 million Americans who are working in and around and for them, and the thousands of independent companies and suppliers that work in partnership with them.

Let me give my third reason for opposing this bill. This approach undermines domestic production. According to the EIA study, published in 2008, the oil and gas industry received about 13 percent of the U.S. subsidies. If you listen to the debate on this side of the aisle, you would think that they get all the energy subsidies and that they don't need them because prices are high and they can make a lot of money drilling. The facts are that of all the U.S. energy subsidies, the oil and gas companies—the big ones—get only 13 percent, but they provide over 60 percent of the energy. So for the 13 percent of subsidies, they produce 60 percent of the energy.

Unfortunately, while the United States was at an all-time high of oil production, the EIA, which is the Energy Information Administration, now estimates U.S. Gulf of Mexico production will decline to 1.14 million barrels a day by the year 2012. The last time the Gulf of Mexico produced less than 1.2 million barrels of oil was in 1997—more than 10 years ago.

Everybody—including the President and the Secretary of the Interior, who was before our committee today—is touting that oil production is at an all-time high. They are correct, but that is only half the truth. If you flip the page, or look to the next chapter, what you will see is that production is declining precipitously for two reasons. We have almost shut down drilling in the gulf. There has been virtually no new exploration and production because of bureaucracy and delay. And attacks like this don't help. We need to be increasing production, not decreasing it.

The truth is we are at an all-time high, but we won't be for long. We are going in the wrong direction. That is

why I want to commend the President for saying he wants to step up domestic production. We couldn't step lively enough for me. So I am hoping that is what we can do and move on.

I see my colleague on the floor, so I will try to finish in 2 minutes.

The fourth reason for opposing this bill is that it does hurt independent producers. I am happy to see this main attack is not directed at independents. That would be a terrible thing, because it is pretty bad for the big companies, but it would be devastating if it were aimed at independents. It does affect independent producers, because many of the independent producers, several of which I represent—some are in West Virginia, some are in Texas, some in Oklahoma, some of them are in Pennsylvania, and some in New York—so I am not the only Senator here who represents a lot of independents in oil and gas, and ''wildcatters'' have a very proud tradition where we come from—have partnerships with the big oil and gas companies. The money and the resources they have go into supporting those partnerships with those independents. So indirectly this does affect independent producers.

Finally, this bill gets our energy and job priorities backwards. One of the provisions in the bill, which I wish to speak to, says the economy of the United States suffers huge net losses in jobs and productivity from growing annual trade deficits in energy due mainly to the $250 billion or more we pay for foreign oil. I understand that we have a trade deficit for foreign oil. So why are we doing something to diminish domestic production right here at home? That is what this bill does.

These are five reasons I am going to vote against the bill. I urge my colleagues to do the same. This industry contributes a lot to our economy. If this country would make it a priority to increase domestic production and to reduce our foreign consumption, we would reduce that annual trade deficit and do right by our people.

There are many other things I would like to say, but we are restricted on time. I will submit the rest for the RECORD. I can only say we need to produce more at home, produce it safely, and produce it equitably.

Finally, when we want to review tax subsidies across the board for all big companies I will be at the table. Until then, I am going to sit at this seat and vote no.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, before she leaves the floor, I want to say to my seatmate on the Energy Committee, I am looking forward to working closely with her on a host of these issues. I think she is spot-on with respect to her concern about the independents. This morning we talked about natural gas, where there is enormous potential. I want to assure my friend and colleague I will be working very closely with her.

Ms. LANDRIEU. I thank the Senator.

Mr. WYDEN. Mr. President, let me start by discussing briefly what happened in 2005. Then-President George W. Bush spoke to the American Society of Newspaper Editors. It was at their convention in 2005. Then, as now, energy was a very important issue—obviously, central to our economy. President George W. Bush made some very important remarks, in my view, at that convention. I would like to read briefly what President Bush said to the convention. On energy, he said:

> One of the initiatives I will push, again, is to get an energy bill out. I will tell you with $55 oil we don't need incentives to oil and gas companies to explore. There are plenty of incentives. What we need is to put a strategy in place that will help this country over time become less dependent. It's really important. It's an important part of our economic security, and it's an important part of our national security.

George W. Bush was right then, and he is just as accurate today. His comments with respect to the importance of an energy bill to our economic security and national security, in my view, is indisputably accurate. Because the President, who of course comes from oil country and has been an oil man himself, took this position, I thought it important to look at that in the context of where we were headed in terms of our country's energy policy.

We had a hearing back then, in 2005. We had all the major oil companies with us that day, their executives. In fact, one of them who was before the Finance Committee last week, Mr. Mulva, also was there in 2005. I asked each of the executives of the five major oil companies whether they agreed with the statement George W. Bush had given to the American Newspaper Convention, and all of the major oil companies testified at this joint hearing that they agreed with President George W. Bush. They said they did not need any incentives.

There were no qualifiers, there were no caveats, there was no this, there was no that. The five major oil companies, through their CEOs, said they did not need any incentives to explore for oil. Period, end of discussion. I thought it important to get that on the record to compare it to their views now.

Last week, in the Senate Finance Committee on which I am honored to serve, we got a very different story. In effect, the CEOs did an about-face. Frankly, they did it with a pretty straight face. Each of them defended the $2 billion a year in tax breaks they specifically get for exploration and drilling. These are industry-specific tax breaks. I know there has been a lot of confusion in this discussion. Is this effort somehow about ending something that other people get as well? Why don't we move on to tax reform?

I don't take a back seat to anybody on this tax reform issue. I have been involved in the first and only bipartisan tax reform effort in the last quarter century with our former colleague, Senator Gregg, and now Senator COATS. So tax reform is certainly crucial. But now we are talking about industry-specific tax breaks, and the five major oil companies that said they did not need them in 2005—in fact, basically, said they didn't even get them—now say somehow if they don't continue to get them, we are going to have enormous economic problems.

These are not just plain old tax breaks. Tax credits such as ''expensing of intangible drilling costs'' under section 263 of the Tax Code and ''amortization of geological and geophysical costs'' under section 167 of the code are, in fact, not available to every American business. We are talking, again, about specific sections of the Tax Code. I mentioned two, section 263 and section 167. These oil and gas provisions which President Bush, in 2005, said were not needed—the executives in 2005 said they were not needed—are not like every other business tax provision. How many businesses do we know that have expenses for oil drilling that are not in the oil business?

At the Finance Committee last week the CEO of Chevron said the intangible drilling tax break was like the research and development tax credit that all other American companies get. That is not accurate.

First of all, as I reminded that CEO, oil companies also get the R&D tax credit. When they have legitimate R&D expenses, they can claim the credit. If intangible drilling costs were just like research costs for the oil and gas industry, they would be getting two tax breaks for the same thing. That would be double dipping at taxpayer expense.

In reality, as the major oil companies know, building access roads to bring in drilling rigs—which is the kind of thing that is covered by the intangible drilling provision—is nothing like the research and development tax incentive. It is a cost of doing business in their major business, drilling for oil.

What is more, the tax breaks for these kinds of expenses are usually spread out over a number of years, but with expensing of drilling costs the oil companies get to write off these costs in the first year. They not only get extra tax breaks that other companies do not get, they also get to claim these breaks sooner than would other types of businesses. It simply defies old-fashioned common sense to claim that the tax incentives oil companies get for exploration and drilling costs, which they did not need when oil was $55 a barrel, somehow today become essential when oil is at $100 a barrel. Even if we adjust for inflation, today's oil price is $30 to $40 a barrel more than it was in 2005—not a couple of dollars more but substantially more, no matter which of the inflation indices you use.

Just so there was no confusion about what was said in 2005, I thought it was important to actually look at that video and, as I indicated, each of the CEOs of the major oil companies reversed their position from 2005 and said those billions of dollars in tax breaks

were essential if they were to continue to drill for oil.

In 2005 the price of gasoline at the pump had soared to what was then a record high. Today the price of gasoline is just below the all-time high price set in 2008. Then, as now, the oil companies were reporting record-high profits. So both in 2005 and today the oil companies have high prices and certainly record profits to incentivise them to drill for oil.

Then the question is, What has changed from 2005 until now to continue justifying providing these major companies with taxpayer subsidies? I want to spend a couple of minutes unpacking a couple of the arguments we heard at the Senate Finance Committee.

Last week we heard from the CEOs that oil was getting harder and harder to find, and they faced increased global competition. If anything, U.S. oil supplies and prices are less tied to the global market now, and new oil supplies are easier to find than they were in 2005. After declining steadily since the mid-1980s, U.S. oil and natural gas production has begun to climb since 2008 due to new onshore discoveries in shale formations and development in the Gulf of Mexico.

As the distinguished Presiding Officer knows, we have great interest in this subject of natural gas and discussed it this morning in the Senate Energy Committee. The location and technology for getting oil and gas, especially from these onshore shale formations, have not only dramatically increased U.S. oil and gas reserves, but the technology is now sufficiently well established that U.S. oil and gas production is rising, and rising rapidly as a result.

According to a recent analysis by the U.S. Energy Information Administration, oil production from the Barnett Shale formation in Texas—literally in the backyards of the headquarters of some of the companies we heard from last week in the committee—oil production from that Barnett Shale formation in Texas has tripled since 2005. In North Dakota, oil production from shale has gone from next to zero in 2005 to 240,000 barrels a day and is expected to continue to grow. In 2010, production in the Woodford Shale in Oklahoma increased 40 percent between 2009 and 2010.

In one area after another, there was significant increase in production. In fact, total oil production has increased over 10 percent since hitting its low point in 2008, and the Energy Information Administration predicts that because of the increased production in oil shale and other sources in the Gulf of Mexico, it is going to continue to grow. U.S. prices are also less tied to global markets and competition now than they were in 2005 because of the increased U.S. production and increased Canadian tar sands production that is pouring into the U.S. market. This ought to be of no surprise to the five major oil companies that testified last week because each of them has also made significant investments in the Canadian tar sands project.

According to the Wall Street Journal, in 2009, Exxon announced it had acquired more reserves than it had produced for the 15th straight year, and half of those new reserves, 1.1 billion barrels of crude, were from a single Canadian tar sands project it was developing—a topic for another day.

I see my friend from Oklahoma on the Senate floor. Canadian tar sands developers are so concerned about the oversupply of tar sands oil to the North American market that they are pushing to build a new pipeline, the Keystone Pipeline, to the Gulf of Mexico that would allow them to export crude and refined products to the other markets.

The argument that it is just too hard to find new sources of oil simply does not hold water. Further evidence of just how much the U.S. and North American markets are being disconnected from global competition by these developments is the fact that the benchmark U.S. oil price, West Texas Intermediate, has been selling for $10 and $20 a barrel less than the benchmark for European oil. If supply was as tight in the United States as some of the majors told us last week, there would not be such a discrepancy in prices.

Last point. The Senate will certainly be hearing arguments that the loss of these tax breaks is going to drive up the price at the pump. This is, obviously, very much on the mind of every Senator when our people are struggling to pay the already steep cost of filling their tanks.

At the 2005 hearing I also asked the CEOs about ending these tax breaks on their companies, and several of them said it would not affect them, or it would only affect them minimally.

The CEO of Exxon said: ''As for my company, it doesn't make any difference.''

The Chevron CEO said ending these tax breaks would have ''minimal impact on our company.'' The CEO of BP said the same thing: ''It's a minimal impact on us.''

Again, common sense would tell us major oil companies earning combined profits of close to $32 billion in a single fiscal quarter would not suffer a big economic impact from the loss of those industry-specific tax breaks I have been talking about. They are certainly not going to stop doing business with prices at $100 a barrel.

In an important moment last Thursday, our colleague, Senator CANTWELL, asked the head of Exxon what the price of oil actually should be with all other things being equal. Mr. Tillerson, the head of Exxon, said the price of producing the next marginal barrel of oil was probably between $60 and $70 a barrel. That is $30 to $40 a barrel profit at current prices. It is simply not credible to think these companies would significantly change their investment decisions if they lost these tax breaks, and the Congressional Research Service in a report last week concluded exactly the same thing.

I began my remarks this afternoon by quoting George W. Bush at the Newspaper Publishers Convention in 2005. He said the major companies did not need incentives to drill for oil at that price. I continue to ask how in the world, given George W. Bush's comments in 2005 and the other considerations I have outlined—that, again, prices are way in excess of inflation; again, profits are at record highs—how in the world can you justify getting industry-specific subsidies when George W. Bush said no incentives—no incentives—and he said it without a qualifier or a caveat—were warranted if you wanted to drill for oil.

As we move to this vote, I hope my colleagues will keep in mind the words of George W. Bush then. In my view, they are even more accurate today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the Republican speakers include myself and Senator BLUNT and the order for Senators MCCAIN and CHAMBLISS be vitiated.

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

Mr. COBURN. Mr. President, I am pretty amused at what the Senate is doing. We sit here with a $1.6 trillion deficit and we are running bills based on political philosophy rather than what the real problems are in front of our Nation.

Do my colleagues know why oil is expensive today? It is because the dollar is on its back and oil is priced in dollars. If we want the price of oil to go down, as it has this week and the tail end of last week—if we want the value of the dollar to go up, because the world trades oil in dollars—why is the dollar down? The dollar is down because an incompetent Congress continues to spend money we don't have on things we don't absolutely need. If we want the dollar to improve in value, what we have to do is hold the Congress accountable for doing what they were elected to do, which is live within our means. We can't come together and solve the very real problems.

Do my colleagues realize that if, in fact, our deficit wasn't $1.6 trillion but about $600 billion, the price of the dollar would shoot way up and the price of oil would go down? We hear all these stories. I get all these letters from my constituents who say: Well, we have to eliminate the commodity speculation. We can do that in this country. We can say you can't speculate on oil unless you can take delivery. That will do nothing to the speculated price of oil because oil is an international commodity and people are always going to speculate on what they think the price of a needed commodity is going to be.

So if we controlled all the economics in the world, we could control that speculation, but we can't. What we do know is price controls don't work. They don't work at all. So if, in fact, we want to fix the price of oil, what we have to do is fix our economic mess and strengthen the dollar, which will lower the price of oil and lower the price of gasoline.

The debate we are going through is all about politics, creating somebody who is bad. Do my colleagues realize the five big oil companies make less than 8 percent return on their sales? They make a lot of money, but they are giant companies. But compared to most other of the S&P 500, their return on sales is far less, and they are not making record profits. They made record profits when oil was at $142. That is when they made record profits. It is this terrible habit we have of saying—and let me throw a corollary. If I am an Iowa farmer or from Indiana or Illinois or Oklahoma and I have a great corn crop and the price of corn is $4 and I decide not to sell my corn, I decide not to sell it, and now all of a sudden corn is $6.80, I am going to sell it now at $6.80. What are we going to do? Are we going to penalize that farmer for having a resource he took a risk on and selling at a higher price? Are we going to say we are going to double or triple tax you?

The other thing I am amazed at—most people know me as a doctor, but I spent 10 years as an accountant and business manager. I have a degree in accounting. The lack of knowledge of my colleagues on American standard accounting principles is amazing. Every benefit they are talking about taking away will not go away because they are all legitimate business expenses, and they will all be expensed. Why did the Congress back in 1906 give this advantage to our oil companies? Why did they do that? Because drilling for oil is a capital-intensive business, and if we want more oil found, what we have to do is be able to generate the internal rate of return to put that capital in. So we offered accelerated write-offs for expenses.

It is interesting that we are not going after all the oil companies or all the gas exploration; we are only going after the big five. Why is that? Because my colleagues know that if we did the same thing to the ones that are actually producing most of the gas in this country, all the new technology which the R&D tax credit and the intangible drilling costs allowed to be developed—that makes this country with 100 years' worth of natural gas—would go away, and the smaller and medium-sized oil companies will never be able to have the capital to continue to perform and raise our level of energy resources ourselves.

So what we are on the floor for is a charade. The price of oil is high because the dollar is weak. If we want to punish somebody for that, punish the Congress, punish the Federal Reserve, punish the executive branch, but don't go after somebody who is going to create 90,000 new jobs in our country this next year.

We always look for the right political moment to make somebody look bad. The people who look bad are in the Congress because we don't have the guts to stand and say we need a cogent energy policy that says we are going to go after our own resources. We are going to use every asset we have to utilize cleanly and in a friendly way the tremendous reserves we have in this country.

We know we have 160 billion barrels of recoverable oil in this country. They are not proven, but that is what the estimate is. We are the third largest oil producer in the world. We could become the second largest oil producer in the world if we had a cogent government policy and an environmental policy. We have oil out the kazoos. We are going to find more oil as we explore for more natural gas. Right now, we are only importing 47 percent—47 percent—of our oil needs. It was 65 percent less than 10 years ago. Why is that? A part of it is smaller demand because we have been in a recession, but the vast majority of it is the very technology they want to deny the fast writeoff for is what has created gas liquids that have filled the void. It is better than the best crude oil in the world. That is coming out of North Dakota, it is coming out of West Virginia, it is coming out of Oklahoma and Texas. It is great stuff, easy to refine, cheap gasoline in terms of the cost to get it from a product to a product we can use.

I am pretty well disgusted with what I am hearing on both sides of the aisle because the real problem is not the price of oil. The real problem is the price of the dollar, and if we will fix that, we will fix tons of things that will help our economy. But we are recalcitrant to the point we will not do the things we need to do.

Our government is twice the size it was 11 years ago—two times the size. No wonder we are running a $1.6 trillion deficit. No wonder we don't have an effective—we have the largest number of regulations to ever come out of any administration in the history of the country in the first 2 years of this administration. It is killing job formation. It is causing people not to invest. It is causing a lack of economic growth in our country because we have people making decisions who have no idea what they are doing or what are the ramifications of those decisions. They are lawyers whose first creed is don't do what is best for the country, do what is safe for the bureaucracy. That is how we are running this government today.

We have 45 percent more regulations issued in the first 2 years of the Obama administration than anybody else has ever done, and we wonder why we are not getting job creation. We continue to refuse to debate on the Senate floor the very real issues in front of this country, the very real issues such as what part of government can we do without? How do we get a future for our children? The fact is, we have lived the last 30 years off the next 30 years of our kids, and that bill is due. It is not due 1 year from now; it is due now.

We are tied up in knots because we have this false indication that a debt limit means something. If a debt limit meant something, we wouldn't be raising the debt limit, we would quit borrowing. But, instead, every time we come up to the debt limit, we are asked to raise the debt limit. We will not make the hard choices of what part of government is not valuable in light of the fact that we are cutting the legs off from under our children and our grandchildren.

In this debate, we are going to hear a lot of finger-pointing about what is bad with Big Oil, what is bad with oil, what is bad with the price of gas. What is bad is, Congress isn't doing its job. We are not addressing real issues and solving the real problems in front of this country.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. PAUL. Mr. President, sports teams often have a motto. They want to describe how they are going to win the event. The Senate Democrats have a motto and it goes something like this, ''I am from the government and I am here to help.''

Beware when your government comes to help. They have figured out there is a problem and the problem is gas prices are rising and people are being hurt by the rising prices. Actually, if we measure inflation the way we did back in the 1970s, we have inflation of 10 percent.

Senator COBURN is exactly right. It has to do with the fact that we are losing the value of our dollar. Our dollar is going down in value because we spend money we don't have and we are running up these enormous deficits. But it is a problem nonetheless.

But those who believe government is always the answer are rushing to rescue us. They are rushing to rescue us from high prices at the gas pump, but they haven't even diagnosed the problem, so they are going to come up with the wrong solution. Their solution is to raise taxes on oil companies. Do my colleagues know what taxes are? Taxes are simply a cost. If you run a business and I raise your costs, you will raise your prices. So let's see. Prices are too high, so we are going to raise the cost, which will raise the prices further. It makes absolutely no sense.

It is because their motto is wrong. Their motto is, ''I am here from the government and I am going to help you.'' Their motto is, ''It is the government that is going to solve your problems.'' But they are going to solve your problems by compounding your problems.

The price of gasoline is a problem. If we include the price of gasoline and the

price of food in the CPI, it would be 10 percent or higher. People are struggling to pay for gas. What are the main things people who are just getting by pay for? Their gas, their food, their rent. So how are we going to make it better? We are going to make it worse before we make it better. We are going to raise costs to the oil companies by raising their taxes, which means we will pay more at the pump.

It is economic illiteracy and it is what is wrong up here in Washington. We still have too many people who do not understand the basic economic realities. If you raise costs on a business, if you raise taxes on a business, you will raise prices at the pump.

The interesting thing is, there are some answers. They say: Well, let's go after those greedy oil companies because they are making a profit. Out of every $1 you spend at the pump, about 7 cents is profit to the oil companies. Well, do you know what. If you eliminate profit, you will not have oil companies. Everybody works for a profit. We all work harder because we want to maximize our profit.

Who owns the oil companies? Is it a bunch of greedy rich people running their fingers through piles of gold? Are they Midas in some room full of gold? You own the oil companies. I own the oil companies. If you have a 401(k), if you have an IRA, if you have a mutual fund, you own the oil companies. OK. Corporations are owned by people.

Do some people make a lot of money in the corporations? Yes, but if we limit that or try to obscure that or try to get rid of profit, you will get rid of companies. Then where will they go? They will go overseas. Oil companies are international. If you make it hard for them to do business here, they will flee our country. And they already do. We have high corporate taxes in our country, so they keep their profits overseas.

Lower corporate taxes—do not raise taxes—lower taxes and people will bring their profits home to the United States.

This is their profit, as shown on this chart: The oil companies make about 7 cents on the dollar. How much does the Federal Government take? The Federal Government takes 18 cents of every $1.

Do you want to have lower gas prices this summer? Do you want to help the people who are struggling? Let's have a gas tax holiday. It is only a short-term solution, but let's get rid of the 18 cents for the next 4 months through the summer season. It will cost the Treasury. There will be less money coming into the Treasury: $10 billion to $12 billion over 4 months. Let's take it from somewhere else. We are spending $30 billion a year in foreign aid. This is money we give away to other countries so they can build schools, they can build bridges, so they can rebuild their infrastructure. We give this away to foreign countries. A lot of times it winds up in the hands of foreign leaders who simply steal it. Mubarak was said to have gotten $60 billion over 30 years and accumulated at least $5 billion to $10 billion we can count that he stole. Many of these dictators throughout the African nations, as well as throughout the rest of the world, have simply stolen our foreign aid money and used it for their own personal aggrandizement.

Let's eliminate the gas tax. Let's take the money from foreign aid and let's give it back to the American people who have worked hard to earn it. You cannot do this forever, but you can do it for 4 months, and pay for it by getting rid of foreign aid. That would help people. That would lower the price of gasoline, and that would be a stimulus to the economy.

What I am saying is, let's have a gas tax holiday. Let's eliminate Federal taxes for the next 4 months on gas, and let's take the money that would be lost, put it into the highway fund, but let's take it from money we are giving away to other countries. That would be a short-term answer.

There is also a long-term answer. Senator COBURN was right that much of the price of gasoline rising is from inflation. Basically we are destroying the value of the dollar. But there is another reason gas prices rise: because demand for oil and gas is outstripping the supply.

Why don't we have more supply? Because the current administration is basically an enemy to production, an enemy to drilling, an enemy to all things related to energy. We now are going back and looking at permits to mine coal that have been approved for 10 years. We are taking away drilling permits to drill for oil in Utah, in Alaska, off our coast. If we want gasoline prices to be less, if we want to send less money to Middle Eastern countries that hate us that we have to buy oil from, let's make more here. Let's drill for oil. Let's produce more here. Let's drill in Alaska. Let's open up new places to drill.

Can we do it responsibly? Yes. Nobody wants to damage the environment. Do it responsibly, but let's produce energy here. We have, as Senator COBURN says, 160 million barrels of oil waiting to be extracted. Let's go for it. But we have to have a government that is friendly to energy. We have a government now, an administration that is unfriendly to energy and at every aspect of producing energy places roadblocks. They think for some reason we can get electricity to supply our country from some windmills that are made in China. What we need is, we need oil and gas production in our country. We need nuclear energy in our country. We need coal in our country. We have the ability, we have the resources, but we need to get government out of the way. Instead, what we are doing is placing new obstacles.

There will be a long-term solution that Senator MCCONNELL and our party will introduce. I will support that also. It will encourage domestic production of oil and gas, domestic production of energy. That is what we need. But you are not going to get it until we have new faces here in Washington because the current crop of faces is opposing production at every turn.

I wish to conclude by saying, if you want to help people, even for a short period of time, there is a short-term solution. Let's get rid of the gas tax for 4 months. Let's pay for it by not sending the money overseas to have other countries either steal it or build their own infrastructure. Let's keep those U.S. tax dollars here at home. Better yet, let's keep them in the pockets of the consumers by having a gas tax holiday.

Thank you very much. I yield back the remainder of my time.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. MCCASKILL. Madam President, I rise to speak in support of the legislation that is going to be voted on in a few hours. I have listened to the last couple of speakers, and while I certainly respect Senator COBURN's commitment to fiscal responsibility—and he and I have worked together on a number of projects in that regard and have the same view of many of the spending habits around here—I have to say, I am a little confused by the opposition to this legislation by my friends across the aisle.

We have two ways to spend money around here: one, through the appropriations process; the other is what I call tax goodies. These goodies are called tax expenditures. What these do is they basically say to whatever group has successfully lobbied for them: You are not going to have to pay all your taxes. So there are two ways we deny the Treasury money. One is by spending money. The other is by telling people: You do not have to pay the money the Tax Code says you owe. And we put into the Tax Code special deals.

Many of those special deals are done because the case is made that they spur economic development or they spur some kind of activity in our country that we think is desirable. A good example is the interest deduction on people's homes. The notion is that we want to encourage people to buy homes, so we allow them to deduct the interest they pay on those home loans against their income tax.

Charitable deductions are another good example. We want people to give to charities, so we say: Do you know what. You do not have to pay as much in taxes if you give to charity.

The realty sector is full of tax goodies for the development of real estate and the creation of jobs that go with the development of real estate.

One of the big tax expenditures we have in our Tax Code is goodies for Big Oil. That is what this is about. Can we get to where we need to be on our structural debt and our annual deficit without touching the Tax Code? No way. Are we going to have to look at revenues for multimillionaires? I think we are. Are we, obviously, going to have to look at spending? Of course we are. And aren't we going to have to look at the tax goodies? Well, I would surely hope so, because, frankly, as some of my colleagues across the aisle have said—and I thought they agreed with us—cleaning out some of those goodies could potentially lower taxes for everyone.

So where do we start with the goodies that are in the Tax Code? Might we not start with the most profitable companies in the history of the planet? Do they need this extra money we give them by telling them they do not have to pay the taxes other companies have to pay? How many quarters will we have where we read the headlines: ''Record-Breaking Profits for Big Oil''? How many times are we going to read that before we are willing to take the baby step—just the baby step—of saying: Maybe these tax goodies for Big Oil are not a good idea in light of our deficit and our debt. Maybe this is a good place to start. They made north of $35 billion in the last 3 months.

I know there are all kinds of things that are being put out there to kind of hide behind as we cast this vote because this is a tough vote for people who vote no. How do you explain to your constituents—who are struggling around their kitchen table to figure out how they can afford to drive their kids to soccer practice—how do you explain to them that we think that instead of $123 billion of profit Big Oil is going to make this year, they need to make $125 billion? That is what this is. Instead of making $125 billion—north of $125 billion—of profit this year, Big Oil is going to have to suffer along with only $123 billion in profit. And that $2 billion we want to take back from them is going to go toward the deficit. How do you explain that to people around their kitchen table?

Oh, this means the cost of fuel is going to go up. Everyone has debunked that. Really? The cost of fuel has gone up just fine and they have all those subsidies. I remember when oil was $55 a barrel and they had all these subsidies. By the way, all these subsidies did not help them go out and do what they needed to do to keep the price of fuel down.

By the way, today a letter was sent to the FTC by myself and other Members of the Senate saying: What about this refinery process? Talk about economic illiteracy. Anybody who believes the oil companies today are making 7 cents of profit on a gallon of gas has no idea what is going on with refineries right now. A year ago at this time, refineries were operating at a capacity of close to 90 percent. Today, they are only operating at 80 percent. Why would that be? Their profit per gallon of gas—just the refineries—has gone from less than 40 cents a gallon to 80 cents a gallon in a matter of a few months: 80 cents a gallon of refinery profit. Some of these refineries are independently owned. But many of them are owned by the big five, the big five big oil.

So why is that capacity down? Is it because they do not have crude to go through the refining process? No. There is plenty of crude. And how about this. We are giving these big oil companies tax goodies, and what are they doing today? They are exporting a record amount of oil and fuel from the United States—exporting. They are sending it to South America and Mexico.

So while my constituents are suffering mightily at the gas pump, week after week, these guys are sending the oil they have produced with our tax goodies to another country, instead of putting that additional supply into our supply chain, which, in turn, reduces the price.

The more supply, the less the price. So, one, they have cut back refining capacity. Two, they are exporting more. And they want to say it is about drilling. Really? We have more rigs drilling right now in this country than we have had in many years. We have production higher at this point—domestic production—than it was at the end of the Bush administration. We just issued 12 new deepwater permits in the last few months. There are all kinds of leases out there that are not being explored. Meanwhile, cha-ching, cha-ching—these big oil companies are continuing to make profits that make your jaw drop.

So, honestly, seriously, you talk about economic illiteracy. I will tell you what economic illiteracy is. It is thinking these companies—what about the free market I always hear about from the other side of the aisle? What about that free market? Why do they need our tax goodies to help them if this is truly a free market?

Maybe they are right. Maybe we shouldn't pick on Big Oil. But what a great place to start. Frankly, if we can't take these things away from the most profitable companies in the history of the planet, how are we ever going to take them away from the mohair industry or how are we ever going to do what we need to do with the Tax Code in the real estate sector or any of the other goodies we have larded up our Tax Code with to make it so complicated and so long that, frankly, the people who get the most advantages out of it are the families who can afford to hire accountants and tax lawyers. Meanwhile, the real tax rate for most Americans is much higher than the real tax rate for most multinational corporations.

So I think economic illiteracy is to spend a lot of time talking about the debt and deficit and not being willing to take this baby step to take back $2 billion a year that these companies get that they do not need and they are not using to hold down the price of gas.

I mean, when I realized how cynical this whole process has become is when today I got a question from a reporter that said: Well, the oil companies say most of these profits are going to these pension companies. Give me a break. You know, really? Really? These guys want to talk about free market and how this is all about the bottom line, and then they want to try to hide behind the fact that some of the pension funds have stock in their companies, that somehow that justifies them feeding at the public trough? Talk about greed. Talk about greed.

So I think this legislation is a real litmus test because if we can't do this, then I question what we can do to right this ship that is all about the footprint of the Federal Government, how much money we are spending and how many tax expenditures are out there. And anybody who tells you this is about raising their taxes—no, this is about saying to them: You have to pay the taxes the free market says you should pay, not avoid taxes by these extra goodies. This isn't about raising their taxes; this is about saying: You need to pay your taxes the way average citizens do, as it relates to their businesses. You should not get this extra help in the Tax Code that allows you to avoid taxes. It is a tax expenditure. It is real money that will come to our bottom line as it relates to our deficit, and it is important to get it done.

I yield the floor.

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

Mr. CORNYN. Madam President, I yield myself up to 15 minutes.

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

Mr. CORNYN. Madam President, I wish to talk for a moment about the ill-considered proposal we will be voting on at 6:15 tonight and about the administration's chaotic approach when it comes to our national energy policy. I say ''chaotic approach'' because to pay attention to what the President and this administration have said about fossil fuels and energy will give you whiplash if you try to keep up with it because there are so many, apparently, inconsistencies between what is said and what is actually done, and then when something like high gasoline prices becomes very much a concern around kitchen tables in America, then all of a sudden the President again, as he announced the last day or two, is all of a sudden open for more domestic product.

It is a problem for a number of reasons. One is, who in their right mind would invest the kind of money that is necessary in order to develop our domestic energy reserves when the administration and the President himself seem to be of two minds about whether

we should punish domestic production or whether we should encourage it.

I would suggest to you that the message has primarily been one of how to discourage or how to punish domestic production of energy in favor of imported energy from abroad. For example, one of the mixed messages the President gave was in March of 2010 when he proposed expanding offshore drilling along the Atlantic coastline, the eastern Gulf of Mexico, near my home in Texas, and the north coast of Alaska. At that time, he said as follows. He said: The answer is not drilling everywhere all the time, but the answer is not also for us to ignore the fact that we are going to need vital energy sources to maintain our economic growth and our security.

Well, I agree with that statement, but, as you know, following the Deepwater Horizon incident last April, the administration overreacted in a way that killed jobs and discouraged energy production here at home. We all agree that when something like this terrible incident occurs, we need to find out what happened, fix it, and make sure it never happens again. But every time there is a car accident, we don't ban driving. Every time there is an airplane crash, we don't ban flying. We find out what the problem is, we fix it, and then we move on.

That is not what happened in the Gulf of Mexico. First, there was an overbroad moratorium that was issued by the administration, which ultimately ended up being struck down by a Federal judge. But after that, the administration was not through. While their formal moratorium no longer existed, there was, in effect, a permitorium—in other words, foot-dragging when it came to issuing permits for drilling in the Gulf of Mexico—and only 12 deepwater permits have been approved in the last 12 months. There were, in addition, the cancellation of dozens of lease sales in Utah and Montana and exclusion of new areas in the eastern Gulf of Mexico and off the Atlantic coast. That, to me, is completely inconsistent with the President's statement just in March 2010. And then we know there are numerous examples where the Environmental Protection Agency has thrown up roadblocks and impediments to energy production right here at home.

Well, because the President has not had an adequate response, or at least his actions have been inconsistent with his words, he reversed himself again this Saturday, and he said now he supports more domestic oil and gas production like he did more than a year ago. But my conclusion is that this is not an energy strategy. This is a public relations strategy. This is a ''how do I get reelected?'' strategy. It does not solve the problem or the pain Americans are feeling at the pump. And unfortunately this strategy too often ends up being a job-killing strategy as well.

But when high gas prices are in the news, when people around kitchen tables all around America are complaining about the loss of their discretionary incomes, the fact they are having to cut corners so they can drive their kids to school or so they can drive to work, finally we have a new speech and a new announcement from the administration but very little when it comes to a coherent energy strategy.

Another mixed message is that the administration at times has suggested that we are actually overproducing domestic energy. You may ask, how could that be possible? How could it be possible that we are producing too much oil and gas here at home when we have to import 60 percent of what we use from abroad? Well, the Congressional Research Service that we depend on—it is an arm of the Library of Congress—has documented that America's recoverable resources are far larger than those of Saudi Arabia, China, and Canada combined. We have more here at home than Saudi Arabia, China, and Canada. And America's recoverable oil, natural gas, and coal endowment is the largest on Earth. And we have learned in the last couple of years that America has more shale gas from previously unrecoverable reserves—thanks to new technology, horizontal drilling and the like—we have enough natural gas to last us for 100 years here in the United States.

But compare that—really that gift we have been given of domestic energy at home—with what the administration said in 2010. The Treasury Department issues an interpretation or explanation of the administration's policies when it talks about energy production, and this is what the Treasury Department said in 2009 or 2010. The Treasury Department—this is Secretary Geithner, who is appointed by the President, confirmed by the Senate—the Treasury Department said:

> To the extent the [tax] credit—

That is the tax credits we are talking about here—

> encourages overproduction of oil and gas, it is detrimental to long-term energy security.

So the Treasury Department, President Obama's Treasury Department, is making the extraordinary claim that I have not heard any Senator here make because it is so implausible that these tax provisions encourage overproduction of oil and gas right here in the United States. If we are overproducing oil and gas in the United States, why is the administration telling the existing leaseholders they have to use or lose the leases that we have? It is an ideological fixation that says: We have to discourage production of oil and gas even though about 80 percent of our energy needs come from fossil fuels because we prefer alternative forms of energy. Well, I do too—solar panels, wind, biodiesel. These alternative sources of energy are important, but we simply don't have enough of them to keep our economy moving and keep prices low for our domestic consumers.

Well, another part of this mixed message is our dependency on imported oil. On March 30, 2011, President Obama called for reducing foreign imports by one-third. But then he went to Brazil recently. He told the people of Brazil that he encouraged offshore drilling in Brazil, and he said that America wanted to be Brazil's best customer. In other words, rather than producing what we have been given by the Good Lord right here in America—American production, American jobs—he wants to be Brazil's best customer by importing energy from abroad.

Well, part of the vote we will be having at 6:15 or so tonight is another part of the mixed messages we have been getting when it comes to energy. This is the so-called Close Big Oil Tax Loopholes Act. Now we know why the Senators who introduced this bill have done so—because they have been getting so much heat back home because of high gas prices. Their constituents are demanding that they do something. But what they are proposing to do has nothing to do with bringing down the price of gas at the pump. In fact, it will likely increase the price of gas at the pump.

In fact, the chairman of the Finance Committee, on which I sit, said: You know, this is not going to change the price at the gasoline pump. That is not the issue. I do not see that as an issue at all.

The senior Senator from New York said: This was never intended to talk about lowering prices.

The majority leader himself said: It is not a question of gas prices; it is a question of fairness and priorities.

Well, if gasoline prices being paid by Americans all across this country are not the priority and if jobs that are created and sustained by producing domestic oil and gas right here in America are not the priority, my colleagues who are proposing this legislation have the wrong priority.

Now we are told they have a new idea—that the money that is supposedly saved from these tax provisions will then be used to pay down the deficit.

The truth is, the amount of money that would go to pay down the deficit—even if our friends across the aisle had a conversion and decided that was their priority rather than spending 43 cents on every dollar in borrowed money, borrowed from our kids and grandkids and bought by the Chinese—it would only be a drop in the bucket in the $1.5 trillion deficit we are experiencing this year and the $14 trillion national debt we are going to have to reckon with in the next couple months.

If deficit reduction is a priority, I submit the very best way we could do that is to pass a balanced budget amendment to the U.S. Constitution. But that is not the priority of the majority leader or of the majority or of our friends across the aisle. If the rationale for this bill is not to reduce gasoline prices, if the rationale for this

bill is not to produce a balanced budget, then what is it? What is it? The majority leader suggested it was fairness—fairness.

The Chairman of the U.S. Chamber of Commerce calls it punitive taxation, picking out five taxpayers in America and saying: We are going to raise your taxes and leave everybody else's the same. It is discriminatory and it is punitive. But it is also, in the immortal words of Rahm Emanuel, former White House Chief of Staff, now mayor of Chicago, a case of never letting a crisis go to waste to advance another ideological agenda.

The truth is, we know our Tax Code is already biased against U.S. domestic energy producers. If our goal is to tax people who are making money in America, this chart demonstrates that the oil and gas industry is down the list of industry sectors that are making far more money. The tobacco and beverage industry, the pharmaceutical industry, the computer equipment industry, the chemical industry, the electrical equipment industry, the manufacturing industry, the apparel industry, the machinery sector—all of those come well ahead of the oil and gas sector when it comes to making money.

I did not think making money was a crime in America. I thought we still believed in the free enterprise system. The very people our friends across the aisle are going to punish are the retirees and the pension holders, the people who own stock in these oil and gas companies who are going to be forced to pay higher prices which will ultimately be passed along to the consumer, I believe, in higher energy costs.

The other revealing point about this debate is they want to punish people who produce American energy right here at home, and they are going to leave OPEC and these other countries to pay lower effective relative rates. If we raise taxes on American producers and we do not do anything to similarly raise taxes on their competition, what is going to happen? What is going to happen to the Saudi Arabian Oil Company? What is going to happen to the Iraq National Oil Company? What is going to happen to the Kuwait Petroleum Company, the state-owned oil company of Venezuela and the like? These are places where we end up buying oil because we do not produce it at home, and we are going to raise taxes on the people who produce it at home and make it, in effect, cheaper for foreign energy producers to produce it and sell it to us. It makes absolutely no sense. It is punitive, it is discriminatory, and it is not going to solve the problem that most Americans are complaining about today, which is high gasoline prices. In fact, it will make it worse.

If my colleagues want to talk about fairness, let's talk about fairness to the 9.2 million people who are employed in the oil and gas sector in America. I witnessed the people who work in this sector in my State. In March I visited a brandnew drilling rig that is using the latest technology to produce natural gas from the Haynesville Shale in east Texas. This is amazing technology that goes down thousands of feet and drills horizontally and uses high pressure fluids to fracture this shale—in effect, the rock—to get natural gas out of it.

Down in the Gulf of Mexico, after the moratorium was issued, I stood on a deepwater drilling platform that was left idle.

The ACTING PRESIDENT pro tempore. The Senator has used 15 minutes.

Mr. CORNYN. I ask for 2 more minutes.

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

Mr. CORNYN. Madam President, I could go on and on about the economic impact on job creation in my State and across America. But if, in fact, our colleagues are interested in tax reform, if they really are concerned that the Tax Code is unfair and some people do not pay enough and others pay too much, I ask them to consider the fact that according to the Congressional Research Service, 77.9 percent of our primary energy production in America is fossil fuel sources, and of the Federal tax support targeted to energy in 2009, 12.6 percent went to fossil fuels—12.6 percent of those Federal tax supports went to people who produce oil and gas.

Conversely, 10.6 percent, the Congressional Research Service tells us, of primary source energy was produced using renewable sources. Yet the Federal tax support targeted to renewable sources of energy was 77.4 percent.

Why are we picking on American oil and gas production, forcing us—actually hurting job creation at a time when unemployment is unacceptably high—forcing us to rely on imported energy and actually rewarding our foreign competitors who will not have to pay these higher prices, and when, in fact, even as our friends across the aisle acknowledge, at the very best this will not bring down the prices at the pump.

They say that is not the point. If that is not the point, then the point appears to be a game of gotcha and a sort of finger-pointing and class warfare we have seen that is endemic inside the beltway.

I have to tell you, I think the American people are sick and tired of this sort of game playing when, in fact, they send us here to solve real problems. If we could find a way—instead of this game playing, instead of this phony game of gotcha—to try to work together to solve real problems through increased domestic supply, which would, indeed, bring down prices at the pump, as the President himself has acknowledged when he said we have to look at domestic production, then I think they would reward that with their appreciation, and appreciation in terms of American jobs being sustained and created here because we are not creating jobs abroad to buy the very product we need to run our cars and trucks.

Madam President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, to me, this argument is, in fact, all about fairness. It has nothing to do with class warfare. It has nothing to do with gotcha but has to do with abrogation of social responsibility on the basis of levels.

Every once in a while we have an exchange in the Senate or in a Senate committee that is revealing and stunning all at once. Recently, I had one of those moments when I had the opportunity to ask a question to—guess what—five executives from the largest oil and gas companies in the country.

I was not linking price of gas—but in the people's minds it is—with the gas prices up beyond $4 a gallon, with many people spending close to $100 a week to gas up their cars. I was cautiously optimistic that we would have in this Senate Finance Committee hearing a real dialog on the idea that everybody has shared responsibility and that you share your responsibility—in this case, the need to balance the budget or come closer to it and then share prosperity. But we have to share responsibility first because that is what leads to the discipline that allows prosperity generally in this country to get ahead.

I thought the oil executives might at least reveal a bit of unease, a bit of discomfort on their part about how gas prices are standing like a dead weight on our economy, about the fact they make so incredibly much, inexplicably, unexplainably so much money and loving that, especially when they together earned just about $35.8 billion in profits in the first 3 months of this year.

How wrong I was. They were eager only to defend the way Big Oil does business, defend the enormous salaries, defend the business model that puts control of gas supply in the hands of a few. One would not even answer when asked about his company's claim that trying to reduce taxpayer subsidies—which is what we want to do—given to this industry would be un-American. He said that a number of times in that exchange. It was not very fruitful, but it was insightful.

As I said then, put simply, these men are all completely out of touch—deeply, profoundly out of touch—with what the rest of the country is going through. Again, that is what it is about, fairness. Do you know what other people are suffering? Their situation is this: very profitable. Other people are on very hard times. Is there not some way they could give up their tax subsidies—in this case $2 billion a year—instead of making a $125-billion-a-year profit—not just more money but actually a profit; $125 billion would go down to $123 billion. They would not hear of it. They are so caught up in

their profits that they have lost sight of what is happening in mainstream New Hampshire and mainstream West Virginia, across our economy, and our schools on Main Street and around the kitchen table.

Gentlemen—the five—here is some of what you need to know. For starters, Congress is in the midst of a full-throated debate about how to reduce our growing deficit without breaking the backs further of working families or leaving our seniors out in the cold literally or reducing our support for the veterans who serve our country and children who just happen to be our future. We are debating proposals to cut back Social Security and the promise that we made to generations who have worked and want to live their final years with dignity. We are debating legislation that forces Medicare to be privatized, how it will cost senior citizens about $6,000 more per year. I hope they know that. Medicare privatized, chopped up, made an optional grant program run by States, drastically scaled back.

The Congress is debating deep cuts to Federal programs ranging from highways and airports to medical research to coal mine safety inspections and money for schools—everything.

Quite simply, we are talking about making drastic cuts to programs that touch the lives of virtually every single person in the country, except for them. These slick executives seem blind to the real-world consequences of having made almost $1 trillion in profits during the past decade—profits—while collecting $4 billion a year in subsidies, courtesy of the very same U.S. taxpayers about whom I have just been talking, the same taxpayers who are also forced to pay at the pump and whose lives are being changed dramatically because of their position.

Why focus on them? Because they are a symbol. They are the top of the heap. They always prevail. They always win. They always have the lobbyists, the campaign contributions. They always can get what they want. Everybody always caves to them because they are so big, as they fly around in their shiny jets. I do not think it is going to be that way this time.

The same oil executives who blanch if anyone questions their mega salaries—speaking of salaries, it might be interesting to know that the CEO of ExxonMobile is paid $29 million a year. I am just trying to think of the Presiding Officer's State of New Hampshire. I wonder how many people make $29 million a year just in salaries. I do not know if that includes stock options.

During my conversations with these executives last week, we talked a little bit about how the effective tax rate on their profits is significantly lower than what average workers make in my home State of West Virginia and in the Presiding Officer's home State.

Exxon paid a 17-percent effective tax rate over the past 3 years—17 percent—while the average individual in my State and the Presiding Officer's State paid an effective rate of 20 percent. Is that class warfare? Is that gotcha? Or is that about fairness, about people doing something to help their country when their country is almost on its knees?

The effective rate, to explain, is the amount of tax one is actually paying on income earned when factoring in deductions and credits.

It is a vast understatement to say West Virginians, like many others all across the Nation, are not having an easy time of it during this period of record oil company profits. And they—those five—understand perfectly well that there is no longer any justification for maintaining generous subsidies for this highly profitable industry. The public appears to feel that way. The poll numbers are just stunning—70 to 30 that it is not right, that we should take away the subsidies. It varies according to the poll, but it is always high up, including two-to-one Republicans across the country who believe they should not be able to have those tax subsidies that we are so easily giving them.

They know that without a willingness to stare down sacred cows like corporate subsidies—not just with them but with others—we won't ever be able to make progress in eliminating the massive Federal deficit which is staring us in the face. Why wouldn't they care about that? It is so easy for them. It is called sharing, being fair. But no, it doesn't work that way.

The average West Virginian, again, makes $32,000 a year. They can't afford another 10 years of handouts to Big Oil. The current high gas prices are like a dark cloud. The working class in rural States like mine commute 25 miles or more each way every day, and high gas prices cut heavily into their weekly paycheck. Of course they do. Things are much worse in the summer, of course, when people travel, if they can any longer afford to. I hear often from constituents who are experiencing sticker shock at the pump. Police departments, schools, hospitals, and community organizations also feel the pinch of rising fuel costs and the pinch of everything else that isn't coming through. Philanthropy is down in this depressed economy. It is bad. Even the smallest increase can have a serious impact on family budgets and a business's bottom line.

I do not mean to suggest that the oil industry profits and subsidies are the sole culprit for rising gas prices because listening to those who are industry experts and economists, too, has convinced me that the big factor in the rising cost of energy is the role of speculators. I won't get into that too much now, but I will say that these speculative investors make a quick profit in betting on what the cost of a barrel of oil might be next Friday. If they turn out to be right, they get a whole lot of money. I mean, it is stupid. It is Wall Street at its dumbest, and they have shown us several ways to be that way. They take no risk themselves.

I am not alone in thinking these speculators are driving up oil prices and creating more price volatility. I have joined with other Senate colleagues in asking the Commodity Futures Trading Commission to look closely at the role of speculators in the oil futures market and in pressing the Commodity Futures Trading Commission to get moving on a power they already have, which is to set margins on what speculators can make—to crack down, rein this in. I have also written to the Federal Trade Commission—to investigate any potential fraud or market manipulation in the oil markets.

I also believe what is needed in the big oil industry is a sense of fairness. It is not too much to ask when it comes to paying taxes, when it comes to paying the price for gas. To me, fairness has always meant shared sacrifice in tough times and shared success in good times—a sense of giving something for the larger good. I am not suggesting that they stop being competitive or aggressively profitable, but at least show for a minute they see where we are today. If they had expressed concern about average people and then refused to take any decrease in their tax subsidies—paid for by these people I am talking about—that wouldn't have given me much comfort, but at least it would have been just a bit of a bend. We got none of that. What we got was, we like our business model, we are staying with it, don't punish us for being profitable. We do business the way we do business. We have been doing it for 130 years, and that is that.

So what is needed here is a reminder that a lifetime of always beating their adversaries and never losing or giving anything of themselves to the greater good does not, in fact, lead to a prosperous or morally just society. That is not too much to ask, especially of Big Oil, and I am not going to stop just because they do not get it yet.

I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. BARRASSO. Madam President, across this country Americans are feeling the pain at the pump. Gas prices are approaching $4 a gallon. Families are going to spend, on average, about $800 more on gas this year than they did last year. Unrest in the Middle East and a weak dollar are driving oil prices even higher. Now more than ever, we must produce more American energy. We need to do this to reduce our dependence on foreign oil.

Americans are looking to Washington for leadership. All you have to do is pick up today's USA TODAY to know how much—and I know you hear about it, too, when you are home on the weekends—this $4-a-gallon gas is impacting people in our States.

Here is one headline. ''Poll: Gas prices hurting many. $4 a gallon requires cutbacks.''

Let me read to you, Madam President:

As gas prices hover near $4 a gallon, nearly seven in 10 Americans say the high cost of fuel is causing financial hardship for their families, a new USA TODAY/Gallup poll finds. More than half say they have made major changes to compensate for the higher prices, ranging from shorter trips to cutting back on vacation travel.

The article goes on:

For 21%, the impact is so dramatic they say their standard of living is jeopardized.

So here we have families all across the country, in your State as well as in mine, who are dealing with kids, bills, mortgages, and this sort of increase—$800 out of their ability to pay for other things this year—clearly impacts their quality of life. So Americans want answers and they deserve answers. They are asking: How am I going to pay my gas bill? When we have American energy, energy right here in this country, they are asking: Why are we so dependent on foreign countries for our energy? They want to know where the leadership is in Washington.

This very week, the President has finally said he understands the need to produce more American energy. Well, he has used that same line many times.

The actions of the Democratic Party today on the floor of the Senate do not track with the lines coming out of the White House. The administration wants Americans to believe the administration has seen the light, but Republican Representative DOC HASTINGS, a Member of the House of Representatives, has already called their bluff. Representative HASTINGS is the sponsor of legislation that would allow more energy production off the coast of Alaska. He said it is ironic that the White House is now supporting this idea because the White House just recently opposed the idea when he introduced it in the House of Representatives.

The Associated Press was even more direct. They said that all of the administration's ideas had come from three bills that were passed by the Republican-controlled House down the hall, and the Associated Press said the White House had opposed every single one of these bills.

So despite acting against the production of more American energy just a week ago, the President now wants us to believe he supports it just because this week he says so. Well, I hope his change of heart is sincere, but I have my doubts because, unlike energy, talk is cheap.

The administration is trying to use this sudden change of heart as a bargaining chip to pass legislation that was brought up by liberals in the Senate this past week. Unlike increased production, the bill brought to the floor by the Democrats will not help the American people. In fact, the bill is clear evidence that the Democratic Party has no plan to address high gasoline prices. Why do I say that? Well, the solution we hear for high gas prices is a tax increase. Since when did raising taxes lower the price of gasoline? Since when does raising taxes on one thing ever lower the price of that thing? To me, this is just another distraction. The nonpartisan Congressional Research Service has already told us there are some commonsense facts about energy taxes. They have told us that raising energy taxes will not lower the price at the pump. In fact, the Congressional Research Service says increasing energy taxes will increase the price of gas and increase our dependence on foreign oil.

This administration has consistently pushed policies that actually make the pain at the pump worse. Instead of supporting the all-of-the-above energy production across our country, they have been more focused on excuses about why we shouldn't use more American energy. If you look back over time, there is a clear pattern. In 2008, when he was a candidate for President, then-Senator Obama said high gas prices weren't a problem. He said the only problem is that they went up too fast. Interior Secretary Salazar, when he was a Member of this body, said he would not support more offshore drilling even if gas prices hit $10 a gallon. Even Secretary Steven Chu, who is our Energy Secretary, was quoted that same year as saying: We have to figure out how to boost the price of gasoline to the levels of Europe. Gas prices in Europe routinely hit $8 a gallon. With these individuals in charge of our energy policy, it is no wonder prices are way up—up over $1 from where they were a year ago.

This administration's shutting down of drilling in the Gulf of Mexico will drive American oil production down by 20 percent in 2012. Even former President Bill Clinton called the continuous shutdown ridiculous.

To make matters worse, President Obama appears to be more enthusiastic about importing oil from other countries than he is in terms of using our own. Brazil has discovered huge reserves of shale oil, and the President recently visited Brazil. He said he wants the United States to be Brazil's best customer for oil.

When it comes to oil consumption generally, the President's story continues to change. A few weeks ago, President Obama tried to make the case that Americans should decrease their consumption of oil. He said we only have about 2 to 3 percent of the world's oil reserves and we use 25 percent of the world's oil. According to the President's measurements, the United States has about 28 billion barrels of oil, but according to the Congressional Research Service, the United States actually has 163 billion barrels of oil. That is over five times as much as the President says we have, and the United States is currently the third largest oil-producing nation in the world.

President Obama has also said he wants to cut imports of foreign oil by a third. Well, his new proposal is definitely a step in the right direction, so why would he tie it to this bill that makes American production harder and more expensive?

Another of the President's goals is to make alternative energy the cheapest form of energy. He continues to talk about that, and I applaud that goal. But we need to make energy as clean as we can, as fast as we can, and do it in ways that don't raise the prices for American families. Regrettably, the President's method has been to make everything but alternative energy more expensive, and the bill his party is pushing right now is another step in that direction.

So the evidence is clear: The liberal energy strategy is not creating American jobs. No, it is not creating jobs here in America, it is not reducing the cost of gasoline in America, and it is not strengthening America's national security. Instead, Americans are paying more at the pump, they are living with high unemployment, and they are producing less American energy.

I hope the President will follow up on his promise to help America produce more oil. I also hope he will stop pushing the damaging legislation his party has put forward here this week.

It is time we have a true bipartisan approach on energy. Senator MANCHIN of West Virginia and I have introduced just such a bill. It is a bipartisan bill called the American Alternative Fuels Act. This bill truly would ease American's pain at the pump. It would repeal barriers to alternative fuels so American energy can thrive. It would promote the production of alternative fuels derived from American sources. This bill acknowledges the truth about our energy crisis. We need more American energy—we need it all.

In addition to the green jobs the President keeps talking about, we need red, white, and blue energy and red, white, and blue energy jobs. We must keep focusing on making our energy as clean as we can, as fast as we can, and do it in ways that do not increase the costs on American families.

The only way Americans can take the President's call for more energy production seriously is if he and the Democratic leadership abandon their fixation on raising taxes on producing American energy. That is the first step we need to take in helping relieve the pain at the pump.

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

The PRESIDING OFFICER (Mr. CASEY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. HUTCHISON. Mr. President, I rise to speak in opposition to the Menendez proposal which would raise taxes on a handful of our Nation's energy producers. This bill makes the assumption that raising taxes on the five

major oil companies will somehow reduce the deficit and lower the price at the pump. This is misguided and it will also have the opposite effect. Raising taxes on our domestic oil industry will drive up gasoline prices and who in America driving a truck or a car doesn't realize that gasoline prices are already very high? Second, it will threaten the jobs, 9 million jobs dependent on drilling, exploration, and operating in America. If we drive these companies overseas, it will increase foreign imports and it will stop jobs being created in America.

Those who threaten to repeal these deductions fail to recognize the tremendous costs and risks that go into exploring for the energy needed to drive our country forward. Our oil and gas industry is a business or industry that creates jobs like any other business or industry in our country. Why would we single out one sector of our economy and say you can't deduct your expenses? Every other business in America can deduct expenses. Other manufacturing businesses in America can get the tax credits for manufacturing jobs because we want to keep jobs in America and it offsets the very high corporate tax rate that we have in our country, that the President has recognized as being too high. Because we want to keep manufacturing jobs, there is a credit for manufacturing. But we are going to take that away if the Menendez bill passes, and send those jobs overseas.

We are making it so hard to create our own natural resources from our own people working in this country, instead sending jobs overseas. At a time when we ought to be helping to create jobs, when we ought to give every possible fair break to companies that will hire in America, now we are going to take one sector of our industry and tax it differently from every other sector.

Since business started in our country we have had tax deductions for expenses. Yet here we are trying to say we are going to take one sector of our industry—maybe they are doing too well right now—and we are going to tax them more. Look out, other industries that happen to be successful right now; whether you are making Kleenex or computers, you are going to be taxed if you earn too much. Is that what America wants to change to, as our business policy, which has a foundation of fairness and equity?

We have a corporate tax rate that is so high it encourages businesses to go overseas. Now we are going to single out one industry that wants to do work in America, that wants to bring our natural resources out of the ground and bring down the price at the pump. But, no, we are going to add taxes so we will not see any lowering of gasoline prices at the pump. Instead, we are going to increase it. If we increase the cost of doing business and we force these companies to go overseas to get fair and stable regulatory environment, then we are going to pay more at the pump. There is no doubt about it.

Senator LANDRIEU and I introduced bipartisan legislation earlier this year called S. 516, the Lease Extension and Secure Energy Act of 2011, known as LEASE. It restores time lost as a result of the offshore moratoria by extending the impacted leases by 1 year. It is fair and it is simple.

Over the weekend, the President stated he would be extending leases in the Gulf of Mexico that were affected by the moratorium, but he was not clear about which ones. He didn't say I will extend every lease that went through the processes to get the environmental and the safety restrictions in place.

They got the lease. Then they had a moratorium. So they are paying people, they are continuing to have all of the expenses of the lease but they do not get to do the exploration. We are saying whether you were in the exploration phase or in the drilling phase it doesn't matter. If you are impacted by a moratorium on a lease that you are still paying for and you are still paying people to try to keep people on the payroll, your lease will be extended for 1 year. That is all the bill Senator LANDRIEU and I submitted will do.

The Secretary of the Interior, at a hearing this morning in the Senate, said they were looking into extending Gulf of Mexico ''wells'' directly impacted by the moratorium—meaning only those leaseholders who have already performed all seismic tests and were conducting exploration drilling. This will only cover 33 leases out of thousands that are still affected by the moratorium, because they are in the exploratory phase, not the exploratory drilling phase.

This year alone, over 350 leases are due to expire. Many of them have not had the opportunity to be developed because of the moratorium. The development of oil and gas in the Gulf of Mexico is an extremely expensive and technical process. It takes about 3 years of tests, surveys, and appraisals before even drilling for the exploration well. Regardless of which stage all of the exploration leaseholders are in, the administration ordered all leaseholders to halt exploration activities when its moratorium was enacted. Every one of those leases is still being paid for but they are not able to be explored. We need to restore at least 1 year of the moratorium so they get fairness for the money they have spent and also for the people they have kept hired, not sending them away—which has been a hardship on many companies, including some having to go bankrupt because they could not afford to be idle while they also were meeting a payroll.

The exploration and development of oil and gas must follow a meticulous process, and any delay such as a moratorium can derail an exploration plan causing companies to have to give up on their leases. The length of deepwater offshore leases is usually about 10 years because that is what it takes to get all the way through the exploration and the exploration drilling phase to determine if it is worth actually drilling. Many times when you drill, you get a dry well.

Our commonsense legislation has bipartisan support. Recently, the Office of Management and Budget stated, ''The administration fully supports suspensions for Gulf of Mexico leaseholders directly impacted by the drilling moratorium,'' but the administration fails to recognize that all leaseholders in the Gulf of Mexico were ''directly impacted by the drilling moratorium.''

James Noe, the executive director of the Shallow Water Energy Security Coalition, wrote me to express his support for the LEASE Act. In the letter, he said:

> Without the LEASE Act, vast quantities of proven, present and producible oil and gas in these expiring leases will be trapped.

Leaving the resources trapped will hurt our domestic production and delay when these resources can come online.

I received another letter from Stephen Heitzman, the president and CEO of Phoenix Exploration, a small Houston-based exploration company. Mr. Heitzman wrote that the LEASE Act is vital to Phoenix Exploration and other small offshore companies because they have been prevented by the administration from drilling in the moratorium and have not been able to even evaluate many of their Gulf of Mexico leases which have been fully paid for through the competitive bidding process. He goes on to say the time lost from the moratorium makes it very difficult for shallow water independent operators to put together the partnerships and attract sufficient capital resources needed to develop leases.

The LEASE Act is needed to give offshore energy producers the certainty they need to obtain proper financing to produce domestic oil and gas.

I ask unanimous consent that the letters I have read excerpts from be printed in the RECORD.

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

PHOENIX EXPLORATION COMPANY,
Houston, TX, May 12, 2011.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR HUTCHISON: On behalf of Phoenix Exploration Company LP and its employees in Texas and elsewhere along the Gulf Coast, we thank you for your leadership efforts in the development and hopeful enactment by the Congress of S.516, the Lease Extension and Energy Security Act (LEASE Act). Your legislation is vital to Phoenix Exploration and other small offshore oil and gas companies that were prevented by the Administration's de facto drilling moratorium from fully evaluating many of its Gulf of Mexico leases acquired and fully paid for through the Federal OCS competitive bidding process. Your reasonable solution of an additional 12 month extension of the offshore leases impacted by that moratorium will help to prevent further adverse business and employment impacts throughout the Gulf Coast Region of the United States.

The loss of time associated with the de facto moratorium and the ensuing new high level of uncertainty associated with the Bureau of Ocean Energy Management, Regulation and Enforcement's permitting process, makes it very difficult for shallow water independent operators to put together the required business partnerships and attract sufficient capital resources to develop leases. Consequently, these permitting and timing uncertainties cause potential business partners for resource development to be reluctant to begin discussions to work on the hundreds of leases that are left with reduced development periods.

Your LEASE Act will provide the small companies in the offshore oil and gas industry the additional time to compensate for the actual lost time associated with the de facto moratorium and the newly increased permitting time required to develop the acquired leases. The Administration's unilateral de facto moratorium of oil and gas operations in the Federal OCS has caused significant economic risk in the minds of the investment community. This uncertainty has caused disruption in economic development of Federal OCS leases in the Gulf of Mexico and has negatively affected jobs throughout Texas and the Gulf Coast Region. Your proposed legislation will provide a welcome incentive to Phoenix Exploration and other similarly-situated companies to develop the resource potential of existing offshore leases and in doing so, creates domestic jobs which will bring domestic energy resources to the American public.

Thank you for your support of Phoenix Exploration Company and the people of Texas in this vitally important matter.

Sincerely,

STEPHEN E. HEITZMAN,
President and Chief Executive Officer.

SHALLOW WATER ENERGY SECURITY COALITION,
Houston, TX, May 13, 2011.

Hon. KAY BAILEY HUTCHISON,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR HUTCHISON: On behalf of the member companies of the Shallow Water Energy Security Coalition (''Coalition'') and their employees, we are extremely thankful for your leadership in the introduction and efforts to enact S. 516, the Lease Extension and Energy Security Act (LEASE Act). This legislation is urgently needed to avoid further adverse economic and employment impacts resulting from the Administration's de facto moratorium on offshore drilling activities in the Gulf of Mexico. The Coalition is comprised of the leading exploration and production, drilling and offshore contractors in the Gulf of Mexico.

As a result of the de facto moratorium on offshore drilling, all related shallow oil and gas exploration activities on the Outer Continental Shelf of the U.S. came to a grinding halt. However, the expiration period for offshore oil and gas leases was not suspended. As you have so appropriately recognized, it is only fair and reasonable to provide a short-term 12-month extension to return to the affected leaseholders the lengthy period of time in which they were prevented from developing those leases. Your legislation will most certainly help to protect American jobs and increase domestic oil and gas production.

Clearly, it is imperative that the LEASE Act be enacted as quickly as possible. In this year alone, over 350 offshore leases are due to expire, many of which have not had the opportunity to be developed because of the de facto moratorium. Without the LEASE Act, vast quantities of proven, present and producible oil and gas in these expiring leases will be trapped. Once these leases expire, they revert to the federal government only to be developed when and if the Administration holds an offshore lease sale. The Administration cancelled the Gulf of Mexico lease sale, which was scheduled in March, 2011, and it now appears that, for the first time in 40 years, the country will not hold a lease sale in 2011. With soaring gasoline prices and the countries growing dependency on foreign sources for the supply of oil and gas, we must reap the fruit of our offshore leases.

The economic impact of the Administration's offshore oil and gas policies continues to be direct, severe and long-lasting. Your legislation will provide some welcome relief for the hundreds of thousands of Texas, Louisiana and other Gulf state employees who rely on a strong and vibrant offshore energy industry.

Thank you for your support of the Coalition and its members in this vitally important matter.

Sincerely,

JAMES W. NOE.

Mrs. HUTCHISON. Mr. President, let me close by saying I hope we will not do something so wrongheaded and counterintuitive as to take one section of an industry and say you are bigger than all the others, so we are going to tax you differently. We are not going to give you the manufacturing tax credits we give to every other manufacturer in the world, including the big ones that manufacture in the United States, and we are also going to tax you differently from the smaller oil and gas companies because you are big and they are small. Is that America? Is that the country that wrote a Constitution that said we would guarantee due process of law, that we wouldn't single out one company that is bigger than the others and tax it differently? That is not what our country was founded on.

We should have a fair process. We should have fair taxation. We should be encouraging manufacturing in our country because these companies have a trust with their shareholders. We expect them to do well for their shareholders, and they have millions of shareholders who depend on them to do the right thing with their business and with the investment these shareholders have made. I might add that many pensions are dependent on these kinds of stocks, and it is expected the CEOs will run the companies in a way that will keep our economy going, keep jobs in America, and keep their stockholders in a position where retirees can live on the income. We are singling out an industry and saying: No, you are too big, so you are going to be taxed differently from other industries, and you don't get the manufacturing incentives that even other big manufacturers get. Why wouldn't they move overseas to create jobs overseas where they have a stable regulatory environment, a lower tax base, a lower tax rate, and where they can bring up oil from the ground and import it right back into America, even though it will be at a higher price because we are going to have to pay for the people to go overseas and haul the oil back.

Does that make sense? It doesn't make good business sense, and it certainly doesn't make good economic sense. It is not good for our country, and it is certainly not good for the job market we are trying to build.

I hope we will not make the mistake of going forward on the Menendez bill. I hope we will realize we are a country that has vast natural resources and we should be using those resources so our businesses can thrive, so prices stay low, so people will not be strained to put gasoline in their trucks to go to work or to do their farming or ranching to contribute back to the economy. I hope we will defeat the Menendez bill, and I hope we will adopt a policy that will come through the McConnell bill tomorrow which will increase exploration, increase production, and lower the price of gasoline through our own natural resources, not by importing our own—the jobs that ought to be in America, exporting the jobs and importing the product. That doesn't make sense. Let's keep the jobs in America and let's keep our natural resources working for us. That would be the prudent thing to do and that will be the McConnell bill.

I hope we can defeat the Menendez bill, and maybe we can come together in the Senate and give the President a bill that will ask that we have more production and give the level playing field to all the companies that would hire more people and create jobs in America. They will do it if there is a level and fair and stable regulatory and tax environment in America.

Thank you. I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. UDALL of Colorado. Mr. President, I rise today to speak about the energy-related votes we face this week in the Senate.

Coloradans—and all Americans—are feeling the sting of skyrocketing gas prices. And ''pain at the pump'' puts a crimp in the budgets of hardworking families and small businesses everywhere. I hear this every time I am back in my home State, talking to folks. They think it is unfair—and I agree.

Runaway gas prices are not acceptable and we must work across the partisan divide to bring a stop to it.

In fact, I recently called on the State Department and the U.S. Trade Representative to do everything they can to crack down on global oil market manipulation. And I joined my colleagues in urging the Commodity Futures Trading Commission to ratchet up their efforts at preventing overspeculation in oil trading domestically. Taking these steps would help reduce the chance that market manipulation is hurting American consumers.

But from a larger perspective, the challenge is that we simply do not have any quick fixes. And substantial relief today would have required us to take steps years ago to reform our energy system. Unfortunately, we let those opportunities pass us by. That is the unvarnished truth the American people

need to hear, not false promises or bumper sticker solutions.

The real solutions involve tough choices and strategic investments in clean energy that will help wean our Nation off foreign sources of oil. It really is the only way we will be able to dig ourselves out of this hole and lower gas prices. And, importantly, it is one of the ways that we will get the United States back on the path to winning the global economic race.

Unfortunately, neither of the votes we will take this week will reduce gas prices for consumers.

As are most Americans, I am frustrated that once again politics is getting in the way of progress I would much rather be debating a comprehensive energy policy this week that includes a renewable electricity standard, promotes energy efficiency, and encourages responsible development of domestic resources such as safe nuclear power and natural gas.

We need to move beyond partisan fights and blame games. Instead, we need to work toward what we all can agree are key priorities: developing energy that brings affordable prices to American families and businesses; building a sustainable, long-term energy future; and doing it in a way that protects our clean air and water for future generations. Put simply, establishing energy security—perhaps above any other issue—will assure our Nation's future success.

We each often say that our States are the best laboratories to create innovation. But in Colorado, we have a great example of this in action.

Back in 2004, Colorado cast aside partisan politics and bumper sticker solutions by taking a big, brave step forward and embraced the emerging clean energy economy. That year I led a bipartisan ballot initiative with the former Republican Speaker of the Colorado House, Lola Spradley, in a campaign to convince the voters of Colorado to approve a State-based RES that would harness renewable resources like the sun, the wind, and geothermal energy. We barnstormed the State, speaking over and over to anyone who would listen.

There was a lot of industry opposition to an RES, and dire predictions that it would cost consumers money and damage Colorado's economy. But, those arguments were proven wrong. And Colorado industries, consumers, and people across the political spectrum have embraced clean energy as part of Colorado's effort to win the global economic race.

In fact, last year, the Colorado Legislature approved, and former Governor Bill Ritter signed, a bill to increase the RES standard even further: from 20 percent to 30 percent renewable energy by 2020. This makes the Colorado RES the second most aggressive standard in the Nation, only after California.

Even more refreshing is that in the years since Colorado established one of the earliest and strongest renewable electricity standards, our energy producers have embraced the move. One of our State's largest utilities, Xcel Energy, has become a national leader in clean energy. In proving that clean energy can be profitable and competitive, Xcel is making the case for how an RES can create jobs, stimulate the economy, and help us achieve energy independence.

The clean energy economy is one of the greatest economic opportunities of the 21st century, and the global demand for clean energy is growing by $1 trillion every year. The lesson to be learned from Colorado is that clean energy can unleash the American entrepreneurial spirit. We must pursue forward-thinking policies that will help America seize and lead this growing market.

Make no mistake. We are in a race against foreign competitors and are quickly being left behind. Last year, I returned from China where I discussed clean energy issues with American businesses located there. I saw it firsthand. They are ready to eat our lunch when it comes to clean energy. China is pursuing renewable energy and clean energy technology so ambitiously, not because they want to save the planet but because it makes good business and economic sense.

In fact, China has announced that it is investing over $738 billion over the next 10 years in clean energy development—nearly the size of our entire American Recovery and Reinvestment Act. Just imagine, their economy uses a comparable amount of energy, but they take clean energy so seriously that they plan to invest a stimulus-sized amount of money solely in renewables.

But we can't just rely on renewable energy. Rather, America must have an all-of-the-above energy policy. For example, conservation and energy efficiency efforts offer the quickest way to reduce energy demand today. And safe nuclear energy and natural gas can and should fill a larger share of our energy portfolio as they both are cleaner fuels. In addition, we all know America will be dependent on fossil fuels for years to come, so it is not realistic to exclude them in our strategy. All of these elements should be in America's energy mix and we must acknowledge that to really embrace 21st century solutions.

But when we look at the future demands for clean energy and the economic opportunities ahead of us, renewable resources hold the greatest promise. And the more home-grown renewable energy we can produce, the less money we need to spend buying oil from foreign nations that wish to do us harm, which means less money spent at the gas pump. I don't think anyone in this Chamber can argue with the proposition that we should be moving aggressively toward energy independence with dividends like that.

It is time we made a concerted national effort to reclaim our position at the front of the pack. We should be harnessing the wind and sun and other renewable resources here in America, and putting Americans to work in good-paying jobs developing, building, and leading the clean energy revolution. It is an example of what we call back home ''Colorado common sense.''

But instead of pursuing some commonsense goals that are sure to move our economy forward, we are here today exchanging political punches on issues largely unrelated to our energy independence and the prices Americans pay at the pump.

While I support reducing tax breaks for the five largest oil companies, I honestly wish this issue was a smaller part of a larger discussion on a comprehensive energy strategy that allows the U.S. to lead the global economic race. That said, I will vote to repeal these needless tax breaks for Big Oil. Traditional energy production has received billions in subsidies over the last 70 years. And the top five oil companies in particular make billions in profits that far exceed the need for government support.

I happen to agree with the thousands of Coloradans who have told me: these companies—among the biggest in the world—don't need and shouldn't receive taxpayer money, especially as we look for ways to consolidate our Tax Code and reduce the deficit.

It is important to me that this bill is limited to the top five companies and does not include small, independent producers that provide many jobs in Colorado. I should note that there are some tax credits—such as the production tax credit for wind, the investment tax credit for solar, and the intangible drilling costs tax credit for small oil and gas producers—that are important to jobs in Colorado and across the country. While my ideal energy market would be free from any tax credits, I also want to make sure we continue to invest in domestic energy industries that still need help getting off the ground. Just as with most policy, it is a delicate balance.

In my home State of Colorado and in the Presiding Officer's home State of Pennsylvania and all over our country, Americans are feeling the sting of rising gas prices. The pain at the pump puts a real crimp in the budgets of hard-working families and businesses everywhere. I hear this every time I am back in my home State listening and visiting with the folks there. They think it is unfair, and I have to say I agree.

Runaway gas prices are not acceptable. I think it is our job, working across the partisan divide, to bring a stop to it. I have to tell my colleagues, instead of pursuing some commonsense goals that would move our economy forward and would mold a comprehensive energy proposal, we are punching away at each other on issues largely unrelated to our energy independence and the prices Americans pay at the pump.

I am going to support the vote today. We ought to reduce tax breaks for the

five largest oil companies. But I have to say I wish this had been part of a larger discussion on a comprehensive energy strategy to allow us to lead the global economic race. That said, I am going to vote to repeal what I think are needless tax breaks for Big Oil.

Traditional energy production has received billions of subsidies over the last 70 years—70 years—and the top 50 companies in particular make billions in profits that far exceed the need for more government support. I happen to agree with thousands of Coloradans who have been in touch with me to say that these companies, which are among the biggest in the world, don't need and shouldn't receive taxpayer money, especially as we look for ways to consolidate our Tax Code and reduce the deficit.

It is important to me that the bill is limited to the top five companies and doesn't include small, independent producers that provide a lot of jobs in Colorado. I should note that there are some tax credits, such as the production tax credit for wind, the investment tax credit for solar, and the intangible drilling costs tax credit for small oil and gas producers that are important for jobs in Colorado and across our country.

I think we would agree that the ideal energy market would be free from any tax credits, but I also wish to make sure we invest in our domestic energy industries that still need help getting off the ground. As with most policy matters, this is a delicate balance.

Let me wind down my remarks with this request to my colleagues, that we would take responsibility for our economic future and get serious about energy independence. That means we would have to shed, each and every one of us, some of our doctrinaire positions and what is too often on the floor a ''my way or the highway'' approach. There are ways to responsibly drill for oil while also increasing our renewable electricity production. There are ways to safely expand nuclear power while also boosting energy efficiency. There are ways to harness natural gas as a bridge fuel while also spurring a generation of electric cars.

These are not either/or propositions. I think we especially have to seize the clean energy opportunity that is in front of us, so 2, 4, and 10 years from now we are not still sidetracked by political infighting because we, once again, failed to make the tough decisions. A comprehensive energy policy is critically important to our Nation's economic recovery and our long-term energy future. Believe me, Americans are ready for it. In fact, they are demanding it.

Thank you. I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. FRANKEN. 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. FRANKEN. Mr. President, I rise in strong support of Senator MENENDEZ's bill to eliminate subsidies to big oil companies. At a time when we have to make tough choices to address our budget deficit, when we are cutting cancer research, at a time when Minnesotans are paying $4 a gallon at the pump, and at a time when oil companies are raking in record profits, we have to stand and say: Enough is enough. It is time to end the subsidies. That is why I am a proud cosponsor of the bill.

We have had to make a lot of tough choices, and there are plenty still to come. To avert a government shutdown, Congress enacted billions of dollars in cuts. Some were pretty hard for me to swallow, frankly—cuts such as $182 million from job training, $650 million from community development funds that help communities provide basic services such as roads and sewers and affordable housing, even Pell grants.

These are cuts that will be felt by working families and people who are still struggling to find jobs and make ends meet. I voted for the spending bill that contained those cuts, not because they would be the cuts that I choose to make but because it was important to keep the government open. Addressing our budget deficits will take compromise. It will take shared sacrifice from everyone. That includes big oil companies that are making record profits because the price of oil is now at $100 a barrel.

The bill before us would end $1.2 billion in subsidies to the five largest oil companies in fiscal year 2012 and $21 billion over the next 10 years. These companies make up three of the top five Fortune 500 companies and have had nearly $1 trillion in profit over the last decade. While high oil prices are gouging the pocketbooks of American families, these companies are on a pace for a record profit this year. In the first quarter alone, these companies collectively made about $35 billion in profits.

I wish to ask my colleagues, how high do oil prices have to go—how big do the oil companies' profits have to be—before we can talk about doing away with their handouts? These companies have legacy wells that pump oil at a cost of about $10 a barrel—a little less. On average, oil production costs them $15 a barrel. When exactly don't they need these subsidies anymore? They are making record profits. At $100 a barrel, why do they need the subsidies? If oil goes up to $102 a barrel or $110, or $150, can they give us the subsidies back then? There is absolutely no rationale for these subsidies—none at all. How much money do these companies have to make before they do not need the government's help anymore?

To me it sounds as though these companies do not need to be subsidized by taxpayers. President George W. Bush thought so too. In 2005 he said:

> With $55 dollar oil, we don't need incentives to oil and gas companies to explore. There are plenty of incentives.

When testifying before Congress in 2005, one oil executive stated that removing many of these tax breaks would have no effect on his company's production activity. Today, with oil prices close to $100 a barrel, it is doubly true.

Let me say something about House Speaker BOEHNER's statement on the debt limit last week. The Speaker told us that in terms of dealing with the deficit, everything is on the table, except for revenues. How can we not look at billions of dollars in handouts to some of the most profitable companies in America?

This is sort of like a family that cannot pay its bills, and they cannot pay for food and heat and electricity and medical bills and the mortgage all at the same time. So they gather around the table and the dad says: ''To make ends meet, everything is on the table. We are paying for this stuff, except for one of us getting an extra job or working more hours or somehow bringing in more money. We can't do that.'' And the son says: ''Gee, dad, I could do more hours at TGI Friday's. I could do that.'' ''No, son. That's off the table. No more medicine for grandma. You go play with your Xbox some more.''

Revenues off the table, especially subsidies that do not do anybody any good? That does not make any sense and tells me that some of us are not serious about fixing the budget deficit.

A recent report from the Joint Economic Committee concluded that:

> Repealing or modifying the tax incentives discussed in this report . . . would have little or no impact on consumer energy prices in the immediate future.

In 2010, 60 percent of the big five oil companies' profits went to stock buybacks and dividends to their shareholders, not to exploration. So even if they had fewer taxpayer subsidies and could only use, say, 59 percent of their record profits for buybacks and dividends this year, I am pretty sure they could get by just fine.

Some of my colleagues on the other side of the aisle think we have the wrong approach and they do not want us touching Big Oil's government handouts. Instead, they are pushing an alternative bill that would require the government to approve or reject a drilling permit in 60 days or it would be deemed automatically approved. This is a very dangerous idea. Just this morning, I asked Director Bromwich, who heads the agency in charge of offshore permitting, what he thought about this idea, and he said we would all be at greater risk from such a proposal.

This shows that some of my colleagues have not learned the lessons of the BP oilspill where a shoddy approval

process and numerous industry errors led to a monumental disaster in the gulf. This disaster brought economic hardship for thousands and cost 11 workers their lives. Let's not forget that.

Offshore drilling is becoming an increasingly complex industry. To insist on a one-size-fits-all permit process ignores the increasing technical challenges that offshore drilling presents. The Republican bill is reckless and irresponsible, and I urge my colleagues to reject it.

Instead of ending handouts to wildly profitable companies, my friends on the other side of the aisle are suggesting we throw caution and safety to the wind—and continue to dole out these subsidies. They want to make cuts to job training programs, Pell grants, and cancer research. They have proposed converting Medicare into a voucher program, which would end the longstanding guarantee that our seniors will have access to health care when they need it. It would end Medicare as we know it. But when we talk about touching one penny of big oil's subsidies, they say: It is off the table.

I believe Americans come together in tough times and make sacrifices. We are all not going to get everything we want, and that includes Big Oil executives. At a time when almost 14 million Americans are unemployed, at a time when job training and other assistance programs are being cut, it is unconscionable for companies making record profits to refuse to do their part. It is unconscionable for them to refuse to give up even one penny of subsidies that they frankly do not need.

I urge my colleagues to get serious about the deficit, to support the Menendez bill, and to end these wasteful handouts.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, today we are discussing a bill to raise taxes. That is what it is. According to the Joint Committee on Taxation, S. 940 will raise taxes by $21 billion over 10 years. And what provoked this bill to raise taxes? This time it is high gas prices.

I wish could say I am surprised, but since Democrats took control of this Chamber, and since President Obama was elected, this seems to be a recurring theme. No matter the question, the answer always seems to be: Raise taxes. There is rarely any consideration of how this impacts the economy, how it impacts businesses and families who have to shoulder this load.

My colleagues on the other side of the aisle too often look at working men and women as an endless source of cash that Washington can rely on for more governmental programs. The Democratic Party's emblem is a donkey. Sometimes I think they would be better off transitioning to a one-trick pony.

The Democratic bill we will be voting on later today is called the Close Big Oil Tax Loopholes Act. That is certainly one message-tested name. ''Big oil''—check. ''Tax loopholes''—check. Again, never underestimate the left's ability to underestimate the American people. They think that because American citizens are angry at high gas prices, they are going to run off the cliff and support a measure just because it mentions ''big oil'' and ''tax loopholes.''

I can tell you that the people of Utah are not going to support this bill, and the American people will not either.

The American people want and they need energy solutions. According to a USA Today/Gallup poll, 7 out of 10 Americans say that gas prices are causing financial hardship. FedEx and UPS have increased fuel surcharges from 6.5 percent to 8.5 percent. By the time 2011 ends, expect restaurant prices to be 3 percent or 4 percent higher, according to the U.S. Department of Agriculture.

The issue of high gas prices is much greater than the price at the pump. The Joint Economic Committee concluded that the weak U.S. dollar has added 56 cents to every gallon of gas. This is a drag on a fragile economic recovery. It inflates the prices of everything from groceries to school supplies. Just recently, we found out that one in seven Americans is on food stamps—one in seven. One writer has dubbed this the ''Food Stamp Recovery.'' And this weak recovery is made weaker by higher gas prices.

And to deal with this? Democrats decide that rather than promote a sensible energy policy, it is better to score a few cheap political points at the expense of the politically unpopular oil companies. Americans are rightly upset about the cost of gasoline. But the solution to higher gas prices is not to raise taxes. Raising taxes on domestic energy producers might be a good thing for Hugo Chavez, but it does nothing to lift the burden of increasing gas prices that are afflicting the American economy and working families. Under this bill, Hugo Chavez's Citgo would receive a tax incentive while U.S. companies such as Exxon and Chevron would not. I was amazed to see the advocates of this legislation admit as much during a hearing on this matter last week in the Finance Committee.

Mr. President, I ask unanimous consent that I be given an extra 5 minutes for my remarks.

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

Mr. HATCH. One after one, my Democratic colleagues acknowledged the obvious. The policies they were proposing—higher taxes on oil companies—had absolutely nothing to do with energy policy or sound tax policy and everything to do with generating more revenue for more government spending. They acknowledged that this legislation would do nothing—I repeat, nothing—to lower the price of gas at the pump. Not a thing. They acknowledged that.

I can see now why Senator LANDRIEU of Louisiana and Senator BEGICH of Alaska called this tax increase proposal a ''gimmick'' and ''laughable.'' These are two Democrats who have been honest about what is going on here. Raising taxes will do nothing to lower the cost of fuel. And for what it is worth, this bill will not help pay down the deficit either. Nothing in this bill mandates that these new revenues would be dedicated to deficit reduction. In fact, any net revenue increase in this bill would be set aside and added to what we call savings on OMB's pay-go scorecard, revenue that can be used to pay for future legislation. We all know that when we increase taxes, our colleagues on the other side are going to spend every dime of it. That has been a matter of fact.

So let's be clear about what is going on here. Democrats want to increase taxes to pay for more government spending. They have been refreshingly open about their intentions. One of my colleagues stated that this bill will allow us to spend money on cops and kids. Another said it will ''raise a significant amount of additional revenue for important projects in the United States of America.'' But the choice here is not lower taxes versus assistance for public safety and children. If Democrats want to pay down the deficit and have money for essential projects, there are plenty of options available besides increasing taxes.

My colleague from Oklahoma, Dr. COBURN, has led a one-man crusade to identify hundreds of billions of dollars in wasteful and redundant government spending and programs. If the entire Democratic caucus spent even half the time investigating wasteful government spending as it does looking through the Internal Revenue Code for ways to increase our taxes, and to malign a business like Big Oil, our fiscal situation would be much better.

Make no mistake that this bill is a tax increase on American jobs. Under this proposal, there is a disincentive for domestic energy producers to invest in the United States. Under this proposal, American corporations will be at a competitive disadvantage with their foreign counterparts. Under this proposal, a lot of our oil companies—especially the larger ones—are going to find it a lot better for them to work offshore, overseas, away from America, to find oil, which is what they are doing anyway, without all of the tragic tax increases that come their way in our country.

Sometimes we talk ephemerally about the impact of tax increases on the economy. In practice, this bill is a direct assault on American jobs. And for what? It does not do anything to bring down the cost of energy. Nothing. Nada. It does not do anything to bring down the deficit. Not a thing. But what it does manage to do is gloss over the Obama administration's lack of an energy policy—or should I say war on energy?

The angry truth is, this administration abetted by Democrats has an energy policy designed to increase costs at the same time that it purports to stand shoulder to shoulder with working families who cannot make ends meet because of these increased energy costs.

This is the President's Energy Secretary, Steven Chu—the current Energy Secretary:

> Somehow we have to figure out how to boost the price of gasoline to the levels of Europe.

That is astounding to me. Some of those levels are approaching $10 a gallon.

> Somehow we have to figure out how to boost the price of gasoline to the levels in Europe.

The administration is talking out of both sides of its mouth. At the same time that it feigns sympathy for the families hit hardest by rising energy prices, it attempts to impose a radical environmental agenda on an unwilling middle class. At the same time American families moved to the suburbs so they could have room to grow and play, buying minivans and SUVs to accommodate their growing families, the environmental left is pushing its agenda of urban living, public transportation and, yes, small families.

For all of its righteous anger about high gas prices, it is clear from its policies where the administration stands in this fight.

As a Senator who has worked hard to establish a strong energy foundation for America, I have watched with dismay as President Obama has done everything in his power to tear that foundation up, aggressively stop domestic energy production, and leave our Nation vulnerable to our foreign competitors who are smart enough to develop their own energy resources.

Since taking office, President Obama has cut new energy leases by more than 60 percent in this country and by more than 80 percent in my home State of Utah. We have a lot of oil there. It is just a matter of getting the permits to be able to drill for it or to develop it in the case of tar sands and oil shale. Utah, Colorado, and Wyoming have an estimated 1.6 trillion barrels of recoverable oil through oil shale and tar sands.

We are all aware of the President's efforts to forestall domestic energy development offshore, but less media attention has been given to its successful efforts to move the industry off our Federal lands in the Intermountain West.

The Department of the Interior oversees more than 42 percent of the State of Utah, including much of the land where domestic energy production is pursued. One of the early moves of the Secretary of the Interior, Ken Salazar, my colleague and dear friend, was his controversial withdrawal of energy leases that had already been auctioned off and paid for by energy developers after years of jumping through environmental hoops—years; some estimate about 7 years, maybe longer, of jumping through environmental hoops. Then, just by a stroke of a pen, they withdrew 77 leases that had been paid for.

This is a terrible signal to our domestic energy producers, and companies are now leaving our Federal lands in droves seeking a less hostile regulatory environment on private, State, and foreign-owned lands. Get that ''foreign-owned'' lands part. They are finding it is easier. They do not have all of the rigmarole and the redtape to go through to develop oil on lands overseas.

A recent survey showed, in the absence of national constraints, energy companies would be investing an additional $2.8 billion in the Rockies if they did not have all of these constraints and all of this rigmarole to go through.

S. 940 is terrible policy. In a long line of terrible policies, it is lousy energy policy, and it is lousy tax policy. Increasing taxes on American production will only stifle our economy. If Democrats want to have a conversation about tax policy and tax reform, we are ready to have that conversation. But do not single out, through selective taxation, one industry to take away these particular tax benefits that have been useful in helping us develop our oil domestically.

We should not be exercising our power to tax in a punitive way that singles out particular unpopular industries or just particular industries. Fortunately, I do not think the American people are going to buy this latest installment of ''let's raise some taxes.'' They always leave out the latter part, ''so we can spend more,'' and claim that ''we are doing more for the people'' when, in fact, they are spending us right into bankruptcy.

This bill we are debating today will not do anything to address high gas prices. As Democratic supporters have acknowledged, there is nothing to help us with lower prices at the pump. It will not do a thing. But what it will do is raise revenue for the Federal Government to spend.

Yet, again, the party of big government has proposed additional taxes to fund that big government. You see, the deficit is not the Democrats' problem. No. For the Democrats, the deficit is always somebody else's problem. It is the fault of business or individual citizens for not doing their ''fair share'' or accepting their ''shared responsibility'' to fund this government. These are new terms that are being used now.

The American people deserve better than this bill. I urge my colleagues to vote against the motion to proceed to S. 940 and to support the motion to proceed to S. 953 when we take it up tomorrow.

I know a little bit about oil and a little bit about developing oil. I know one thing. We have lots of oil in our country if we will just give the permits and allow the development of that oil. It does not take any brains to realize we have all kinds of oil offshore.

So for the President to go down to Brazil, give them a $2 billion subsidy to develop their oil offshore, and then compliment them for having done so, with rigs that probably were in the Gulf of Mexico before, basically, it was shut down, and then say we will buy their oil from them, I mean, it is laughable, absolutely laughable—and not develop our oil in this country.

We know there is all kinds of oil in Alaska. We know there is all kinds of oil in ANWR. If one were to go to ANWR, one would be shocked at how barren the place is. Yet to hear the environmentalists talk, one would think it was the most beautiful, lush part of the planet. The fact is, we can develop oil there without ruining ANWR and help our country in the process, save the taxpayers an awful lot of money, keep our country strong, and make us not dependent on Big Oil or anybody else.

Would it not be wonderful if we could just have some good free market principles and allow our people to find our own energy in our country? A lot of people did not realize, until it came out last week, that the United States is the third largest energy producer in the world.

Now, we are the largest user by far, but there is a reason for that. We have been the most important country, with the greatest economy, helping people all over the world with our tax dollars.

I hope we vote down this bill today and vote up the one tomorrow.

Mr. GRASSLEY. Mr. President, American consumers are hurting. Unemployment remains stubbornly high at 9 percent. And, energy costs are escalating, and increasing the cost of many other goods and services, such as groceries, clothing and other household necessities.

During the 2-week Senate recess in April, I met with Iowans at meetings in 33 of Iowa's counties. One issue that came up at every single meeting was the high cost of gasoline at the pump. Iowa is a State that depends heavily on energy. Our rural families commute many miles to go to work, take kids to school, and do their household shopping.

During the spring planting season, farmers use hundreds of gallons of diesel fuel and gasoline in their trucks and tractors as they work to get the crops in the ground. Iowa's manufacturers are also heavily dependent on energy.

Prices at the pump are near $4 a gallon. All of our constituents are crying out for action to lower these prices. So, it makes sense that Congress would consider steps to address the rising energy costs and work to drive down the costs to consumers at the pump.

Unfortunately, that is not what the bill before us would do. This bill would not drive down the cost at the pump at all, and it would very likely lead to higher prices for consumers.

The bill before us would increase taxes for the five largest domestic oil producers. It won't lead to the production of any more oil and gas. It won't create a single job. It very well could lead to less domestic energy production and less employment in the U.S. energy sector.

At a time of $4 gas and 9 percent unemployment, why would the other side push a bill that will increase the cost of energy production, reduce domestic energy supply, and lead to job losses? The fact is, this bill is not about reducing prices at the pump. The bill before us is not about reducing our dependence on foreign oil. It is about raising taxes. And one thing is for certain, if you raise taxes on an activity, you get less of it.

What this Congress should be doing is increasing the domestic production of energy as a way to increase jobs, increase domestic investment, and lower prices at the pump. This bill does none of those things, and actually does quite the opposite.

That is why I will oppose this tax hike bill, and support Senator MCCONNELL's alternative bill that will enact measures that will lead to the development and production of domestic oil and gas. We can lower gas prices through increased supply. We can lower our dependence on foreign oil by opening up and providing permits for the development of resources that God gave us here in our country. It makes no sense to close off vast areas of resources here in the United States, only to go hat-in-hand to dictators and oil Sheiks in Venezuela, Libya or Persian Gulf countries.

In closing, I would like to mention that a number of my colleagues have argued against the tax hikes on domestic energy producers as an unfair attack on just a handful of companies. I noticed with amusement that the President of the Petrochemical and Refiners Association released a statement on this bill that, ''Imposing what would amount to a multibillion-dollar energy tax would be bad for American consumers, for the American economy and for America's national security. It would hurt American companies producing energy and fuels in our own country and give foreign competitors an unfair advantage, endangering American jobs and making America more reliant on foreign energy.'' Yet this same person, along with many supporters of the oil industry, hypocritically believes targeting biofuel tax incentives is just fine.

Singling out and targeting domestic biofuels, a critical piece of our energy supply, will do nothing to reduce prices at the pump. It will do just the opposite. And, it will cost jobs and increase our dependence on foreign oil. I only hope that the Senators who believe it is unfair to target the oil industry with punitive tax hikes will also recognize that the same is true when they suggest targeting domestic biofuels production.

Mrs. FEINSTEIN. Mr. President, I rise to speak in support of the Close Big Oil Tax Loopholes Act, of which I am an original cosponsor, and in strong opposition of the Offshore Production and Safety Act.

I support the Close Big Oil Tax Loopholes Act because it would repeal unnecessary subsidies and incentives to oil companies that will cost taxpayers $21 billion over the next 10 years. That $21 billion must be made up through taxes in other areas, such as individual income taxes.

These tax incentives for big oil, unfortunately, go toward corporate salaries and profits—they do not lead to lower gas prices for American consumers.

And I oppose the poorly named Offshore Production and Safety Act.

Instead of implementing the recommendations of The National Commission on the Deepwater Horizon Oil Spill and Offshore Drilling, this legislation attempts to irresponsibly increase production by shortcircuiting safety and environmental reviews, rigging the courts in favor of the oil companies, and forcing oil leasing in offshore areas without further review.

The Close Big Oil Tax Loopholes Act, introduced by Senator MENENDEZ, was written to end unnecessary and expensive tax subsidies. Is does so in the following ways:

It modifies the foreign tax credit that allows major oil companies to deduct royalty payments dollar-for-dollar from their U.S. tax bill.

It limits the ability of oil companies to claim the domestic manufacturing tax deduction. This deduction was created in 2004 to assist exporting manufacturers, not to subsidize oil companies.

It limits the deduction for intangible drilling and development costs.

It limits the percentage depletion allowance for oil and gas wells: Firms will no longer be able to calculate this deduction using the percentage depletion calculation method, under which they often take claims that exceed the capital that was actually invested.

It limits the deduction for tertiary injectants, which are fluids and gases that oil companies pump underground to drive more oil from an existing well, sometimes with negative environmental repercussions.

Finally, the bill includes a provision I introduced in February to repeal Outer Continental Shelf deep water royalty relief provisions included in the Energy Policy Act of 2005.

These 2005 provisions created a financial incentive for oil companies to drill in the deepest parts of the ocean, where the environmental and technical risks are greatest.

If we learn anything from the BP oil-spill, it is that we should not be encouraging oil drilling in ocean waters so deep that it is beyond our technical capacity to address a spill. Yet that is exactly what the law does today.

Last week, at a Senate Finance Committee hearing, CEOs of the big oil companies argued that they deserve to continue receiving these subsidies.

ConocoPhillips's James Mulva went as far as to argue that raising taxes on an industry that can afford to pay those taxes in order to help those who cannot is ''un-American.'' He argued it would lead to a parade of horribles: lost jobs, higher gas prices and less investment.

I could not disagree more strongly. Gas is at $4 a gallon, oil is about $100 a barrel and oil company profits are at near-record levels. Their claims are unfounded and absurd.

Let me start with investment. In 2005, with oil nearing $60 a barrel, Mr. Mulva and other top executives testified that the companies did not need tax breaks to continue oil exploration efforts. But Congress left them in place. How can a drilling incentive unnecessary at $60 a barrel become essential at $100 per barrel?

Big Oil claims about gas prices are also unfounded. A recent analysis by the nonpartisan Congressional Research Service found that eliminating the tax benefits would have virtually no effect on the price of gasoline.

A report from the Joint Economic Committee came to the same conclusion, stating:

> In reality, most of the so-called incentives have no impact on near-term production decisions, and thus repealing them would have no effect on consumer energy prices in the immediate future. Even in the longer term, the current proposed changes to these tax provisions would have little impact on global production and a negligible effect on consumer energy prices.

The CRS report also addressed another industry claim: that ending tax breaks just for oil companies would be discriminatory.

Most of those tax breaks—such as the deductions for well depletion and intangible drilling costs—are unique to the industry. The only exception is a deduction for domestic production, designed to encourage manufacturing companies to build factories here and export their goods.

But as CRS pointed out, there will be no cessation of drilling on American territory as long as the oil and profits exist. Therefore, this is a huge cost to taxpayers with zero effect.

Even the effect on industry profits—the Big Five earned a robust $35 billion in the first quarter of this year alone—would be trivial, according to CRS.

But this is simple arithmetic. The bill before us would repeal approximately $2 billion in subsidies annually, from five firms that made $35 billion in profit in a single quarter earlier this year. This represents a scant 1 to 2 percent of their annual profit!

Bottom line: these subsidies are unnecessary, and returning $21 billion over 10 years to the Treasury would be a good thing.

I encourage all of my colleagues who share my concern about the deficit to vote yes on this bill.

Unfortunately, the minority leader has not chosen to address the deficit in his legislation.

Instead, he has brought forward the Offshore Production and Safety Act.

This bill appears to be a solution in search of a problem. It attempts to make ''Drill Baby Drill'' a national policy, without respect for the environment or the livelihoods that depend on a healthy ocean.

Its introduction demonstrates that some in this body believe we can drill our way to energy independence, and the only things standing in the way are pesky environmental and safety regulations.

Unfortunately, the facts don't back that up:

The United States has only 3 percent of global oil reserves, but we use more than 20 percent of supply.

Fifty-one new shallow-water permits have been issued since the administration implemented stronger safety standards to ensure that an oilspill similar to Deepwater Horizon will never happen again.

Thirteen deepwater wells have been permitted since February, when the industry finally demonstrated it was capable of containing an undersea spill.

In 2010, the United States produced more than 2 billion barrels of oil, the highest level of domestic production since 2003.

Oil production has increased every year under President Obama.

Despite these facts, we are being asked to consider a bill that would further reduce safety standards. The Republican bill repeals the 2010 drilling plan that protects southern California's coast from new drilling; establishes a 60-day deadline for the Federal Government to review and grant drilling permits. If that deadline cannot be met, a permit would be automatically issued even if the delay is the fault of the applicant. Authorizes leasing in long-protected waters of the north and central Atlantic coasts and Alaska, including Bristol Bay, without any further review. And overrides the ordinary rules of venue for court cases, engaging in preemptive ''forum-shopping'' by directing all court cases related to Gulf of Mexico energy production to the U.S. Court of Appeals for the fifth Circuit—even though that circuit doesn't include Florida, the State with the longest coast on the Gulf of Mexico, nor Alabama.

Finally, the bill sets up all kinds of special rules, appearing to try to ensure that the oil companies cannot lose in the fifth Circuit, by requiring challenges to be filed in 60 days, adding additional burdens of evidentiary proof, and prohibiting the courts from awarding attorneys' fees or other court costs even to the winning parties.

That pretty much ensures that the fishermen, shrimpers, and small businessmen who depend on the gulf for their livelihoods will be unable to defend their rights in court.

It is as if the BP spill in the Gulf of Mexico had never happened.

Three-fourths of Americans recently polled by the Wall Street Journal supported ending oil subsidies.

Americans recognize that this is a question of fairness.

While the oil companies are making huge profits, people are suffering and deficits are growing. We have an obligation to ask whether these tax giveaways are right, whether they are smart and whether we really need them at all.

The answer is no. I encourage my colleagues to join me in fighting to end them.

Mr. BINGAMAN. Mr. President, this afternoon the Senate will vote on a motion to proceed to consideration of S. 940, the Close Big Oil Tax Loophole Act. I have not decided how I would vote on final passage of the act in its current form. In fact, earlier this year, I voted against an amendment offered by Senator LEVIN that contained many similar proposals, primarily because there were provisions in that amendment that I felt did not receive the full attention they deserved. Yet because I believe that the full Senate ought to debate the merits of existing tax preferences for our Nation's oil and gas industry, I will vote in favor of this motion to proceed. Additionally, beyond the Tax Code changes, I strongly support the act's provision repealing the Outer Continental Shelf deep water and deep gas royalty relief, and this repeal should also be debated by the full Senate.

The act's underlying provisions closely follow provisions that the President has proposed in the three budget recommendations he has so far presented to the Congress—except that this bill would apply only to the so-called Big Five producers. As chairman of the Senate Energy and Natural Resources Committee and as chairman of the Senate Finance Subcommittee on Energy, Natural Resources and Infrastructure, I have had the opportunity to study and receive testimony on the act's underlying provisions, and I believe there is merit in at least some of these provisions. To reach that conclusion, I have looked at the provisions through three lenses. First, will they increase gasoline prices at the pump? Second, will they increase dependence on imported oil? And third, will they cause job losses in local communities?

With respect to the provisions at issue, I believe there are strong cases to be made that the answer to all three questions is no. In particular, I highlight the testimony of Dr. Stephen Brown, a nonresident fellow at Resources for the Future—who previously was chief energy economist at the Federal Reserve Bank of Dallas—at a hearing I convened in my Finance Subcommittee on September 10, 2009. Dr. Brown testified that removing these provisions from the Tax Code ''will have very small effects on U.S. oil and natural gas markets—primarily because the increased tax revenue amounts to less than one percent of the total revenue the industry is projected to earn on its domestic production.'' In particular, his testimony noted that ''eliminating the tax preferences would boost the world oil price by an average of about 6 cents per barrel,'' that ''oil imports would rise by an estimated 0.1 percent of U.S. oil consumption,'' and finally that such changes are ''unlikely to have a significant effect on overall U.S. employment.''

But while there is a strong case that the answer to all three questions is no, I nevertheless have serious reservations about any tax policy change that focuses exclusively on one industry. Rather, we should consider the tax treatment accorded to all taxpayers engaged in extracting domestic natural resources and, in the case of the section 199 domestic production deduction, all U.S. businesses.

I am also troubled that this bill singles out only five firms, merely because of their large size and integrated nature. To be sure, I do believe we must be most sensitive to the smallest producers—the Mom and Pop businesses that are common in many rural oil and gas producing communities, including ones in New Mexico's southwest and northeastern corners. But what about large producers who are not integrated?

Historically, the Tax Code drew no distinction between independent and integrated producers. But over time, Congress has scaled back or eliminated incentives by distinguishing between independent and integrated firms, and, within the latter category, between major integrated and nonmajor integrated firms. This act would widen the disparate treatment. Yet it is a false distinction to claim that all independent producers are small. For instance, 10 independent firms that had revenues exceeding $7 billion in 2009, with the largest among them having revenues above $15 billion. Given the vast size and revenues of some ''independent'' producers, it is not clear that the appropriate dividing line should be found merely at the fact that a firm's revenues derive solely from production at the wellhead. Rather, I find it is difficult to justify excepting a firm under the rubric of being a ''small business'' when its revenues are high enough to qualify as a Fortune 500 company. And so if we proceed to debate this bill, I feel strongly that we should consider alternative means of distinguishing firms. For instance, we might do so based on revenue or thresholds based on average daily worldwide production above a determined level.

I have long been deeply concerned about our Nation's gaping budget deficit. We should have a serious debate about which tax expenditures across the board we can continue to afford. But the fact that gasoline prices are high or that five companies have large profits is not the ideal basis for considering fundamental changes in tax policy.

While I would strongly prefer to have this debate in the context of either a broader national energy policy or a broader effort at deficit reduction, and

while I would prefer a measure that does not single out a small handful of companies, I will vote for the motion to proceed to consideration of the act. It is time to have a complete and serious debate over the merits of the provisions at issue.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, first, even though I do not agree with him, it is always a pleasure to listen to my friend from Utah give his arguments. But I will just give mine instead of talking to him. I will just remind him of one thing. This bill is not intended to lower gas prices; it is intended to reduce the deficit. It clearly does that.

If my colleague cared so much about reducing that deficit, the oil companies are a good place to start. The money does not go for spending, it goes for deficit reduction.

Anyway, I rise today in support of the legislation authored by my good friend from New Jersey, Senator MENENDEZ. Senator MENENDEZ has championed this legislation for quite some time. I applaud the work he has done to build support for it.

As you know, our leader, Senator REID, has scheduled a vote on it in just a few minutes. I sincerely hope the bill will pass. Nothing would be better in terms of showing bipartisanship and giving the American people hope that we can come to a fair agreement on our long-term fiscal challenges than to pass this legislation today.

In the last election voters gave those of us who serve in this Chamber two distinct mandates: First and perhaps foremost, they said: Make the economy grow. Create good-paying jobs. Make sure that American dream which says the odds are higher you will do better 10 years from now than you are doing today, and the odds are higher still your kids will do better than you, that American dream, make sure it burns brightly.

Some have wondered if it is beginning to flicker, and their mandate to us in this election was get that candle glowing again. But, second, they said do something else at the same time. They said in no uncertain terms: Reign in the out-of-control Federal deficit. They told us to take the bull by the horns and confront our mounting debt.

On that point, I will agree with my colleague from Utah. Now, it is very hard to accomplish one of these two goals. To accomplish both at once is a Herculean task. There are many choices ahead, most of them rather difficult. That is why this is so hard. But one choice is not tough at all, not by a mile. It is obvious. At this time of fiscal restraint, when we have to make cuts that are so painful and hurt middle-class families, to continue to give big oil companies giant tax breaks makes no sense whatsoever.

Getting rid of these corporate subsidies to Big Oil is a no-brainer. Decades ago, when these breaks were enacted, oil was $17 a barrel. Maybe it made a modicum of sense in those days to give companies an incentive to explore and produce. But with the price of crude oil hovering at $100 a barrel, and Big Oil reaping record profits with every barrel they drill, it defies logic to spend billions of taxpayer dollars on these subsidies.

Believe me, the free market gives the oil companies enough of an incentive to produce. When oil is $100 a barrel, they certainly do not need a financial nudge from Washington. Now, at the same time, middle-class Americans get hit with a double whammy. They are paying $70 or more to fill that gas tank. Then, in addition, when they pay their taxes, some of those hard-earned tax dollars are being used to line Big Oil's pocket with these subsidies.

In my home State of New York, the price of gas is up 35 percent on average compared to this time last year. Economists estimate the typical family will pay as much as $1,000 more on gas this year than last—$1,000 a year. The average family makes about $50,000. It is so hard they sit around the dinner table after Friday night supper, mom and dad. They sit down and figure out: How are we going to pay these bills? How are we going to give our kids the life that we want to give them? And they are paying $1,000 more for gasoline. At the same time we are subsidizing oil companies.

Families across the country are still struggling to make ends meet as the economy slowly recovers. With billions of dollars' worth of tax subsidies and gas prices at record highs, it is no wonder the top five oil companies just announced jaw-dropping profits. These companies are not only among the most profitable businesses in the United States, they are among the most profitable in the whole world.

In the first quarter of this year alone, the big five brought in $35 billion in profit. In the past decade, they took home nearly $1 trillion—that is trillion with a ''t.''

There is nothing wrong with these profits in and of themselves; in America we celebrate success; we want the private sector to thrive. But at a time when the government is looking to tighten its belt and we are grappling with painful cuts, both because we have the dual goal of growing the middle class and also reducing the deficit, it boggles the mind that we continue to subsidize such a lavishly profitable industry.

Moreover, as my great friend and colleague, Senator MCCASKILL, highlighted this morning in a letter to the Federal Trade Commission, those record profits smell a bit fishy. There is a reason to suspect that some of the biggest oil refiners are artificially depressing supply in order to raise prices to pad their bottom lines.

I am proud to have cosigned Senator MCCASKILL's letter, as did the entire Democratic leadership team. I look forward to the FTC's response. I am also proud to cosponsor the Menendez bill we are considering today, Close Big Oil Tax Loopholes Act. The legislation will put an end to the taxpayer handouts to the five largest integrated oil companies and use the $21 billion in savings to reduce the deficit. This $21 billion is an excellent downpayment on our effort to get the Nation's fiscal house in order.

The bill repeals a host of Byzantine tax provisions that only a lobbyist could love, such as the deduction for tertiary injectants and the deduction for intangible extraction costs. Small- and medium-sized oil firms are exempt. The legislation, even though some might like to go further, deals with the big five—ExxonMobil, Shell, Chevron, ConocoPhillips, and BP.

I have heard pundits from the hard right parrot Big Oil's talking point that repealing these giveaways would increase gas prices for consumers. The facts beg to differ. Last week, two major independent studies—one from the Congressional Research Service and another from the Joint Economic Committee—found that ending these absurd subsidies would not impact the price of gas. I compliment Senator CASEY for his leadership on the second study.

In what was perhaps an inadvertent moment of candor at last week's Finance Committee hearing, ExxonMobil CEO Rex Tillerson said:

> Gasoline prices are a function of crude oil prices, which are set in the marketplace by global supply and demand, not by companies such as ours.

When he made that comment, Tillerson of ExxonMobil conceded that repealing taxpayer-funded subsidies for Big Oil will not increase prices. Prices are set, as he says, by global supply and demand.

That is not to say repealing subsidies will necessarily bring down prices. We are not making that claim. All along we have been clear: The purpose of this bill is to make a dent in the deficit by repealing tax breaks for the five companies that are the least in need of help from Uncle Sam.

Lowering the cost of gas and ridding our country of its dependence on foreign oil requires a long-term, comprehensive approach. In the months ahead, I expect the Democratic caucus will unveil a thorough and forward thinking plan to do just that.

In the meantime, I say to every one of my colleagues on the other side of the aisle: If they are serious about deficit reduction, the Menendez bill is their chance to show it now. There is no good reason not to support this sensible legislation sponsored by my friend and colleague from New Jersey.

Just try to wrap your head around it: Big Oil is reporting record profits, gas prices are near an all-time high, and we, the American taxpayers, are subsidizing the oil industry to the tune of $4 billion a year. One needs the imagination of ''Alice in Wonderland''''s Lewis Carroll to come up with a more ridiculous scenario.

The bottom line is this: At a time of sky-high prices, it is unfathomable to continue to pad the profits of companies with taxpayer-funded subsidies. The time to repeal these giveaways is now.

I yield the floor.

The PRESIDING OFFICER (Mr. BENNET). The Senator from Missouri.

Mr. BLUNT. Mr. President, I rise today in opposition to the energy tax bill that would eliminate so-called tax preferences for some oil companies. Actually, I agree with part of the bill—the part that says several companies will not be exempted because we want to continue to encourage them to do what we want to continue to encourage the industry to do. The rationale that the people who are the largest suppliers do not need to be encouraged also does not make good sense to me.

My good friend Senator SCHUMER, who is actually chairman of the Rules Committee on which I serve, said this bill is not intended to lower gas prices. Actually, I suggest we should have a bill on the floor that is intended to lower gas prices. Gas prices are costing jobs. Jobs cost revenue. We generate a lot more tax revenue if we encourage private sector job creation that will solve a problem here by I think he said $4 billion a year. That is how much money we borrowed today; $4 billion is how much money we borrowed today. And we are looking at this as opposed to looking at the real problem we face.

This bill is brought up to make it even harder to create American energy jobs. If there are any jobs you almost certainly will create, it is producing more American energy. I looked at the numbers. We use about as much electricity in a bad economy as we do in a good economy. We use about as much gasoline in a bad economy as we do in a good economy. We ought to be producing every bit we can with American jobs. But instead, we have had a moratorium on drilling in the gulf. We have had the suspension of drilling leases that were issued in 2008. Some of the first acts of this administration were to eliminate those. We now talk about new taxes on energy companies, as if that is going to solve the problem.

The administration recently announced it would encourage the sale of offshore leases. Why is that? I think it is because the administration has finally decided that the economy does not benefit from policies that increase energy prices. This is in stark contrast to what we are talking about today.

The administration has had a hard time actually issuing the permits to make leases worthwhile. There is lots of complaining about the fact there are leases out there not being used. Surprise, surprise. The leases to be used have to have a permit, and the permitting process has never been more difficult than it is right now. In fact, some of the reasons are the actions of the EPA.

Shell Oil, being talked about today in another way, recently canceled its 2011 exploration plans in the Beaufort Sea in Alaska because EPA would not grant them the necessary Clean Air permits. There was nothing different about how they were going to extract this oil in the Beaufort Sea now than there was when the exploration permits were issued and billions of dollars were spent to pursue the oil in the Beaufort Sea, and then suddenly the EPA says: Oh, no, we are not going to give you the permit it takes to get that oil out of the sea so American customers, American consumers will not benefit from it.

Both the Senate majority, as well as the administration, have not been willing to address this energy crisis in a way that solves the problems. The tax increases will not reduce and will almost certainly increase gasoline prices. If these companies are anywhere nearly as bad as the people on this floor say they are, why wouldn't they pass this along? In fact, why wouldn't they pass it along if they were just any American company? People pay taxes; companies do not pay taxes. Way too many of those taxes are being paid right now at the gas pump as we have tax dollars that could go for something else going not to encourage job creation but we see just the opposite happening.

The President's policies, as he said clearly when he was running for President—at least clearly to the San Francisco Chronicle—that under his energy policies, energy costs would necessarily skyrocket. Senator HATCH mentioned earlier Secretary Chu, right before he was chosen Secretary—so it is not anything that would have been a surprise to anybody—in December of 2008, he said what we need is to get our gasoline prices as high as the prices in Europe. Those prices are now approaching $10 a gallon.

I suppose this bill might have the impact of adding cost at the pump. Certainly, nobody suggests it has the impact of reducing cost at the pump. I would think that the President and the Secretary of Energy and others will begin to realize that where we need to be focused is not on making it less likely that we will produce American energy but making it more likely we will produce American energy.

These incentives are to produce energy here as opposed to somewhere else. One of the incentives is a fraction of the manufacturing incentive that we try to give every manufacturer. These companies have resources around the world, as they should, and what we do is encourage them to go other places to seek those resources. By the way, that means the jobs are in other places, not here.

We need to find more American energy of all kinds. In doing that, we do not need to figure out ways to make the current search for American energy more expensive. We need to be focused on gas and oil, natural gas and coal, nuclear and solar, wind energy and biomass. If I left anything out, it is not because I intended to. We need to be looking everywhere we can for more American energy. This makes it more difficult.

Our policy should be to find more, to use less, to look for ways to conserve the energy we have, whether it is better insulation in windows or cars that eventually run on something that is some combination of gas and battery powered or no gas at all and electricity. All that is fine, but most of that is not going to make any difference for quite a while. Twenty years from now, most cars are still going to be running on gasoline. And 20 years from now, we are still going to need more U.S. oil and more U.S. refined gas. We need to be less dependent, not more dependent. The money we spend should be to invest in the future and figure out what comes next and what is the best thing to do for the future.

We need to be focused on jobs and on spending, and this bill is not focused on the targets we ought to be focused on today.

I yield the floor.

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

The Senator from Washington.

Mrs. MURRAY. Mr. President, once again I come to the floor to urge my colleagues to support the Close Big Oil Tax Loopholes Act. To be honest, I am disappointed this bill is facing so much opposition. All across the country, people are talking about ways to rein in the debt and deficit. In Washington, DC, we are having a vigorous debate about the best ways to do that.

I happen to think we should cut spending responsibly while continuing to make investments we need to grow the economy and create jobs for our middle-class workers. There are difficult issues we have to work through, but the bill before us should be an easy one. It says that the biggest oil companies in the country should not be getting subsidies from American taxpayers. It says that the $2 billion a year we send to these hugely profitable companies should be used instead to pay down the deficit.

I do not understand why this seems to be so controversial. The big oil companies are already making billions of dollars in profits from families across the country who are paying sky-high prices at the pump. In fact, the five biggest oil companies have made nearly $1 trillion in profits in the last decade and $36 billion in the first 3 months of this year alone.

It is not enough they are making money hand over fist from families who are now paying sky-high prices. They then come before Congress and make the outlandish claim that they need to be subsidized by taxpayers as well. It does not make any sense, and it has to end.

Budgets are more than numbers on a page. They are about our priorities and our values as a nation. I think before we cut spending in areas that will impact our middle-class families and the

most vulnerable among us, we should focus right now on cutting out wasteful subsidies to huge companies that do not need it. That is what this bill does.

I also want to talk about the high prices families are paying for gas in my home State and across the country. I was recently at home with Senator CANTWELL, and we had the opportunity to meet with some local small business owners who talked about the impact these skyrocketing prices of oil and gas were having on their businesses. They are hurting. These small business owners are already struggling to keep their doors open in these tough economic times. Every time prices go up at the pump, they are pushed one step closer to the edge.

That is why I believe as a country we need to move away from our dependence on foreign oil and toward a more secure clean energy future. It is why I called for a crackdown on the speculation that is part of what pushes up gas prices and why I was so disappointed that the House Republican budget slashed funding for the Commodity Futures Trading Commission. That is the very agency that is charged with protecting consumers from the excessive speculation in the markets.

I think that gets to a big difference between our two parties today. Democrats are here fighting to rein in the deficit by ending the wasteful subsidies that the biggest oil companies are getting from the American taxpayer; Republicans are fighting to cripple the agency that is charged with protecting middle-class families from being ripped off and preyed upon. These are two additional approaches to tackling the deficit. I am going to keep fighting to make sure middle-class families are protected.

I urge our colleagues to support this legislation that will put taxpayers and the middle class ahead of Big Oil. It will end the wasteful giveaways to oil companies and use that money to pay down the deficit in a responsible way. So I, too, wish to thank Senators MENENDEZ, MCCASKILL, TESTER, and BROWN for their great work on this issue, and I hope we can finally put this to rest and save taxpayers $21 billion over the next 10 years.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

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

The PRESIDING OFFICER. Two minutes 10 seconds.

Mr. MENENDEZ. Mr. President, the American people understand this bill. They understand that if working families must sacrifice to help lower the deficit, then so should the most wealthy and powerful industry in the country. If Big Oil wants to lower gasoline prices, they would put a lot less money in their stock buybacks or their multimillion dollar CEO salaries and a lot more in producing oil or they could use some of their enormous profits to lower prices. But I guess in that world greed is good.

While the American people understand this bill—it is clear for them what it does—many on the other side of the aisle simply do not. Because this is such a simple, commonsense idea, they have made up arguments just to get through this debate.

One of my colleagues said it would raise the deficit. Only in Washington—only in Washington—could that comment actually be made when the Joint Tax Committee has clearly made it known this would lower the deficit by $21 billion. It would lower the deficit by $21 billion, not raise it.

Another argument I have heard is that this bill will somehow raise gas prices. That argument is absurd. With the big five oil companies poised to make $144 billion in profits this year alone, it means Big Oil would simply have to settle for $142 billion in profits this year to pay their fair share of dealing with the deficit, and they wouldn't have to raise gas prices 1 cent. That is what the Congressional Research Service independently decided, as well as the Joint Tax Committee.

I have also heard the argument Big Oil actually pays more taxes than other companies. That is not true for multiple reasons. ExxonMobil's effective tax rate is actually lower than the average American family's rate. They pay far higher taxes abroad than they do here, so there is no competitive disadvantage, and we have the lowest royalty rates in the world.

We have rarely seen in this body a more stark contrast and a more obvious choice. American families are sitting around the kitchen table trying to figure out how to make ends meet within the constraints of their own family budgets. We are simply asking Big Oil—making $144 billion—to do their fair share. That is what this vote is all about.

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

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

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 72 Leg.]

YEAS—52

Akaka	Durbin	Lieberman
Baucus	Feinstein	Manchin
Bennet	Franken	McCaskill
Bingaman	Gillibrand	Menendez
Blumenthal	Hagan	Merkley
Boxer	Harkin	Mikulski
Brown (OH)	Inouye	Murray
Cantwell	Johnson (SD)	Nelson (FL)
Cardin	Kerry	Pryor
Carper	Klobuchar	Reed
Casey	Kohl	Reid
Collins	Lautenberg	Rockefeller
Conrad	Leahy	Sanders
Coons	Levin	Schumer
Shaheen	Udall (CO)	Whitehouse
Snowe	Udall (NM)	Wyden
Stabenow	Warner	
Tester	Webb	

NAYS—48

Alexander	Enzi	McCain
Ayotte	Graham	McConnell
Barrasso	Grassley	Moran
Begich	Hatch	Murkowski
Blunt	Heller	Nelson (NE)
Boozman	Hoeven	Paul
Brown (MA)	Hutchison	Portman
Burr	Inhofe	Risch
Chambliss	Isakson	Roberts
Coats	Johanns	Rubio
Coburn	Johnson (WI)	Sessions
Cochran	Kirk	Shelby
Corker	Kyl	Thune
Cornyn	Landrieu	Toomey
Crapo	Lee	Vitter
DeMint	Lugar	Wicker

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 48. Under the previous order, requiring 60 votes for the adoption of this motion, the motion is withdrawn.

The majority leader.

NOMINATION OF GOODWIN LIU

Mr. REID. Mr. President, several years ago we faced a confirmation crisis in the Senate. The majority at the time, the Republicans, were frustrated with the inefficient way the Senate was performing our constitutional duty of confirming Presidential nominees.

Many of my colleagues on the other side of the aisle passionately argued that all judicial nominees deserve an up-or-down vote on the Senate floor. In their frustration, they threatened to dramatically change the purpose of the Senate and the minority protections for which it was designed. That would have, in a manner of speaking, blown up the institution. That is why it was known as the nuclear option.

In the heat of this battle, several courageous Senators, Democrats and Republicans, agreed to a standard that would preserve the traditions of this great body, the Senate. They ensured the Senate could still provide the President its advice and consent, as the Constitution requires.

The agreement was significant but very simple. It was this: Except in extraordinary circumstances, those nominated to be Federal judges would get an up-or-down vote. The minority would not stand in the way of that vote. The agreement was grounded in common sense.

So far, in most cases, both sides have generally upheld that agreement. The nomination about to be before us, however, is not one of those cases, and that is the nomination of Goodwin Liu.

Goodwin Liu is an extremely well-qualified public servant and an impressive legal scholar. He was a Rhodes Scholar and clerked in the U.S. Supreme Court, which is something just a small percentage of graduates from law school have the opportunity to ever do; that is, to be a Supreme Court clerk. Goodwin Liu served as an associate dean at the California Berkeley School of Law and is still a professor there. He has done a significant amount of pro

bono work. He even helped launch AmeriCorps. On top of that, he has lived the American dream. He is a highly successful son of immigrants.

I think President Obama was wise to appoint him to the Ninth Circuit. So do a lot of Democrats and so do a lot of Republicans.

Ken Starr—infamous as far as the Democrats go, the former White House special prosecutor—called Liu, who served in the Clinton administration, ''a person of great intellect, accomplishment, and integrity.''

Former Republican Congressman Bob Barr, an extremely conservative former Federal prosecutor, also reviewed Liu's writings. He came away impressed with, as he said, ''his commitment to the Constitution and to a fair criminal justice system.''

One of President Bush's former White House lawyers said Liu's views ''fall well within the legal mainstream.''

I could go on with more quotes from lawyers and legislators from the right and left and Independents, but we get the picture. Right, left, center—they think very highly of this good man.

Everyone agrees Goodwin Liu's nomination is far from the ''extraordinary circumstance'' that would warrant a filibuster. The only extraordinary things about Liu are his experience, his accomplishments, and his integrity.

He should be confirmed. At the very least, he should undoubtedly deserve an up-or-down vote.

But Senate Republicans have already forgotten the lessons of the nuclear option. Today they are threatening to block this highly qualified nominee from confirmation. Vacancies on the Federal bench delay justice for citizens seeking the help of our judicial system, and it isn't fair to leave in limbo well-qualified nominees.

So I am forced now to file cloture in order to ensure Goodwin Liu gets the vote he deserves. It is regrettable it has come to this.

As I file cloture, I remind my Republican colleagues once again that public servants are not political pawns. Goodwin Liu has dedicated his life to justice and fairness. As we consider his nomination, we owe someone of his caliber those same considerations.

EXECUTIVE SESSION

NOMINATION OF GOODWIN LIU TO BE A U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT

Mr. REID. Mr. President, I ask unanimous consent to proceed to executive session to Calendar No. 80, the nomination of Goodwin Liu, of California, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will report.

The legislative clerk read the nomination of Goodwin Liu, of California, to be a United States Circuit Judge for the Ninth Circuit.

CLOTURE MOTION

Mr. REID. I send a cloture motion to the desk with respect to the nomination.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Goodwin Liu, of California, to be United States Circuit Judge for the Ninth Circuit.

Harry Reid, Patrick J. Leahy, Charles E. Schumer, Richard Blumenthal, Daniel K. Akaka, Al Franken, Richard J. Durbin, Sheldon Whitehouse, Dianne Feinstein, Jeff Merkley, Christopher A. Coons, Mark Begich, Amy Klobuchar, Barbara Boxer, Jack Reed, Debbie Stabenow, Sherrod Brown.

Mr. REID. I ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

LEGISLATIVE SESSION

Mr. REID. Mr. President, I ask unanimous consent that the Senate resume legislative session.

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

MORNING BUSINESS

Mr. REID. I ask unanimous consent that the Senate proceed to a period of morning business for debate only, with Senators permitted to speak for up to 10 minutes each.

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

The Senator from Ohio.

TRADE ADJUSTMENT ASSISTANCE

Mr. BROWN of Ohio. Mr. President, yesterday the White House announced it will not submit three pending free-trade agreements, FTAs, with South Korea, Colombia, and Panama until Congress reaches a deal on reauthorizing the trade adjustment assistance for workers programs, the so-called TAA. I applaud President Obama for putting the workers first before we do these trade agreements.

The trade agreements are very controversial, as they always are. The promises are always that they will create jobs, and they rarely do. They usually result in a decrease in jobs. Yet too often Congress jettisons the safety net to protect those workers who lose their jobs because of these agreements. That is why I applaud President Obama for making this one clear. He will not send these trade agreements to Congress until Congress has sent to his desk—not talked about it, not debated it, not passed one committee or one House, but sent to his desk—trade adjustment assistance expansion.

As my colleagues know, since we let this program expire in February because of Republican objections, Senator CASEY and I went to the floor day after day in December and then again in February as Republicans continued to object just to continuing trade adjustment assistance as we had begun in the Recovery Act 2 years earlier.

So what happened? Because of these Republican objections, we shut out service workers and we shut out manufacturing workers who had lost their jobs to countries with which we do not have a free-trade agreement. So when workers lost their jobs because of outsourcing of jobs to China or India, those workers couldn't get trade adjustment assistance until the Recovery Act, so they could get it in 2009 and in 2010. Because of Republican objections to continuation of that, they can't get it now.

Also, people who lost their jobs that were in the service industries experienced this same kind of deadline on their eligibility.

Since Congress made reforms to TAA in 2009, more than 185,000 additional trade-affected workers became eligible for training under the TAA for Workers Program.

In 2010 alone, more than 227,000 workers participated in the TAA program, receiving training for jobs that employers are looking to fill. These are people who want to work. They lost their jobs because of a trade agreement. They can prove they lost their jobs because of a trade agreement. A company shuts down in Elery, OH, and goes to Mexico; a company shuts down in Steubenville, OH, and goes to New Delhi; a company shuts down in Lima, OH, and goes to Shanghai. When you can prove that, as you can in many cases, those workers should be eligible for assistance from the government to get trained to get back to work.

The program also, of course, receives strong support from businesses that know a skilled workforce is critical to their economic competitiveness.

But just 11 days ago—because of these Republican objections and because the TAA language was truncated—but just 11 days ago, the Labor Department denied the first three petitions filed by groups of workers seeking TAA assistance under pre-2009 TAA rules, including three workers in Uniontown, OH. The reason: They are service workers.

In addition, the enhanced health coverage tax credit program also expired in February. HCTC helps trade-affected workers purchase private health insurance coverage to replace the employer-sponsored coverage they lost. It also helps those retirees who lose their benefits when the company for which they worked goes bankrupt.

The HCTC prevents tens of thousands of Americans from falling into the ranks of the uninsured. But right now, if we do not act, we are simply giving these workers the cold shoulder.

So I applaud the administration for saying, yesterday, we will pass no more

free trade agreements without a deal on TAA. But this will require my Republican colleagues to come to the table and agree on a package. We have seen what unfair trade deals such as NAFTA and PNTR with China and CAFTA do to communities in Ohio and around the Nation. These are Americans who lost their jobs, lost their pensions, lost their health care—maybe all three—when the company they worked for moved operations overseas or went to bankruptcy court or faced a reduction in demand for their products due to unfair foreign competition.

These Americans need TAA to get back on solid footing. These Americans need Congress to defend against unfair trade and to strengthen trade enforcement. There are several trade enforcement measures that Senator MCCASKILL and Senator WYDEN and I and others have introduced, and I hope they will garner bipartisan support in this Chamber.

Senator BLUNT, Senator MCCASKILL, and I testified in front of the Trade Subcommittee that Senator WYDEN chaired the other day and talked about some of these ideas and how to address them bipartisanly.

TAA has been a core pillar of U.S. trade policy. It has long enjoyed bipartisan support because it helps American workers who lose their jobs and their financial security as a result of globalization.

I thank Senator CASEY, Senator STABENOW, Senator BAUCUS, and Senator WYDEN for their leadership on trade adjustment assistance—language in getting this legislation put forward.

Just the fairness of this: Again, put yourself—something we do not do enough here—in the shoes of a worker in Champaign, IL, or Boulder, CO, or Mansfield, OH, a worker who shows up for work for 15 years, who has been a productive worker, helped his company make money, was paid a middle-class, decent wage, and then all of a sudden their plant shuts down because the jobs are outsourced to China. They did not do anything wrong. Are we going to do nothing to help them? Are we going to do nothing to help their communities?

It is pretty clear to me, the overwhelming consensus of the American people say: Give them the opportunity to get training for another job if we cannot save their jobs. Give them some assistance on health insurance so they can reach into their pocket, with some assistance through a significant tax credit, to continue the insurance for their families. It will mean many of them will not lose their homes. Far too many people who lose their jobs then lose their health insurance and then lose their homes.

We have an opportunity actually to do something about this. So the President was exactly right. Do not bring these three free trade agreements—with Colombia, Panama, and South Korea—to the floor until we have first taken care of the workers who lose their jobs—not at the same time because we know what happens when we try to do that. All of a sudden, the assistance for workers gets jettisoned. But it must be done first to help these workers with their health insurance and with their retraining.

It will matter for literally hundreds of thousands, perhaps millions of American families.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The assistant majority leader.

Mr. DURBIN. Mr. President, first, let me salute my colleague from Ohio for bringing up trade adjustment assistance. Because even if you are a proponent of expanding trade in the United States, you know the ebb and flow of the economy is going to take away some jobs in this country as other suppliers arrive.

What the Senator from Ohio and the Senator from Oregon, RON WYDEN, are trying to achieve is to make sure trade adjustment assistance is there to help these workers make a transition to another job in another area that is expanding in our economy. That is the thoughtful thing to do for their lives and the future of our economy. It is also a necessary part of any conversation about the future of trade in the United States.

INTERCHANGE FEE REFORM

Mr. DURBIN. Mr. President, I rise to speak about the effect of interchange fee reform on small banks and credit unions.

Interchange fees are not well known by most Americans. They are known as swipe fees or interchange fees, and they reflect the amount of money that is paid to a bank each time you use that bank's credit or debit card. You do not know it as a consumer that you are being charged extra when you buy something in a store, but prices are higher because that fee is being paid to the bank every time you swipe the card.

Who establishes that fee? You would assume the bank does, but it is not so. The fee that is charged every time you swipe a card is established by the credit card companies. The big giants Visa and MasterCard decide exactly how much that fee will be. And you ask yourself: Well then, what voice does a merchant or a retailer have in how much that fee is going to be on each transaction?

And the answer is virtually no voice. It is a price-fixing mechanism where Visa and MasterCard, the major credit card companies, establish the interchange or swipe fee to be paid to each bank, credit union, or financial institution that issues the credit or debit card.

It is a lot of money. Each month in America—just on debit cards now—each month in America, they collect about $1.3 billion in transactions where people use debit cards. Now, remember, a debit card is like your checking account. You are drawing money directly out of your checking account to pay the merchant where you are doing business. It is not like a credit card where, in fact, they have to collect the money from you later. This is a situation where the money is taken directly out of your bank account. You would think, as with the use of checks in the old economy, this would be a low-cost transaction. And it should be.

It used to be banks would process checks written to pay a restaurant or department store, charging pennies on the transaction—not a percentage of the transaction.

Well, the Federal Reserve took a look at what is being charged for debit cards, where the money comes right out of your account. It turns out the average is about 40 cents a transaction. We asked them: Well, what is the reasonable amount that should be charged if you are going to take into account exactly how much it costs a bank to process a debit card transaction? They said it was closer to 10 or 12 cents.

So merchants and retailers across America, on every single transaction involving a debit card, are paying an inflated amount of swipe fee or interchange fee, and most of those fees go to the largest banks in America. You see, almost 60 percent of all the debit card transactions really focus on three major banks. That would be Bank of America, Wells Fargo, and Chase. So there is a lot of money to be made in this business as long as they are using the debit cards and getting the swipe fees.

We put in a new law last year which said the Federal Reserve should establish what is a reasonable and proportional amount to be charged for the interchange fee for debit cards. As I told you, the initial investigation suggested it is around 10 cents; and the actual charge is 40 cents.

Now, these banks that are about to lose these major interchange fee receipts are very upset about it because as of July 21, the new law will go into effect which will bring the fee down to a reasonable and proportional level. So they are fighting this with tooth and nail. Today, I was at a breakfast here on Capitol Hill, and a group of lobbyists were there, and one came up to me and said: DURBIN, your fight on the interchange fee has more lobbyists working in Washington than any other issue, on both sides of the issue. I said: I understand that. That was not my goal.

My goal is really to help the merchants, retailers, and consumers. You see, when retailers are in a competitive atmosphere—if it is one gas station across the street from another—then saving 30 cents on a transaction can really be part of a decision by a retailer to lower prices to become more price competitive in a competitive free market atmosphere. That is what I am looking for. I want the consumers to be the ultimate winners. I want retailers and merchants to be treated fairly.

Incidentally, for the record, what is the debit card interchange fee charged

by Visa- and MasterCard-issuing banks in Canada? It is zero—zero. There is no interchange fee in Canada because the government there said: We are not going to stand for this. You are really ripping off merchants, retailers, and consumers. We will not let you do it.

The same thing happened in Europe. They brought down the interchange fees to dramatically lower levels.

Well, in the United States the battle is on. If you had to pick a group with the lowest level of credibility when it comes to this institution or Congress—maybe even the American people—I guess next to politicians, you would have to say big banks, particularly the big banks that were bailed out by our Federal Government when they made a mess of things a few years back. So the big banks that issued the debit cards cannot come in here and lobby for themselves. The credit card companies themselves do not enjoy a very good reputation here either. Consumers know what a tough time it is to pay off those bills and the fine print they have to deal with in their contracts.

So what these groups have done—the credit card companies and big banks—is to enlist small banks and credit unions to come and appeal to us, saying: We are in your city and community and the Durbin amendment can hurt us. What they do not say is the law we passed specifically exempts—specifically exempts—all banks and credit unions with a valuation lower than $10 billion.

So of the 7,000 or 8,000 credit unions in America, how many have a valuation over $10 billion? Three. How many banks out of the 7,000 or 8,000 have a valuation over $10 billion? Less than 100. So we are talking about 100 institutions that will be affected by this law; and the others are exempt.

I rise today to speak about the effect of this interchange fee reform on these small banks and credit unions. Recently, the banking industry and some bank regulators have claimed that the small issuer exemption—the $10 billion exemption—in last year's reform law may not work. The banking industry people said there are market forces that could undermine it. They are wrong. I respect their right to speculate on what might happen when reform takes place. But in response, I point out they simply have not provided any evidence to back up their claims.

In fact, all the hard evidence about the interchange system leads to the opposite conclusion: that interchange reform will give small banks and credit unions competitive advantages against the bigger banks.

This is not just my conclusion. It is the conclusion of prominent economists and industry analysts such as Andrew Kahr, who the ''Frontline'' program profiled as one of the creators of the modern card industry, the plastic card industry, and former IMF Chief Economist Simon Johnson. In a recent online survey, even 60 percent of the American Banker's subscription-paying readers agreed that interchange reform will help small banks.

So the Members who come to the floor and say: Oh, this terrible rule change that exempts banks with less than $10 billion in assets is going to hurt them, they are not only wrong on the facts, they are wrong in public opinion.

The key point to remember is that the debit interchange system is not a properly functioning market. The interchange system has been designed in a way so normal market forces do not apply. No transparency. No competition.

Last year, a bipartisan majority of my colleagues recognized reform needed to take place, and after years of studies and hearings, it became clear the interchange system was not going to cure itself. It was broken and unfair. The system was structured to avoid normal competitive market forces.

Andrew Martin of the New York Times summarized the debit interchange system in his January 2010 expose. This is what he said:

> Competition, of course, usually forces prices lower. But for payment networks like Visa and MasterCard, competition in the card business is more about winning over banks that actually issue the cards than consumers who use them.
>
> Visa and MasterCard set the fees merchants must pay the cardholder's bank, and higher fees mean higher profits for banks, even if it means that merchants and retailers have to shift the cost to consumers.

Martin went on to quote Ronald Congemi. He is the former CEO of the Star debit network, who talked about his network's struggle to compete with Visa.

Mr. Congemi said:

> What we witnessed was truly a perverse form of competition. They competed on the basis of raising prices. What other industry do you know that gets away with that?

James Miller, former Director of OMB and Chairman of the Federal Trade Commission under President Ronald Reagan, elaborated on this in a recent op-ed article titled ''The Debit Card Market Is Broken and Needs Fixing Now.''

Here is what he wrote:

> Under this dysfunctional system, the networks' competitive incentives are to raise fees rather than to reduce them. One network raises its fees higher than the other to encourage banks to issue their cards. Then, soon after, the other network raises its fees for the same reason. The result is rapidly escalating fees. . . . This broken system would not survive were it not for the fact that Visa and MasterCard represent a combined 90 percent of the debit market. . . . Merchants are powerless to negotiate and can't take their business elsewhere, so they are left with no choice but to pay.

In short, interchange is an abnormal market which has no naturally occurring market force to hold fees in check. Visa and MasterCard want as many of their debit cards to be swiped as possible. That is how they make their money. By raising interchange rates that merchants must pay to banks, the card companies entice banks to issue more cards. Merchants cannot refuse Visa and MasterCard and they cannot negotiate with them, so they are stuck with what they have to pay.

Last year, Congress decided we can no longer simply trust Visa and MasterCard to fix interchange fees however they wanted. We agreed there should be reasonable constraints placed on the card networks to prevent them from using their market dominance to set unreasonably high fees on behalf of the Nation's biggest banks. We passed a law that said, when Visa and MasterCard fix fee rates on behalf of banks with over $10 billion in assets, the rates, according to the Federal Reserve, must be reasonable and proportional to the amount it actually costs the banks to process the transaction.

Congress did not have the information about how much it actually cost big banks to process transactions. The banks always kept that secret, even from the Government Accountability Office. So we directed the Federal Reserve to gather the information on the cost and put out a rule implementing the reasonable proportional standard. That is under way right now. The Federal Reserve believes they will report this rule toward the first part of June, and it will go in effect July 21.

When it comes to small issuers, we said they are exempt. This means Visa and MasterCard can continue to fix interchange rates on behalf of small banks and credit unions in an unregulated environment such as they do today. It is status quo for them.

Some people might say: Why would you let the credit unions and small community banks charge a higher rate to swipe the debit card then the big banks? You can make the argument that if you are going to protect consumers at every level, it should affect every institution. But we specifically exempted community banks and credit unions with valuations below $10 billion, believing that those community banks deserve a break and a helping hand. They have not shown much gratitude for that exemption.

Under the reform law, the only way small issuer interchange rates would change is if Visa and MasterCard decide to change them. And Visa and MasterCard have no incentive to voluntarily lower fee rates for small issuers. Remember, in the interchange market, Visa and MasterCard compete to raise fees to win bank business. They want to have high fees so banks issue more cards.

If MasterCard decides to voluntarily lower its small bank rates, those banks are going to jump over and start issuing Visa cards. Does that make sense for either of those two credit card giants? Of course not.

So why would the small-issuer exemption not work? This is where some creative arguments have come into play. I wish to respond to those arguments I have heard.

First, claims have been made card networks will not maintain separate

tiers of interchange rates for big, regulated issuers and smaller issuers. The facts do not support this. Visa, the dominant network, announced in January it would, in fact, operate a two-tiered system, exactly the opposite of what all the lobbyists for community banks and credit unions are saying on Capitol Hill. Visa has said they will respect the interchange fee exemption for the smaller issuers.

Other smaller debit networks have made the same announcement. The only company that has not is MasterCard, and they are expected to. Sure, the law does not require them to operate two-tiered systems, but the card networks will lose money if they do not. If networks want small banks to issue their debit cards, they have to offer interchange rate levels the small banks will be attracted to.

Second argument. The American Bankers Association claimed last week that ''having two different prices for exactly the same product—transaction processing—is not sustainable in a competitive marketplace.''

But there is clear evidence to the contrary. Look at the current credit card market. According to GAO, in 2009, Visa had 60 different credit card interchange prices; MasterCard had 243. A merchant that accepts Visa or MasterCard credit cards might be charged any number of different interchange fees, depending on whether it is a consumer or corporate card and the type of rewards program.

If you have one of these frequent flyer cards, there may be a higher interchange fee that is going to be charged to the company—to the retailer—where they accept your card. From the merchant's standpoint, they treat it as exactly the same product. It is a credit card. But there are many different interchange prices that the merchant might get charged.

Visa and MasterCard have sustained this multi-tiered pricing structure for years. The American Bankers Association has to know that. Why would they state exactly the opposite? Because their biggest banks are the ones that are going to lose out if the consumers prosper under this new change.

How have they been able to sustain this multi-tiered system, these card companies? Remember, the interchange system is not a normal competitive market. In this case, card networks impose rules on every merchant that requires merchants to accept every card with a network logo on it. It means, if you are running a store in Springfield, IL, or Denver, CO, and someone shows up with a Visa card, you have signed a contact that says: I honor every card with Visa emblazoned on it put on the counter. Even though I pay a higher interchange fee as a retailer if it is a big rewards card with frequent flyer miles, all the rest of it, you have got to take it. That is the contract law that binds these merchants.

Third, the American Bankers Association has claimed that if big bank debit fees are reduced, merchants will discriminate and find some way to get customers to use big bank debit cards instead of small issuer cards. If this claim were true, we would surely see some evidence of it today because of multi-tier pricing in credit card interchange.

Let me give you an example. For supermarkets, a Visa credit card with no rewards program currently carries an interchange fee of 1.15 percent, more than 1 percent of what you purchase. That is the interchange fee if it is a simple Visa credit card, no rewards. But a Visa Signature Preferred rewards credit card has an interchange fee of almost twice that, 2.1 percent.

By the ABA's logic, supermarkets right now would be discriminating against rewards cards and steering customers to nonrewards cards—but there is no evidence of that discrimination anywhere. I challenge the American Bankers Association to put up or shut up. If you have some evidence to the contrary, let's see it. If you do not, retract the specious claim.

Why don't merchants discriminate? The merchant community sent me a letter a few weeks ago explaining in detail how they lack the contractual authority, the practical ability, and the economic incentive to discriminate. I also wish to add a commonsense point. Most Americans only have one debit card. If a merchant tells a customer not to use his debit card because it was issued by a small bank, the customer would likely do one of two things, not purchase at all or pay with a credit card. Credit cards carry much higher interchange fees than debit cards. How then would discriminating against debit cards be in a merchant's interest?

When I talked to the merchants—like Wendy Chronister, who runs a whole slew of gas stations in central Illinois—took the business over from her dad, she is a great young woman executive—and she said: Senator, they put the plastic on the counter, we take it. If it clears, we move the transaction and move on to the next customer. We are not going to debate how many other cards you carry and where is the one with the lower interchange fees. We do not have time for it, and we are not going to put that kind of hassle on our customers.

Fourth, some make the argument that the nonexclusivity provision of the reform law will clause small issuer exchange rates to go down. This nonexclusivity provision is often misunderstood.

Until recent years, normally all debit cards were set up by banks so transactions could be run over one of multiple debit networks. But in recent years, the dominant networks, particularly Visa, have formed exclusive deals with big banks so transactions on the debit cards could only be run by one network. What they are trying to do—credit card companies are trying to do—is to monopolize the transactions as well as the cards.

These exclusivity agreements are threatening to drive smaller debit networks out of business. This trend hurts competition and creates real barriers to entry for new networks.

All the nonexclusivity provision in the new law says is that banks have to pick at least two unaffiliated card networks to enable on each debit card, and merchants get to choose which of those networks they want.

You know what? I wish to say to my friends at the Wall Street Journal who write editorials saying what a bad idea interchange reform is: What we are talking about is something called competition. For the biggest business newspaper in the United States, you would think they would support something such as this.

Nonexclusivity is not new. Last month, the Pulse Network released its annual survey of debit card issuers. Pulse said that when it comes to this nonexclusivity requirement, many issuers are already compliant, and we have not seen any small bank interchange rates decline as a result. It is another smoke screen, a red herring.

The nonexclusivity provision gives the Fed broad discretion to lay out guidelines to make it more effective. The Fed also gets to choose the effective date. In short, this provision is not the bogeyman that some have made it out to be and is simply a safeguard that will ensure that Visa does not become the only debit network left in the market.

What I have learned, after years of working on this complicated issue, is the following: Banks and credit unions will consistently oppose any type of reform. The American Bankers Association is legendary—it represents the banking industry—and the Credit Union National Association, which represents the credit unions, both have statements on their Web sites making it clear that there is no regulation of the interchange system they will support.

Senator Kit Bond of Missouri, now retired, and I tried to negotiate with the banks and credit unions in 2009. We were thinking about doing an amendment to allow for greater interchange transparency and debit discounts. The banks and credit unions blasted a letter of opposition out before we even drafted the amendment.

Now, the opponents of my amendment say what we need are 30 months to study this. Study it for what? I know where it is going to end up. We have been through this before. I have seen this movie. The American Bankers Association and the Credit Union National Association, now marching in lockstep on issues, are going to oppose any reform.

The entire financial industry is making a killing on the current interchange system, to the tune of $1.3 billion a month. Do the math and figure out why this has every lobbyist in town working to defeat the Durbin amendment—30 times 1.3. That is pretty close

to $40 billion that is at stake if the amendment to stop this Durbin change in the interchange fee system goes through.

The change needs to go through. There is widespread consensus that we need to reform the interchange system to rein in Visa, MasterCard, and the biggest banks on Wall Street. I do not think anyone disagrees with that. In fact, I have seen polling across the country in every State, from virtually every political group—left, right, and center—where they overwhelmingly support interchange reform.

The credit unions and community banks are selling a story which the public is not buying. In carrying out this reform, I have bent over backward to try to address small issuer concerns. I do not want small banks or credit unions forced out of the debit card market. That is why we exempted them. I want consumers to be able to bank at these institutions and use debit cards.

I have tried to protect small banks and credit unions, even though they have made it clear they do not support any regulation of the system and even though they have fought me every step of the way.

By exempting small issuers from fee regulation, we have left intact an interchange system that has worked quite well for small issuers, and that will almost certainly continue to work well. But let's be clear. There is only one way we can provide these small issuers with an absolute, 100-percent guarantee that Visa and MasterCard will give them interchange rates they like. There is only one way to do it. That would be to regulate the rates Visa and MasterCard fix for small issuers and make sure they are appropriate.

I am happy to explore that. I can already tell you the small issuers are going to push back on that immediately.

They want their cake and they want to eat it, too. They want no regulation. They want to be able to charge interchange fees that reach the heavens, and they don't care what happens to merchants, retailers, or consumers.

I think we have already taken care of small issuers with last year's law, but if they have some suggestions on how to give even more assurance that Visa and MasterCard won't set their rates at unsustainable levels, I will listen.

But make no mistake, I will not support any delay or repeal of the overall interchange rulemaking because this will let the big banks and card networks off the hook. We are very close to finally reining in the abusive interchange system and providing help to consumers and merchants. We cannot let the big banks and credit card companies avoid accountability yet again. They get away with too much.

In closing, I strongly believe we need interchange reform. We need to bring fairness, competition, and transparency to the broken debit system. I will work hard to make sure this reform happens soon.

I would think the fact that the opponents of this are trying to stop it before the Fed issues a rule is an indication that they don't even want to see what the rule looks like. Why? It is $1.3 billion a month, that is why. Change will cost the big banks big money. That is why the credit card companies and banks on Wall Street are fighting this.

I have always tried to approach this issue in a reasonable way, focusing on facts. I am always happy to engage with others who share this approach, even if they disagree with me.

I yield the floor.

HONORING OUR ARMED FORCES

SPECIALIST JOSEPH CEMPER

Mr. NELSON of Nebraska. Mr. President, I rise today to honor Army SPC Joseph Cemper who, while serving his country honorably, was killed on April 16, 2011, by a suicide bomber at Forward Operating Base Gamberi in Nangarhar Province, Afghanistan.

Following in the footsteps of his father, SFC Eugene Cemper, Joe joined the Army in September 2009. The U.S. Army was their passion, and both of these individuals took great pride in serving their country. Joe served admirably as a transportation management coordinator with the 101st Special Troops Battalion, 101st Sustainment Brigade of the 101st Airborne Division out of Fort Campbell, KY. He bravely earned the prestigious Bronze Star, as well as a Purple Heart and the Combat Action Badge.

Joe grew up in Papillion, NE, where his grandparents continue to live, before moving with his immediate family to Warrensburg, MO, where he played football and was an accomplished high school wrestler. Joe was highly competitive and energetic, yet always carried a smile. He was a family man; his happiest times were when the family got together to spend time in the backyard barbecuing. Joe recently became a father himself when he and his high school sweetheart Abbie gave birth to a son, Liam, on March 15, 2011.

SPC Joseph Cemper served his country honorably and made the ultimate sacrifice for his fellow Americans. His courageous choice to protect his country and help the people of Afghanistan achieve peace and security represents all that we can be proud of in our Armed Forces. I and all Nebraskans are proud to know that Joseph has been laid to rest in his native State of Nebraska.

I commend SPC Joseph Cemper's bravery and selflessness, while offering my deepest condolences to his fiancee Abbie; son Liam; mother Angie; father SFC Eugene Cemper; grandparents; brothers and sisters; friends; and fellow servicemembers he left behind. It is a small comfort for those who must now go on without one they loved so dearly, but they know that Specialist Cemper gave his life for a noble goal. I join all Nebraskans indeed, all Americans in mourning the loss of this fine young man. His heroism and his life will remain an inspiration for us all.

NATIONAL POLICE WEEK

Ms. LANDRIEU. Mr. President, six Louisiana law enforcement officers were killed in the line of duty this past year and will be recognized in Washington as part of the 49th annual commemoration of National Police Week. These brave officers made the ultimate sacrifice while serving their communities and are being honored for their courageous spirit and their unwavering commitment to serve and protect the citizens of Louisiana. I want to welcome their families and colleagues to our Nation's Capital.

Established in 1962, National Police Week provides an opportunity for us to reflect on our law enforcement officers' contributions to building safe and productive communities across the country. The events this week are a collaborative effort to honor the service and sacrifice of America's law enforcement community including the National Law Enforcement Officers Memorial Fund, NLEOMF, the Fraternal Order of Police, FOP, the Fraternal Order of Police Auxiliary, FOA, and the Concerns of Police Survivors, COPS.

Thousands of law enforcement officers, supporters, and surviving family members of fallen officers will gather in Washington, DC, to honor the memory of their colleagues and loved ones at various events including, the Peace Officers Memorial Day Service at the U.S. Capitol and the National Police Survivors' Conference. In addition, the names of our six Louisiana heroes will be engraved on the National Law Enforcement Officers Memorial and formally dedicated during the 23d Annual Candlelight Vigil. They will join a total of 158 U.S. law enforcement officers from around the country who gave the ultimate sacrifice in the line of duty last year.

The following brave officers gave their lives to protect our Louisiana communities: Sergeant Thomas M. Alexander, Rayville Police Department; Captain Timothy J. Bergeron, Terrebonne Parish Sheriff's Office; Officer Alfred L. Celestain, Sr., New Orleans Police Department; Trooper Duane A. Dalton, Louisiana State Police; Sergeant Timothy C. Prunty, Shreveport Police Department; and Corporal Clovis W. Searcy, Ouachita Parish Sheriff's Office.

In addition to honoring the fallen officers at National Police Week, law enforcement from around the country will gather this week to honor the heroes who continue to keep our communities safe. I am pleased to recognize one of Louisiana's own, Trooper Thomas Wild of the New Orleans Police Department, who will be honored at this year's National Association of Police Organizations', NAPO, 18th Annual

TOP COPS Award Ceremony. TOP COPS recognizes officers who have gone above and beyond the call of duty from the previous year.

Trooper Wild, this year's recipient of the Life Saving Award from the State police for going beyond the call of duty, will be recognized for his heroic actions and outstanding display of bravery last year when he saved the life of two victims from an overturned vehicle. Trooper Thomas Wild was assigned to the scene of an accident in which a van flipped multiple times and ultimately landed upside-down in a sugarcane field. Trooper Wild helped transport the unconscious driver to the hospital and checked for additional victims at the accident sight. This was all protocol that any officer would have done but in an extraordinary gesture Trooper Wild which beyond the call of duty by giving his personal cell phone number to the victim's father.

Seven hours later Trooper Wild received a call from the victim's family. There may have been someone else in the vehicle. Although Trooper Wild was off duty, he quickly returned to the crash site searching the nearby field and called out for the missing passenger. Finally, Trooper Wild heard a faint response of someone crying out for help. A few minutes later, he found 22-year-old Benjamin Kilvurn bleeding, dehydrated, and unconscious. Wild called an ambulance and the young man was rushed to the hospital.

Clearly going beyond the call of duty, Trooper Wild quickly responded to the concerns of a victim's family and saved the lives of not one but two men. His selfless actions represent the dedication and commitment that our law enforcement officers have for our community. I thank Trooper Wild for his dedication and congratulate him for being Louisiana's TOP COP.

Ms. MURKOWSKI. Mr. President, as our Nation begins its observance of National Police Week, I speak today in memory of three Alaska law enforcement officers who gave their lives in the line of duty in 2010.

This is National Police Week, the week that we honor law enforcement heroes who have given their lives to protect our communities and those who place their lives on the line every day. During this week we also remember the families of law enforcement whose sacrifices are no less important than their loved ones who wear the uniform.

One of the most significant and moving of the commemorations that occur during National Police Week is the candlelight vigil at the National Law Enforcement Officers Memorial on Judiciary Square. More than 19,000 names of fallen law enforcement officers are etched on the Wall of Remembrance at the memorial. This year, 316 names have joined them—152 officers who paid the ultimate sacrifice in 2010 and 164 officers who gave their lives before the memorial was created. Each of these names was read at the candlelight vigil on the evening of May 13, 2011.

Among the 316 names are three Alaskans: Sergeant Anthony Wallace and Officer Matthew Tokuoka of the Hoonah Police Department and Charles Collins, a U.S. Customs and Border Protection Officer assigned to the Port of Anchorage. They are the first Alaska law enforcement officers since 2003 to die in the line of duty.

We are reminded time and again that fallen law enforcement officers are not heroes for the way they gave their lives but heroes for the way they lived their lives. I would like to say a few words about each.

Hoonah is a village of about 760 people on an island in southeast Alaska. Sixty percent of year-round residents are Tlingit Indians. The population of the town swells during the summer as fishermen and visitors descend. It is a peaceful and picturesque community.

That peace was broken on the evening of Sunday, August 29, 2010, when a gunman ambushed and shot Sergeant Wallace and then Officer Tokuoka who was off duty at the time, while the two were chatting. To add to the tragedy, Sergeant Wallace's mother, who was visiting Hoonah and riding along with her son in his police vehicle, observed the shooting. A special tribute was paid to Sergeant Wallace and his mother Debbie Greene at last Friday evening's candlelight vigil.

Sergeant Tony Wallace was unique among the men and women of law enforcement. He was one of a handful of law enforcement officers anywhere who is deaf.

But Tony Wallace would not let his disability stop him from living a life of adventure. His mother told a reporter: ''People would always tell him he couldn't do things but he tried even harder.''

He was a champion high school wrestler in his hometown of Franklin, OH, and went on to be a varsity All-American wrestler at the Rochester Institute of Technology in upstate New York. Upon graduation he joined the public safety department at RIT as a campus police officer. Tony Wallace was destined to be a cop, following in the footsteps of his father who served with the Franklin Police Department for 34 years. He was living his dream and excelling at his job.

In 2006, Tony Wallace learned of a police job in Hoonah. He had never visited Alaska before but he was an avid boater, hunter, and fisherman. He was hired after a telephone interview and a background check. Just like that off he went.

In no time, Tony was sending friends pictures of him holding large salmon and encountering bears. He said he found the place where he would spend the rest of his life, enjoying nature and helping others. He graduated first in his class of 21 at the police academy. In his spare time he coached wrestling at the Hoonah School and played scrabble with the Elders at the Senior Center.

Tony is also survived by his daughter Lexis and his grandmother.

Matt Tokuoka was killed while trying to save the life of his friend and comrade Tony Wallace. Born in Seattle, he spent his childhood in Hawaii and Idaho. He too was an accomplished hunter and fisherman and shared his passion with his children. Matt was a Golden Gloves boxer in High School and joined the U.S. Marine Corps after high school. Matt joined the Hoonah Police Department following his service in the Marines.

John Millan, the Hoonah Police chief at the time of the incident, described Matt as a larger than life figure, every bit the Marine.

In John's words: ''Matt ran directly into a hail of bullets, when any other person would walk away and did so without hesitation. He called in a situation report, precisely like a Marine would in combat. He began to move Tony to safety when he laid down his own life.''

Matt Tokuoka is survived by his wife Haley and four children—Mitchell, Hotchan, George and Layla, as well as his father, second mother, sisters and grandmother.

Matt and Tony were dedicated family people, ''Dear Ones,'' in the Hoonah vernacular, who were beloved by their own families as their extended families in the Hoonah community. Their tragic loss last August rocked Hoonah to the core and the process of recovery has been difficult. Tony and Matt were not only exemplary officers with significant records of public service. They were pillars of the community.

Chuck Collins joined Customs and Border Protection in 2002 following a successful career in the Air Force. Upon completion of training, he was assigned to ''the port of his dreams'' in Anchorage. During the summer he was assigned to temporary duty in Eagle, a remote border checkpoint about 379 miles northeast of Fairbanks. He relished the assignment and I am told was active in the life of the Eagle community during his annual summer duty there.

Officer Collins was killed when his government-issued Ford Bronco went down a 200-foot embankment on the Taylor Highway and landed in a rain swollen creek. Officer Collins is survived by his wife Jody and two sons, both of whom are serving abroad in the military.

There is little that I can say in consolation except to note that Matt, Tony and Chuck touched a great many people's lives, they were role models, and they sacrificed all to make Alaska a safe and peaceful place. In valor there is hope.

AMERICORPS WEEK

Mr. LEAHY. Mr. President, I would like to join the Vermont Commission on National and Community Service in paying tribute to the outstanding Americorps men and women who have volunteered countless hours this past year supporting Vermont's communities, and communities around the

country. The Vermont Commission on National and Community Service, first established by Governor Howard Dean in 1993, works with AmeriCorps volunteers, community volunteers and other organizations throughout Vermont to grow Vermont's dynamic communities. The service to others and civic engagement that the volunteer programs organized by the Commission promote are the cornerstone of Vermont's most treasured values.

Being a dedicated volunteer is often not an easy task. The Vermont Commission on National and Community Services allows servicemembers to shine through their vast opportunities and resources for our Vermont-based volunteers. Within the scope of their work, the Commission provides various opportunities to work in our communities through the AmeriCorps, Senior Corps and Learn and Serve America programs. The experiences of these volunteers will allow them to share their community values with the rest of Vermont and our great country.

I continue to be impressed with the achievements our dedicated professionals and young volunteers reach during their inspiring careers. I am pleased that the staff of the Vermont Commission on National and Community Service, along with their Americorps members, are being recognized for all that they have done day in and day out throughout Vermont. The skills and experiences of these volunteers are instrumental in helping our communities tackle tough and complex problems.

I am fortunate to call Vermont my home, and we are more than lucky to have so many local role models that continue to inspire our young citizens to get involved. Whether volunteering as an Americorps member, or helping a next door neighbor in need, Vermonters carry forward our longstanding tradition of community service and involvement. This is why Vermont continues to be the great State that it is today. To the staff and volunteers of the Vermont Commission on National and Community Service, again I say thank you for all that you do for Vermont.

ADDITIONAL STATEMENTS

COLORADO NATIONAL MONUMENT

• Mr. BENNET. Mr. President, today I wish to commemorate the 100th anniversary of the dedication of the Colorado National Monument on May 24, 2011. The monument's 32 square miles of red rock canyons, pinnacles and vistas on Colorado's Western Slope are a wonder to behold. They provide essential habitat for keystone species like the golden eagle and desert bighorn and a unique campus for junior rangers to learn and connect with the high desert ecosystem. Anyone who has hiked one of the Monument's many trails or driven historic Rim Rock Drive understands that this is a place worthy of celebration.

For a century now, visitors to this monument have been not only awed by its beauty but also inspired by its past. This rare piece of earth gained Federal recognition due to the dedicated efforts of John Otto, who made his home in these canyons. He worked for years to build trails and organize support, succeeding in 1911 as President William Howard Taft signed a proclamation declaring the monument. Just weeks later, Otto made his first daring climb to plant an American flag at the top of the 450-foot tall spire known as Independence Monument, on the Fourth of July. That day confirmed what Coloradans already knew—that we had something special.

But John Otto didn't end his commitment there. He became the monument's first park ranger, living in a tent and helping visitors discover the canyons for 16 more years. Through the lens of history, his dedication stands as a shining example of what it means to work for something you believe in so strongly. The history of the Colorado National Monument remains a testament to the spirit, conviction, and love of our land that makes the State of Colorado what it is today.

By offering educational field trips to public schools, rangers at the Colorado National Monument are working to ensure that the science and history of the monument will remain in the minds of young people across western Colorado. All Coloradans are proud of the fact that this treasured landscape will continue to inspire visitors for generations to come. Mr. President and all other Members here today, please join me and all Coloradans in celebrating the monument on its centennial.•

WOODWORTH, NORTH DAKOTA

• Mr. CONRAD. Mr. President, today I wish to recognize a community in North Dakota that will be celebrating its 100th anniversary. On June 25–26, the residents of Woodworth will gather to celebrate their community's history and founding.

Woodworth is a small but vibrant community in North Dakota. The town was founded in 1911, and takes its name from the Northern Pacific Railroad's traffic manager and vice president at the time, J. G. Woodworth. It is located in Stutsman County and is the last stop on the railroad track that runs along highway 36. The historical site, Camp Grant, is located near Woodworth, and was used in the Sibley Expedition of 1863. Woodworth earned the nickname ''the Cream City'' in its early years, because the sale of cream and eggs was the main source of income for many local farmers. The town is currently home to approximately 70 proud residents.

The citizens of Woodworth have organized numerous activities to celebrate their town's centennial. Beginning on Saturday morning, they will participate in a walk/run, with a breakfast, a parade, and art in the park to follow. A truck/tractor pull, street dance, and fireworks will round out the day's events. Woodworth's residents will conclude the centennial festivities with a community worship service on Sunday morning, and enjoy a home-run derby and music in the park on Sunday afternoon.

I ask the U.S. Senate to join me in congratulating Woodworth, ND, and its residents on the first 100 years and in wishing them well through the next century. By honoring Woodworth and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Woodworth that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Woodworth has a proud past and a bright future.•

TUTTLE, NORTH DAKOTA

• Mr. CONRAD. Mr. President, today I am pleased to recognize a community in North Dakota that is celebrating its 100th anniversary. From June 17–19, the residents of Tuttle, ND, will gather to celebrate their community's founding.

In 1911, the town of Tuttle was founded by an official with the Dakota Land & Town Site Company, Colonel William P. Tuttle. Proud to have a town named in his honor, Colonel Tuttle donated money for the Tuttle Baseball Club's first baseball uniforms.

Located near the geographic center of North Dakota, Tuttle and its surrounding area were settled by homestead families of Scandinavian and German Russian heritage. Many of the descendants of these settlers still live and farm in the area today. In addition to farming, there are many community businesses and services in Tuttle such as the Senior Center, Post Office, BJ Auction Service, Buchholz Trucking, Days Gone By Cafe, Tuttle Community Store, Tuttle Farmers Elevator, and Tuttle Tavern.

Today, the people of Tuttle enjoy fishing, boating, and hunting near places like Lake Josephine and Cherry Lake. Also popular are traditional culinary specialties like knoephla soup, fleisch kuechle, and kuchen. Tuttle is a hard working community, whose vitality can be attributed to its strong family values and community spirit.

In honor of the city's 100th anniversary, community leaders have organized, among other things, a meet and greet fish fry, a centennial 5K/10K Run/Walk, turtle races, a threshing bee and antique tractor show, a parade, and a baseball game in Tuttle Ball Park.

I ask that my colleagues in the U.S. Senate join me in congratulating Tuttle, ND, and its residents on their first 100 years and in wishing them well in the future. By honoring Tuttle and all other historic small towns of North Dakota, we keep the great pioneering

frontier spirit alive for future generations. It is places such as Tuttle that have helped shape this country into what it is today, which is why this fine community is deserving of our recognition.

Tuttle has a proud past and a bright future.●

BREWER SCIENCE'S 30TH ANNIVERSARY

● Mrs. MCCASKILL. Mr. President, I honor the 30th anniversary of Brewer Science, an innovative, high-technology company from Rolla, MO.

When Brewer Science was started by Dr. Terry and Paula Brewer in 1981, it had only three employees. Like so many small businesses in our country, the company has grown and expanded because of its commitment to hard work, innovative solutions and exceptional service for its customers. From humble beginnings, the company has grown today to 263 employees working globally to bring groundbreaking technology to companies worldwide.

Brewer Science is best known in the microelectronics industry for introducing ARC brand bottom antireflecting coatings in 1981 to microchip makers. In the past 30 years, they have expanded their portfolio to include optoelectronic coatings, protective coatings, bonding processes and nanotechnology products, which enable the manufacturing of advanced integrated circuits, sensors and displays throughout the world.

As Brewer Science has continued to grow, their vision and philosophy have remained consistent. The milestone that I ask us to honor today is a tribute to this vision.

Brewer Science has translated their success in business into a better community for Missourians. Brewer Science has had a positive impact on its community through service, volunteering, and donations to various arts, educational and environment programs.

Brewer Science's passion for providing dedicated service and their emphasis on innovation serve as an inspiration for all Missourians. Their achievements deserve the highest commemoration.

Mr. President, I ask that the Senate join me in recognizing the 30th anniversary of Brewer Science.●

TRIBUTE TO DR. ERIC GANGLOFF

● Mr. ROCKEFELLER. Mr. President, today I wish to recognize Dr. Eric Gangloff, who has served the American people for more than 25 years at the Japan-United States Friendship Commission. He has served in numerous roles, including as the director of the Commission's Japan office, as associate executive director, and currently as the Commission's executive director.

Dr. Gangloff has, through his work at the Commission, contributed substantially to research, training, and student exchange programs with Japan, and supported the valuable projects of countless scholars, students, and artists through Commission grant programs.

Throughout his tenure as executive director of the Commission, Dr. Gangloff has worked with the leaders of several professional organizations of Japanese language educators, encouraging them to join forces and work together in order to provide maximum support for Japanese language teachers at all levels in the United States, from kindergarten through college. As a result of his efforts and continuing support, the Alliance of Associations of Teachers of Japanese was founded in 1999 as a coalition that represents and serves two previously separate organizations.

Dr. Gangloff also spearheaded a movement to create the North American Coordinating Council on Japanese Library Resources in 1991 to meet the demands of the American library community for Japanese research materials. The creation of the NCC brought the activities of the Japan studies library community into a clearinghouse that focuses on resource-sharing through cooperative collection development, information literacy at all levels within the Japan studies field and fosters close collaboration and consultation among librarians, the academic community and funding agencies in both countries.

In addition, Dr. Gangloff is responsible for the strengthening of long-term positive relations between the two countries through his creation and long-term support and guidance of the U.S.-Japan Legislative Exchange Program which brings together on a semi-annual basis, a core group of United States Congressional Members and Japanese Diet Members for in-depth and informal discussions on a broad range of political, economic and security issues. Discussions such as these cement the bonds between the two countries at the highest levels, which is especially important at times of great stress, such as the recent tragic events in Japan.

Dr. Gangloff was the driving force behind the creation in 1998 of the United States Japan Bridging Foundation, a charitable organization that expands opportunities for American undergraduate students to study in Japan. This public-private partnership, directed by Dr. Gangloff, has raised over $4,000,000 and awarded over 1,000 scholarships to American students since its inception.

In short, Dr. Eric Gangloff has provided inspired leadership throughout his career in cultural, educational, and scholarly dialogue and exchange between Japan and the United States. On behalf of the congressional Members serving as Commissioners of the Japan-U.S. Friendship Commission—Senator MURKOWSKI, Congressman TOM PETRI, Congressman JIM MCDERMOTT, and myself—I would like to express our deepest gratitude for these contributions and assure Dr. Gangloff that the positive results of his hard work will be felt for years to come.●

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 1231. An act to amend the Outer Continental Shelf Lands Act to require that each 5-year offshore oil and gas leasing program offer leasing in the areas with the most prospective oil and gas resources, to establish a domestic oil and natural gas production goal, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1697. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a Determination and Certification under Section 40A of the Arms Export Control Act relative to countries not cooperating fully with United States antiterrorism efforts; to the Committee on Foreign Relations.

EC–1698. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Department of Justice's fiscal year 2010 annual report relative to the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002; to the Committee on Homeland Security and Governmental Affairs.

EC–1699. A communication from the Secretary of Education, transmitting, pursuant to law, the Department of Education's fiscal year 2010 annual report relative to the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002; to the Committee on Homeland Security and Governmental Affairs.

EC–1700. A communication from the Diversity and Inclusion Director, Board of Governors, Federal Reserve System, transmitting, pursuant to law, the Federal Reserve System's fiscal year 2010 annual report relative to the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002; to the Committee on Homeland Security and Governmental Affairs.

EC–1701. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants'' (FRL No. 9306–7) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Environment and Public Works.

EC–1702. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Sunland Park Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard'' (FRL No. 9305–6) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Environment and Public Works.

EC–1703. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Method 301—Field Validation of Pollutant Measurement Methods from Various Waste Media'' (FRL No. 9306–8) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Environment and Public Works.

EC–1704. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers (PM2.5); Final Rule to Repeal Grandfather Provision'' (FRL No. 9306–9) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Environment and Public Works.

EC–1705. A communication from the Director of the Regulatory Management Division, Office of Policy, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Determination to Defer Sanctions, Sacramento Metro 1-hour Ozone Nonattainment Area, California'' (FRL No. 9307–3) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Environment and Public Works.

EC–1706. A communication from the Regulatory Ombudsman, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hours of Service Exception for Railroad Signal Employees'' (RIN2126–AB36) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1707. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Federal Motor Vehicle Theft Prevention Standard'' (RIN2127–AK81) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1708. A communication from the Regulatory Ombudsman, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Commercial Driver's License Testing and Commercial Learner's Permit Standards'' (RIN2126–AB02) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1709. A communication from the Program Analyst, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Federal Motor Vehicle Safety Standards No. 108; Lamp, Reflective Devices and Associated Equipment'' (RIN2127–AK85) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1710. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area; Hudson River South of the Troy Locks, NY'' ((RIN1625–AA11) (Docket No. USCG–2010–0794)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1711. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations for Marine Events; Potomac River, Charles County, MD'' ((RIN1625–AA08) (Docket No. USCG–2010–1113)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1712. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Krewe of Charleston Mardi Gras Boat Parade, Charleston Harbor, Charleston, SC'' ((RIN1625–AA08) (Docket No. USCG–2010–1151)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1713. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Mavericks Surf Competition, Half Moon Bay, CA'' ((RIN1625–AA08) (Docket No. USCG–2010–1093)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1714. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Patriot Challenge Kayak Race, Ashley River, Charleston, SC'' ((RIN1625–AA08) (Docket No. USCG–2011–0039)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1715. A communication from the Acting Director, Rural Housing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Implementing Lender Indemnification and Elimination of the Department of Veterans Affairs (VA) Rate as an Interest Rate Option'' (RIN0575–AC83) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1716. A communication from the Secretary of the Army, transmitting, pursuant to law, a report relative to the Program Acquisition Unit Cost and the Average Procurement Unit Cost for the Joint Tactical Radio System Ground Mobile Radio (GMR) program exceeding the Acquisition Program Baseline values; to the Committee on Armed Services.

EC–1717. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement: Business Systems—Definition and Administration'' ((RIN0750–AG58) (DFARS Case 2009–D038)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Armed Services.

EC–1718. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Administrative Exemptions to the Specified Tax Return Preparer Electronic Filing Requirement Under Internal Revenue Code Section 6011(e)(3) and Regulations Under Section 6011(e)(3)'' (Notice 2011–26) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Finance.

EC–1719. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Annual Price Inflation Adjustments for Contribution Limitations Made to a Health Savings Account Pursuant to Section 223'' (Rev. Proc. 2011–32) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Finance.

EC–1720. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Sea World Fireworks; Mission Bay, San Diego, CA'' ((RIN1625–AA00) (Docket No. USCG–2011–0201)) received in the Office of the President of the Senate on May 6, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1721. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Bay Ferry II Maritime Security Exercise; San Francisco Bay, San Francisco, CA'' ((RIN1625–AA00) (Docket No. USCG–2011–0196)) received in the Office of the President of the Senate on May 6, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1722. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Dredging Operations; Delaware River, Marcus Hook, PA'' ((RIN1625–AA00) (Docket No. USCG–2011–0127)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1723. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Sea World Fireworks; Mission Bay, San Diego, CA'' ((RIN1625–AA00) (Docket No. USCG–2011–0201)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1724. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Bay Ferry II Maritime Security Exercise; San Francisco Bay, San Francisco, CA'' ((RIN1625–AA00) (Docket No. USCG–2011–0201)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1725. A communication from the Attorney, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Texas International Boat Show Power Boat Races; Corpus Christi Marina, Corpus Christi, TX'' ((RIN1625–AA00) (Docket No. USCG–2011–0140)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1726. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Red River Safety Zone, Red River, MN'' ((RIN1625–AA00) (Docket No. USCG–2011–0263)) received in the Office of the President of the Senate on May 6, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1727. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones; M/V Davy Crockett, Columbia and Willamette Rivers'' ((RIN1625–AA00) (Docket No. USCG–2010–0939)) received in the Office of the President of the Senate on May 6, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1728. A communication from the Attorney Advisor, U.S. Coast Guard, Department

of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Havasu Landing Regatta, Colorado River, Lake Havasu Landing, California'' ((RIN1625–AA00) (Docket No. USCG–2011–0018)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1729. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Miami International Triathlon, Bayfront Park, Miami, FL'' ((RIN1625–AA00) (Docket No. USCG–2011–0010)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1730. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Soil Sampling; Chicago River, Chicago, IL'' ((RIN1625–AA00) (Docket No. USCG–2011–0086)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1731. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Todd Pacific Shipyards Vessel Roll-Out, West Duwamish Waterway, Seattle, WA'' ((RIN1625–AA00) (Docket No. USCG–2011–0117)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1732. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Pensacola Bay; Pensacola, FL'' ((RIN1625–AA00) (Docket No. USCG–2011–0212)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1733. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; M/V Davy Crockett, Columbia River'' ((RIN1625–AA00) (Docket No. USCG–2010–0939)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1734. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Red River Safety Zone, Red River, MN'' ((RIN1625–AA00) (Docket No. USCG–2011–0263)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1735. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Boom Days, Buffalo Outer Harbor, Buffalo, NY'' ((RIN1625–AA00) (Docket No. USCG–2011–0132)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1736. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Boom Days, Niagara River, Niagara Falls, NY'' ((RIN1625–AA00) (Docket No. USCG–2011–0131)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1737. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; M/V Davy Crockett, Columbia and Willamette Rivers'' ((RIN1625–AA00) (Docket No. USCG–2010–0939)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1738. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Repair of High Voltage Transmission Lines to Logan International Airport, Saugus River, Saugus, MA'' ((RIN1625–AA00) (Docket No. USCG–2010–0992)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1739. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Fireworks Displays in the Captain of the Port Columbia River Zone'' ((RIN1625–AA00) (Docket No. USCG–2010–0997)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1740. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones; Charleston Race Week, Charleston Harbor, Charleston, SC'' ((RIN1625–AA00) (Docket No. USCG–2010–1152)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1741. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zones; Cruise Ships, Port of San Diego, CA'' ((RIN1625–AA87) (Docket No. USCG–2011–0038)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1742. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Increase of Security Zones under 22 CFR 165.1183 from 100 to 500 Yards; San Francisco Bay, Delta Ports, Monterey Bay, and Humboldt Bay, CA'' ((RIN1625–AA87) (Docket No. USCG–2011–0038)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1743. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Passenger Vessels, Sector Southeastern New England Captain of the Port Zone'' ((RIN1625–AA87) (Docket No. USCG–2010–0864)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–11. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to vote against the F–35 alternate engine appropriations measure; to the Committee on Armed Services.

HOUSE RESOLUTION NO. 73

Whereas, the federal government, now more than ever, needs to eliminate wasteful spending programs from its budget; and

Whereas, the federal deficit recently hit $13.5 trillion; and

Whereas, the Department of Defense will spend $708 billion on defense spending in the 2011 fiscal year for both base defense programs and overseas contingency operations to promote the safety and welfare of our nation; and

Whereas, Congress has planned to appropriate $465 million for an alternate GE F136 engine for the F–35 Joint Strike Fighter program in the Defense Appropriations Bill; and

Whereas, the Department of Defense has already contracted the Pratt & Whitney F135 engine, which has gone through multiple series of testing and development; and

Whereas, no military aircraft in the past three decades has been procured with multiple engine suppliers; and

Whereas, developing the alternate engine would cost $2.9 billion dollars over the next two to three years; and

Whereas, having multiple engine suppliers will require additional spending for two sets of parts, two production and maintenance lines, and additional personnel and training, which will lead to the production of fewer Joint Strike Fighter planes; and

Whereas, President Barack Obama, with urging from military officials and Defense Secretary Robert Gates, vows to veto the Defense Authorization Bill if the alternate engine appropriation is included in the bill; and

Whereas, defense spending can be used more efficiently for more vital military programs; therefore, be it

Resolved, by the House of Representatives of the Ninety-Seventh General Assembly of the State of Illinois, That we encourage the members of the Illinois congressional delegation to vote against the F–35 alternate engine appropriations measure; and be it further

Resolved, That suitable copies of this resolution be presented to President Barack Obama, the Speaker of the United States House of Representatives, the President pro tempore of the United States Senate, and the members of the Illinois congressional delegation.

POM–12. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to enact legislation that creates a mortgage foreclosure moratorium; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE RESOLUTION NO. 10

Whereas, the mortgage foreclosure crisis deepened after it was disclosed that several large home mortgage lenders utilized procedures that were legally insufficient to support foreclosures; and

Whereas, after problems were revealed about the manner in which foreclosure affidavits were processed, the uncertainty about the true ownership of mortgages, and the questionable legal standing of the entities that initiated foreclosure proceedings, 2 of the nation's largest residential lenders announced that they were each beginning a self-imposed mortgage foreclosure moratorium; and

Whereas, although this crisis has its origins in numerous events, practices, and policy decisions, a central element of the foreclosure problem is the Mortgage Electronic Registry System (MERS), an electronic registry of land records which was created in 1998 by the Federal National Mortgage Association (Fannie Mae), the Federal Home

Loan Mortgage Corporation (Freddie Mac), and several large U.S. banks; and

Whereas, today MERS is listed as the agent for mortgage lenders on documents for 65 million home loans, which represent about 60% of the mortgages in the United States, and is the agent for about 97% of the home mortgages created between 2005 and 2008; and

Whereas, although MERS boasts on its Web site that it ''simplifies the way mortgage ownership and servicing rights are originated, sold and tracked'' which ''eliminates the need to prepare and record assignments when trading residential and commercial mortgage loans'', housing counselors and advocates have documented patterns of abuse and fraud by mortgage servicers that utilized MERS; and

Whereas, joining MERS at the center of the foreclosure crisis is the practice of ''robo-signing'', the process of generating thousands of affidavits often by unskilled and unqualified employees who neither read nor certified the underlying documents, which are used to obtain summary judgments in foreclosure proceedings; and

Whereas, since a large volume of mortgages were digitized, there have been countless instances of original promissory notes being lost or misplaced; in lieu of producing the original promissory notes in the foreclosure proceedings, servicers simply provided ''robo-signed'' affidavits that state that the loan servicers own the notes; and

Whereas, court records in mortgage foreclosure cases have documented egregious examples of: falsified documents; ''fee padding''; misapplication of mortgage payments; and improper, unnecessarily expensive insurance assessments, which, in turn, precipitated defaults on otherwise up-to-date loans and wholly improper mortgage foreclosures; and

Whereas, the effect of all of these problems and the resulting consumer confusion cry out for a nationwide moratorium on pending and new mortgage foreclosures; therefore, be it

Resolved, by the House of Representatives of the Ninety-Seventh General Assembly of the State of Illinois, That we urge Congress to enact legislation that creates a mortgage foreclosure moratorium to allow a thorough review of foreclosure actions, provide meaningful opportunities for homeowners to renegotiate their mortgages so as to avoid foreclosure, enact further reforms, and allow the entire housing market to return to normalcy; and be it further

Resolved, That suitable copies of this resolution be presented to President Barack Obama, the Speaker of the United States House of Representatives, the President pro tempore of the United States Senate, and each member of the Illinois congressional delegation.

POM–13. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to enact legislation relative to compelling lending institutions to provide mortgagors modifications to home loans before foreclosing on residential properties; to the Committee on Banking, Housing, and Urban Affairs.

HOUSE RESOLUTION NO. 45

Whereas, the United States continues to experience an unprecedented number of mortgage foreclosures and these, in turn, have contributed to a real estate market that has declined in a precipitous fashion; and

Whereas, when a residential mortgagor defaults on his or her mortgage, it is common for the lending institution involved to obtain the property back from the mortgagor by way of receiving a deed in lieu of foreclosure or by foreclosing and then purchasing the property at a foreclosure judicial sale; and

Whereas, in recent years, it is not unusual for a lending institution to have a large inventory of foreclosed properties and this has often led to a lending institution repeatedly resorting to selling a foreclosed property at a ''short sale'' price, which means that the sale price for the individual home is significantly less than the mortgagor's purchase price or even the amount of the mortgagor's outstanding loan at the time of the foreclosure; and

Whereas, the credit rating of a person whose home has been foreclosed is often very low and this means that even if the person could afford a more modestly priced property than the foreclosed home, the former homeowner is unable to qualify for a loan under today's standards; and

Whereas, if a lending institution that expects to sell a foreclosed residential property at a ''short sale'' price were compelled to offer to the mortgagor modifications in the terms of the mortgagor's home mortgage loan, the mortgagor would, in many cases, be able to afford the home under the modified loan terms and remain in his or her home; in that case, the lending institution would avoid adding to its foreclosed properties inventory, the residential mortgagor might be able to remain in his or her home, the real estate market would be improved because fewer ''short sale'' properties would be depressing home prices on the market, neighborhood blight and crime would be reduced due to the decline in empty and vandalized homes, and all of these circumstances would tend to stem the tide of neighborhood deterioration that is due to the large number of foreclosures and vacancies; therefore, be it

Resolved, by the House of Representatives of the Ninety-Seventh General Assembly of the State of Illinois, That we urge Congress to pass legislation that would compel any lending institution, before foreclosing on a residential property occupied by a mortgagor, to provide the mortgagor with modifications to the home loan that are reasonable for the mortgagor and that include, but are not limited to, an interest rate reduction, a term extension, or other changes to the elements of the home loan, provided that the homeowner is interested in remaining in the home and qualified for the modified loan terms; and be it further

Resolved, That suitable copies of this resolution be presented to President Barack Obama, the Speaker of the United States House of Representatives, the President pro tempore of the United States Senate, and each member of the Illinois congressional delegation.

POM–14. A joint memorial adopted by the Legislature of the State of Washington relative to public access to the upper Stehekin Valley within the North Cascades National Park; to the Committee on Energy and Natural Resources.

SUBSTITUTE SENATE JOINT MEMORIAL 8004

Whereas, The United States Department of the Interior manages one-fifth of the land of the United States and offers unparalleled recreational opportunities throughout the nation, affirming the nation's intent to set aside certain areas of outstanding scenic and scientific value for the employment of present and future generations; and

Whereas, the National Park Service is a bureau of the United States Department of the Interior and manages the 394 units of the national park system. Annually, more than 500 million people visit the national parks and monuments, wildlife refuges, and recreational sites; and

Whereas, Tourism is an important component of the Washington state economy and is sustained, in part, by our national parks and forests, including Mount Rainier National Park, North Cascades National Park, and the Olympic National Park; and

Whereas, National parks provide significant economic benefits to local communities, many of which are almost solely dependent upon visitors to these parks; and

Whereas, the North Cascades National, Park honors Washington state's natural and cultural heritage and provides valuable educational and recreational opportunities for our citizens; and

Whereas, the primitive road to Cottonwood Camp was built over 100 years ago in the late 1800s and existed prior to the creation of the North Cascades National Park in 1968 and the Washington Parks Wilderness Act of 1988 (P.L. 100–668); and

Whereas, The road leading to Cottonwood Camp provides revered access to exceptional day hikes and fishing opportunities in the upper Stehekin Valley by the residents of eastern Washington, as well as for many people across this state and beyond; and

Whereas, the National Park Service developed a shuttle system utilizing this primitive road corridor to facilitate more than 2,500 people per year access to the upper Stehekin Valley from eastern Washington; and

Whereas, the upper portion of the road between Car Wash Falls and Cottonwood Camp has been closed for many years due to historical flooding events of the Stehekin river in two key areas, destroying a critical link for hikers, horseback riders, and other recreationalists between the Lake Chelan National Recreation area, the Stephen Mather Wilderness trailheads, and the North Cascades National Park; and

Whereas, the closure of this primitive road has restricted access for the old and young alike to witness the grandeur of this special place in a day hike from eastern Washington; and

Whereas, allowing the National park Service to relocate and rebuild the upper Stehekin Valley Road on higher ground with no net loss of acreage to the park or the Wilderness would preserve the park's existing use as identified in the 1988 Washington Wilderness Act and would mitigate the negative environmental impact of the road washing out;

Now, therefore, Your Memorialists respectively pray that the United States Congress, the United States Department of the Interior, and the National Park Service work cooperatively with Washington state to ensure that all citizens have the continued opportunity to access the upper Stehekin Valley within the North Cascades National Park by reestablishing this primitive road to keep this essential recreational access corridor open: Be it

Resolved, that copies of this Memorial be immediately transmitted to the Honorable Barack Obama, President of the United States, the Secretary of the United States Department of the Interior, the Director of the National Park Service, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

POM–15. A resolution adopted by the Senate of the State of New Jersey urging Congress to create a post-deployment assistance program for veterans at Fort Monmouth; to the Committee on Veterans' Affairs.

SENATE RESOLUTION NO. 82

Whereas, since October 2001 approximately 1,600,000 Americans have been deployed for Operation Enduring Freedom and Operation Iraqi Freedom; and

Whereas, for the first time since the Vietnam War, American troops have been engaged in protracted and sustained ground

combat and are under a continuous threat of insurgent attacks; and

Whereas, since the deployment of military personnel after September 11, 2001, 5,602 Americans have rendered the ultimate sacrifice in defense of our freedoms and 38,899 Americans have been wounded in combat as of July 22, 2010; and

Whereas, countless American soldiers have returned home with post-traumatic stress disorder due to the horrifying and life-threatening experiences they endured during deployment; and

Whereas, post-traumatic stress disorder can lead to suicide, alcoholism, drug abuse, domestic violence, marital problems, anger management issues, violent behavior, insomnia, employment problems, and even criminal behavior; and

Whereas, the impact of deployment to a combat zone is not limited to the soldier, but can also have serious psychological ramifications for the soldier's spouse and children; and

Whereas, our nation is forever indebted to our veterans and their families for the tremendous sacrifices they have made to protect the freedoms that all Americans enjoy, and therefore it is our national responsibility to care for veterans and their family members who suffer from psychological conditions caused by deployment to a combat zone; and

Whereas, for over sixty years, the U.S. Military Academy Preparatory School at Fort Monmouth has trained some of America's bravest men and women for a life of service and dedication to our country; and

Whereas, based upon the recommendations of the Defense Base Closure and Realignment Commission of 2005, the Department of Defense has declared that the military facility at Fort Monmouth, including the U.S. Military Academy Preparatory School, is in surplus to federal needs and will be closed in 2011; and

Whereas, the school is an ideal place to house a federally funded program designed to assist veterans with post-deployment issues and provide them with the proper psychiatric, psychological, medical and social care that they so clearly deserve; and

Whereas, local veteran groups, such as Veterans Helping Veterans, are the ideal types of organizations to administer this program because of their similar experiences and their unique understanding of the stress and trauma caused by deployment to a combat zone: Now, therefore, be it

Resolved, by the Senate of the State of New Jersey:

1. The United States Congress and Department of Defense are respectfully urged to create a federally funded program that provides post-deployment assistance for veterans at the current U.S. Military Academy Preparatory School facility at Fort Monmouth.

2. Duly authenticated copies of this resolution, signed by the President of the Senate and attested by the Secretary of the Senate, shall be transmitted to the President and Vice-President of the United States, the Majority and Minority Leaders of the United States Senate, the Speaker and Minority Leader of the United States House of Representatives, every member of Congress elected from this State, and the Secretary of Defense.

POM–16. A resolution adopted by the National Society of the Sons of the American Revolution relative to designating a permanent national memorial in Washington, D.C. honoring World War I service; to the Committee on Energy and Natural Resources.

POM–17. A resolution adopted by the National Society of the Sons of the American Revolution relative to a proposed Constitutional amendment giving Congress the power to protect the flag of the United States; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

By Mr. KERRY for the Committee on Foreign Relations.

*George Albert Krol, of New Jersey, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Uzbekistan.

Nominee: George Albert Krol.

Post: Ambassador, Tashkent, Uzbekistan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, donee:

1. Self: None.
2. Spouse: None.
3. Children and Spouses: N/A.
4. Parents: Anthony and Ann Krol: None.
5. Grandparents: Deceased.
6. Brothers and Spouses: David A. Krol—None; Anthony J. Krol—$250; 10/2006, John Shestak, Alice Milrod (spouse)—None.
7. Sisters and Spouses: N/A.

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*Daniel Benjamin Shapiro, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

Nominee: Daniel Benjamin Shapiro.

Post: Ambassador to Israel.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: $500, 03/20/2007, DSCC; $500, 06/04/2007, Tim Mahoney for Florida; $500, 06/21/2007, Louise Slaughter Reelect Com; $500, 06/26/2007, People for Patty Murray; $1,000, 07/10/2007, Bill Nelson for U.S. Senate; $1,000, 07/20/2007, Allyson Schwartz for Congress; $1,000, 09/21/2007, Sestak for Congress; $500, 10/23/2007, DSCC; $500, 10/27/2007, Matheson for Congress; $1,000, 11/13/2007, Stabenow for U.S. Senate; $1,000, 11/26/2007, Friends of Mary Landrieu; $1,000, 12/04/2007, Friends of Mary Landrieu; $1,000, 12/20/2007, Rep. Waxman Campaign Com; $1,000, 02/20/2008, Friends of Rahm Emanuel; $500, 03/10/2008, DSCC; $1,000, 03/31/2008, Schiff for Congress; $500, 05/05/2008, Lautenberg for Senate; $500, 05/15/2008, Friends of Byron Dorgan; $1,000, 06/12/2008, Friends for Harry Reid; $500, 06/24/2008, DSCC; $2,300 10/09/2008, Obama Victory Fund.
2. Spouse: Julie R. Fisher: $500, 08/02/2007, Hastings for Congress; $2,300, 09/30/2007, Obama for America.
3. Children and Spouses: Liat Shapiro: None; Merav Shapiro: None; Damaris (Shira) Shapiro: None.
4. Parents: Michael Shapiro: $75, 01/11/2008, Obama for America; $100, 09/23/2008, Obama for America. Elizabeth Shapiro: $100, 09/18/2008, Obama for America.
5. Grandparents: Norma Klein: Deceased. Solomon Klein Deceased. Rebecca Shapiro: Deceased. Milton Shapiro; Deceased.
6. Brothers and Spouses: Jonathan Shapiro: None. Jennifer Susse: $200, 07/31/2008, Obama for America.
7. Sisters and Spouses: Carolyn Shapiro: $500, 01/11/2008, Obama for America; $250, 02/13/2008, Obama for America; $200, 09/05/2008, Obama for America; $200, 09/24/2008, Dan Seals for Congress; $250, 10/30/2008, Obama Victory Fund; $100, 10/31/2008, Tinklenberg for Congress; $50, 09/10/2009, Rob Miller for Congress; $250, 09/30/2009, Dan Seals for Congress; $500, 09/30/2009, Hoffman for Illinois; $250, 11/06/2009, Hoffman for Illinois; $300, 06/12/2010, Dan Seals for Congress; $100, 09/15/2010, Russ Feingold for Senate; $50, 10/16/2010, Chris Coons for Senate; $100, 10/16/2010, Jack Conway for Senate; $100, 10/16/2010, Scott McAdams for Senate; $150, 10/16/2010, Joe Sestak for Senate; $500, 11/18/2010, DSCC. Joshua Karsh: $500, 10/15/2008, Obama for America; $300, 02/09/2009, Geoghegan for Congress. Naomi Shapiro: None. Adam Braun: $200, 2007, Hillary Clinton for President; $50, 2009, Sara Feigenholtz for Congress.

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*Henry S. Ensher, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Democratic Republic of Algeria.

Nominee: Henry S. Ensher.

Post: Ambassador to Algeria.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: Henry S. Ensher.
2. Spouse: Mona A. Ensher.
3. Children and Spouses: Henry A. Ensher, Tariq J. Ensher.
4. Parents: Henry J. and Joan C. Ensher.
5. Grandparents: Deceased.
6. Brothers and Spouses: None.
7. Sisters and Spouses: Ellen Ensher; Mary Elizabeth Wilson.

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*Stuart E. Jones, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Hashemite Kingdom of Jordan.

Nominee: Stuart E. Jones.

Post: Jordan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: Barbara L. Jones: none.
3. Children and Spouses: Thaddeus D. Jones: none. Dorothy K. Jones: none. Woodrow J. Jones: none.
4. Parents: Robert S. Jones: deceased. Rose Marie D. Jones: none.
5. Grandparents: Joseph L. Jones: deceased. Dorothy K. Jones: deceased. Jean-Marie Dery: deceased. Velma Dery: deceased.
6. Brothers and Spouses: Robert S. Jones: none. Spouse Kathleen Jones: none. Christopher K. Jones: none. Spouse Marta Jones: none.
7. Sisters and Spouses: Suzanne M. Jones: none.

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*Mara E. Rudman, of Massachusetts, to be an Assistant Administrator of the United States Agency for International Development.

*James A. Torrey, of Connecticut, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2013.

*Matthew Maxwell Taylor Kennedy, of California, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 2012.

*Sim Farar, of California, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2012.

*William J. Hybl, of Colorado, to be a Member of the United States Advisory Commission on Public Diplomacy for a term expiring July 1, 2012.

Mr. KERRY. Mr. President, for the Committee on Foreign Relations I report favorably the following nomination lists which were printed in the RECORDs on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

*Foreign Service nominations beginning with Carmine G. D'Aloisio and ending with James F. Sullivan, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 2011.

*Foreign Service nominations beginning with Patricia M. Aguilo and ending with Michelle Zjhra, which nominations were received by the Senate and appeared in the Congressional Record on April 6, 2011.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. RUBIO (for himself and Mr. NELSON of Florida):

S. 1006. A bill to allow seniors to file their Federal income tax on a new Form 1040SR; to the Committee on Finance.

By Mr. INHOFE:

S. 1007. A bill to amend the Internal Revenue Code of 1986 to eliminate the taxable income limit on percentage depletion for oil and natural gas produced from marginal properties; to the Committee on Finance.

By Mr. INHOFE:

S. 1008. A bill to amend the Internal Revenue Code of 1986 to permanently extend the depreciation rules for property used predominantly within an Indian reservation; to the Committee on Finance.

By Mr. RUBIO:

S. 1009. A bill to rescind certain Federal funds identified by States as unwanted and use the funds to reduce the Federal debt; to the Committee on Appropriations.

By Mr. CARPER:

S. 1010. A bill to amend the provisions of title 5, United States Code, relating to the methodology for calculating the amount of any Postal surplus or supplemental liability under the Civil Service Retirement System, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEAHY:

S. 1011. A bill to improve the provisions relating to the privacy of electronic communications; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself and Mr. CRAPO):

S. 1012. A bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications services; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. HATCH, Mr. ROCKEFELLER, and Mr. ENZI):

S. 1013. A bill to renew the authority of the Secretary of Health and Human Services to approve demonstration projects designed to test innovative strategies in State child welfare programs; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. CORNYN, Ms. KLOBUCHAR, Mr. MCCAIN, Mrs. HUTCHISON, and Mr. FRANKEN):

S. 1014. A bill to provide for additional Federal district judgeships; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself and Mr. AKAKA):

S. 1015. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a partnership program in foreign languages; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Mr. CRAPO, Mr. KERRY, Ms. SNOWE, Mr. CARDIN, and Mr. GRASSLEY):

S. 1016. A bill to amend the Internal Revenue Code of 1986 to permanently modify the limitations on the deduction of interest by financial institutions which hold tax-exempt bonds, and for other purposes; to the Committee on Finance.

By Mr. SANDERS:

S. 1017. A bill to amend title 38, United States Code, to increase assistance for disabled veterans who are temporarily residing in housing owned by a family member, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. INHOFE (for himself and Mr. COBURN):

S. Res. 186. A resolution honoring the 100th anniversary of the United States Army Field Artillery School at Fort Sill, Oklahoma; considered and agreed to.

By Mr. CARDIN (for himself, Ms. MURKOWSKI, and Mr. BEGICH):

S. Res. 187. A resolution supporting national minority health awareness in order to bring attention to the severe health disparities faced by minority populations such as American Indians and Alaska Natives, Asians, Blacks or African Americans, Hispanics or Latinos, and Native Hawaiians and other Pacific Islanders; considered and agreed to.

ADDITIONAL COSPONSORS

S. 20

At the request of Mr. HATCH, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 20, a bill to protect American job creation by striking the job-killing Federal employer mandate.

S. 28

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 28, a bill to amend the Communications Act of 1934 to provide public safety providers an additional 10 megahertz of spectrum to support a national, interoperable wireless broadband network and authorize the Federal Communications Commission to hold incentive auctions to provide funding to support such a network, and for other purposes.

S. 84

At the request of Mr. VITTER, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 84, a bill to amend the Internal Revenue Code of 1986 to allow refunds of Federal motor fuel excise taxes on fuels used in mobile mammography vehicles.

S. 146

At the request of Mr. BAUCUS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 146, a bill to amend the Internal Revenue Code of 1986 to extend the work opportunity credit to certain recently discharged veterans.

S. 186

At the request of Mrs. BOXER, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 186, a bill to provide for the safe and responsible redeployment of United States combat forces from Afghanistan.

S. 227

At the request of Ms. COLLINS, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 227, a bill to amend title XVIII of the Social Security Act to ensure more timely access to home health services for Medicare beneficiaries under the Medicare program.

S. 258

At the request of Mr. MENENDEZ, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 258, a bill to amend the Internal Revenue Code of 1986 to eliminate oil and gas company preferences.

S. 412

At the request of Mr. LEVIN, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 412, a bill to ensure that amounts credited to the Harbor Maintenance Trust Fund are used for harbor maintenance.

S. 425

At the request of Mr. UDALL of Colorado, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 425, a bill to amend the Public Health Service Act to provide for the establishment of permanent national surveillance systems for multiple sclerosis, Parkinson's disease, and other neurological diseases and disorders.

S. 468

At the request of Mr. MCCONNELL, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 468, a bill to amend the Federal Water Pollution Control Act to

clarify the authority of the Administrator to disapprove specifications of disposal sites for the discharge of dredged or fill material, and to clarify the procedure under which a higher review of specifications may be requested.

S. 496

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. KIRK) was added as a cosponsor of S. 496, a bill to amend the Food, Conservation, and Energy Act to repeal a duplicative program relating to inspection and grading of catfish.

S. 501

At the request of Mr. THUNE, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 501, a bill to establish pilot projects under the Medicare program to provide incentives for home health agencies to utilize home monitoring and communications technologies.

S. 519

At the request of Mr. REID, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 519, a bill to further allocate and expand the availability of hydroelectric power generated at Hoover Dam, and for other purposes.

S. 598

At the request of Mrs. FEINSTEIN, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 598, a bill to repeal the Defense of Marriage Act and ensure respect for State regulation of marriage.

S. 606

At the request of Mr. CASEY, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 606, a bill to amend the Federal Food, Drug, and Cosmetic Act to improve the priority review voucher incentive program relating to tropical and rare pediatric diseases.

S. 617

At the request of Mr. REID, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 617, a bill to require the Secretary of the Interior to convey certain Federal land to Elko County, Nevada, and to take land into trust for the Te-moak Tribe of Western Shoshone Indians of Nevada, and for other purposes.

S. 657

At the request of Mr. CARDIN, the name of the Senator from Ohio (Mr. PORTMAN) was added as a cosponsor of S. 657, a bill to encourage, enhance, and integrate Blue Alert plans throughout the United States in order to disseminate information when a law enforcement officer is seriously injured or killed in the line of duty.

S. 690

At the request of Mr. FRANKEN, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 690, a bill to establish the Office of the Homeowner Advocate.

S. 729

At the request of Mr. REID, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 729, a bill to validate final patent number 27–2005–0081, and for other purposes.

S. 737

At the request of Mr. MORAN, the names of the Senator from Maine (Ms. COLLINS), the Senator from South Dakota (Mr. THUNE) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 737, a bill to replace the Director of the Bureau of Consumer Financial Protection with a 5-person Commission, to bring the Bureau into the regular appropriations process, and for other purposes.

S. 752

At the request of Mrs. FEINSTEIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 752, a bill to establish a comprehensive interagency response to reduce lung cancer mortality in a timely manner.

S. 792

At the request of Mr. PRYOR, the names of the Senator from North Dakota (Mr. HOEVEN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 792, a bill to authorize the waiver of certain debts relating to assistance provided to individuals and households since 2005.

S. 855

At the request of Ms. STABENOW, the names of the Senator from Montana (Mr. TESTER), the Senator from Minnesota (Mr. FRANKEN) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 855, a bill to make available such funds as may be necessary to ensure that members of the Armed Forces, including reserve components thereof, continue to receive pay and allowances for active service performed when a funding gap caused by the failure to enact interim or full-year appropriations for the Armed Forces occurs, which results in the furlough of non-emergency personnel and the curtailment of Government activities and services.

S. 951

At the request of Mrs. MURRAY, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 951, a bill to improve the provision of Federal transition, rehabilitation, vocational, and unemployment benefits to members of the Armed Forces and veterans, and for other purposes.

S. 953

At the request of Mr. MCCONNELL, the names of the Senator from Utah (Mr. HATCH), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mrs. HUTCHISON) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. 953, a bill to authorize the conduct of certain lease sales in the Outer Continental Shelf, to amend the Outer Continental Shelf Lands Act to modify the requirements for exploration, and for other purposes.

At the request of Mr. HOEVEN, his name was added as a cosponsor of S. 953, supra.

S. 954

At the request of Mr. DURBIN, his name was added as a cosponsor of S. 954, a bill to promote the strengthening of the Haitian private sector.

S. 955

At the request of Mr. KERRY, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 955, a bill to provide grants for the renovation, modernization or construction of law enforcement facilities.

S. 958

At the request of Mr. CASEY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 958, a bill to amend the Public Health Service Act to reauthorize the program of payments to children's hospitals that operate graduate medical education programs.

S. 963

At the request of Mr. CARPER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 963, a bill to reduce energy costs, improve energy efficiency, and expand the use of renewable energy by Federal agencies, and for other purposes.

S. 982

At the request of Ms. AYOTTE, the names of the Senator from Kansas (Mr. ROBERTS), the Senator from Nebraska (Mr. JOHANNS) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 982, a bill to reaffirm the authority of the Department of Defense to maintain United States Naval Station, Guantanamo Bay, Cuba, as a location for the detention of unprivileged enemy belligerents held by the Department of Defense, and for other purposes.

S. 991

At the request of Ms. MIKULSKI, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 991, a bill to ensure efficient performance of agency functions.

S. 996

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 996, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2016, and for other purposes.

S. 1002

At the request of Mr. SCHUMER, the names of the Senator from North Carolina (Mrs. HAGAN) and the Senator from Ohio (Mr. PORTMAN) were added as cosponsors of S. 1002, a bill to prohibit theft of medical products, and for other purposes.

S. CON. RES. 4

At the request of Mr. SCHUMER, the names of the Senator from Nebraska (Mr. JOHANNS), the Senator from Florida (Mr. NELSON) and the Senator from Colorado (Mr. UDALL) were added as cosponsors of S. Con. Res. 4, a concurrent

resolution expressing the sense of Congress that an appropriate site on Chaplains Hill in Arlington National Cemetery should be provided for a memorial marker to honor the memory of the Jewish chaplains who died while on active duty in the Armed Forces of the United States.

S. RES. 80

At the request of Mr. KIRK, the name of the Senator from Kansas (Mr. MORAN) was added as a cosponsor of S. Res. 80, a resolution condemning the Government of Iran for its state-sponsored persecution of its Baha'i minority and its continued violation of the International Covenants on Human Rights.

S. RES. 174

At the request of Mr. LIEBERMAN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. Res. 174, a resolution expressing the sense of the Senate that effective sharing of passenger information from inbound international flight manifests is a crucial component of our national security and that the Department of Homeland Security must maintain the information sharing standards required under the 2007 Passenger Name Record Agreement between the United States and the European Union.

S. RES. 176

At the request of Ms. MIKULSKI, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. Res. 176, a resolution expressing the sense of the Senate that the United States Postal Service should issue a semipostal stamp to support medical research relating to Alzheimer's disease.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 1011. A bill to improve the provisions relating to the privacy of electronic communications; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today I am pleased to introduce the Electronic Communications Privacy Act Amendments Act of 2011, a bill to bring our Federal electronic privacy laws into the digital age. Since the Electronic Communications Privacy Act, ECPA, was first enacted in 1986, the ECPA has been one of our Nation's premiere privacy laws. But, today, this law is significantly outdated and out-paced by rapid changes in technology and the changing mission of our law enforcement agencies after September 11.

In the digital age, American consumers and businesses face threats to privacy like no time in history. With the explosion of new technologies, including social networking sites, smartphones and other mobile applications, there are many new benefits to consumers. But, there are also many new risks to their privacy.

Just in the past few weeks, we have witnessed significant data breaches involving Sony and Epsilon that impact the privacy of millions of American consumers. We are also learning that smartphones and other new mobile technologies may be using and storing our location and other sensitive information posing other new risks to privacy.

When I led the effort to write the ECPA 25 years ago, no one could have contemplated these and other emerging threats to our digital privacy. Updating this law to reflect the realities of our time is essential to ensuring that our Federal privacy laws keep pace with new technologies and the new threats to our security.

This bill takes several steps to protect Americans' privacy in the digital age. First, the bill makes common sense changes to the law regarding the privacy protections afforded to consumers' electronic communications. Under the current law, a single e-mail could be subject to as many a four different levels of privacy protections, depending upon where it is stored and when it was sent. The bill gets rid of the so-called ''180-day rule'' and replaces this confusing mosaic with one clear legal standard for the protection of the content of e-mails and other electronic communications. Under my bill, service providers are expressly prohibited from disclosing customer content and the government must obtain a search warrant, based on probable cause, to compel a service provider to disclose the content of a customer's electronic communications to the government.

This bill also provides important new consumer privacy protections for location information that is collected, used, or stored by service providers, smartphones, or other mobile technologies. To protect consumer privacy, my bill requires that the government obtain either a search warrant, or a court order under the Foreign Intelligence Surveillance Act, in order to access or use an individual's smartphone or other electronic communications device to obtain geolocation information. There are well-balanced exceptions to the warrant requirement if the government needs to obtain location information to address an immediate threat to safety or national security, or when there is user consent or a call for emergency services. The bill also requires that the government obtain a search warrant in order to obtain contemporaneous, real-time, location information from a provider. There is an exception to the warrant requirement for emergency calls for service.

To address the role of new technologies in the changing mission of law enforcement, the bill also provides important new tools to law enforcement to fight crime and keep us safe. The bill clarifies the authority under the ECPA for the government to temporarily delay notifying an individual of that fact that the government has accessed the contents of their electronic communications, to protect the integrity of a government investigation. The bill also gives new authority to the government to delay notification in order to protect national security.

Lastly, the ECPA Amendments Act strengthens the tools available in ECPA to protect our national security and the security of our computer networks. The legislation creates a new limited exception to the nondisclosure requirements under the ECPA, so that a service provider can voluntarily disclose content to the government that is pertinent to addressing a cyberattack. To protect privacy and civil liberties, the bill also requires that, among other things, the Attorney General and the Secretary of Homeland Security submit an annual report to Congress detailing the number of accounts from which their departments received voluntary disclosures under this new cybersecurity exception.

In addition, the bill clarifies the kinds of subscriber records that the Federal Bureau of Investigations may obtain from a provider in connection with a counterintelligence investigation. This reform will help to make the process for obtaining this information more certain and efficient for both the government and providers.

I drafted this bill with one key principle in mind, that updates to the Electronic Communication Privacy Act must carefully balance the interests and needs of consumers, law enforcement, and our Nation's thriving technology sector. I also drafted this bill in careful consultation with many government and private sector stakeholders, including the Departments of Justice and Commerce, State and local law enforcement, and members of the technology and privacy communities.

I thank the Digital Due Process Coalition and the many other stakeholders who support this bill. I also thank the Departments of Commerce and Justice for their guidance on how the ECPA impacts the needs of our law enforcement community and our national economy. I look forward to continuing to work with all of these stakeholders as this bill moves forward.

Two decades before Congress first enacted the Electronic Communications Privacy Act, Chief Justice Earl Warren wisely opined that ''the fantastic advances in the field of electronic communications constitute a greater danger to the privacy of the individual.'' This aptly describes the state of our digital privacy rights today. The balanced reforms in this bill will help ensure that our Federal privacy laws address the many dangers to personal privacy posed by the rapid advances in electronic communications technologies. Accomplishing this challenging task will not be easy. But, with the introduction of the Electronic Communications Privacy Act Amendments Act of 2011, we take a significant step towards this very important goal.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Electronic Communications Privacy Act Amendments Act of 2011''.

SEC. 2. PROHIBITION ON DISCLOSURE OF CONTENT.

Section 2702(a)(3) of title 18, United States Code, is amended to read as follows:

''(3) a provider of electronic communication service, remote computing service, or geolocation information service to the public shall not knowingly divulge to any governmental entity the contents of any communication described in section 2703(a), or any record or other information pertaining to a subscriber or customer of such provider or service.''.

SEC. 3. ELIMINATION OF 180 DAY RULE AND SEARCH WARRANT REQUIREMENT; REQUIRED DISCLOSURE OF CUSTOMER RECORDS.

(a) IN GENERAL.—Section 2703 of title 18, United States Code, is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

''(a) CONTENTS OF WIRE OR ELECTRONIC COMMUNICATIONS IN ELECTRONIC STORAGE.—

''(1) IN GENERAL.—A governmental entity may require the disclosure by a provider of electronic communication service, remote computing service, or geolocation information service of the contents of a wire or electronic communication that is in electronic storage with or otherwise held or maintained by the provider if the governmental entity obtains a warrant issued and executed in accordance with the Federal Rules of Criminal Procedure (or, in the case of a State court, issued using State warrant procedures) that is issued by a court of competent jurisdiction directing the disclosure.

''(2) NOTICE.—Except as provided in section 2705, not later than 3 days after a governmental entity receives the contents of a wire or electronic communication of a subscriber or customer from a provider of electronic communication service, remote computing service, or geolocation information service under paragraph (1), the governmental entity shall serve upon, or deliver to by registered or first-class mail, electronic mail, or other means reasonably calculated to be effective, as specified by the court issuing the warrant, the subscriber or customer—

''(A) a copy of the warrant; and

''(B) a notice that includes the information referred to in section 2705(a)(5)(B)(i).

''(b) RECORDS CONCERNING ELECTRONIC COMMUNICATION SERVICE, REMOTE COMPUTING SERVICE, OR GEOLOCATION INFORMATION SERVICE.—

''(1) IN GENERAL.—Subject to paragraph (2) and subsection (g), a governmental entity may require a provider of electronic communication service, remote computing service, or geolocation information service to disclose a record or other information pertaining to a subscriber or customer of the provider or service (not including the contents of communications), only if the governmental entity—

''(A) obtains a warrant issued and executed in accordance with the Federal Rules of Criminal Procedure (or, in the case of a State court, issued using State warrant procedures) that is issued by a court of competent jurisdiction directing the disclosure;

''(B) obtains a court order directing the disclosure under subsection (c);

''(C) has the consent of the subscriber or customer to the disclosure; or

''(D) submits a formal written request relevant to a law enforcement investigation concerning telemarketing fraud for the name, address, and place of business of a subscriber or customer of the provider or service that is engaged in telemarketing (as defined in section 2325).

''(2) SUBPOENAS.—

''(A) IN GENERAL.—A governmental entity may require a provider of electronic communication service, remote computing service, or geolocation information service to disclose information described in subparagraph (B) if the governmental entity obtains—

''(i) an administrative subpoena under a Federal or State statute; or

''(ii) a Federal or State grand jury subpoena or trial subpoena.

''(B) REQUIREMENTS.—The information described in this subparagraph is—

''(i) the name of the subscriber or customer;

''(ii) the address of the subscriber or customer;

''(iii) the local and long distance telephone connection records, or records of session times and durations, of the subscriber or customer;

''(iv) length of service (including start date) and types of service utilized by the subscriber or customer;

''(v) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address, of the subscriber or customer; and

''(vi) means and source of payment for such service (including any credit card or bank account number) of the subscriber or customer.

''(3) NOTICE NOT REQUIRED.—A governmental entity that receives records or information under this subsection is not required to provide notice to a subscriber or customer.''; and

(2) by redesignating subsections (d) through (g) as subsections (c) through (f), respectively.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SECTION 2258A.—Section 2258A(h)(1) of title 18, United States Code, is amended by striking ''section 2703(f)'' and inserting ''section 2703(e)''.

(2) SECTION 2703.—Section 2703(c) of title 18, United States Code, as redesignated by subsection (a), is amended—

(A) by striking ''A court order for disclosure under subsection (b) or (c)'' and inserting ''A court order for disclosure under subsection (b)(1)(B) or (g)(3)(A)(ii)''; and

(B) by striking ''the contents of a wire or electronic communication, or the records or other information sought,'' and inserting ''the records, other information, or historical geolocation information sought''.

(3) SECTION 2707.—Section 2707(a) of title 18, United States Code, is amended by striking ''section 2703(e)'' and inserting ''section 2703(d)''.

(4) SECTION 3486.—Section 3486(a)(1)(C)(i) of title 18, United States Code, is amended by striking ''section 2703(c)(2)'' and inserting ''section 2703(b)(2)(B)''.

SEC. 4. DELAYED NOTICE.

Section 2705 of title 18, United States Code, is amended to read as follows:

''§ 2705. Delayed notice

''(a) DELAY OF NOTIFICATION.—

''(1) IN GENERAL.—A governmental entity that is seeking a warrant under section 2703(a) may include in the application for the warrant a request for an order delaying the notification required under section 2703(a) for a period of not more than 90 days.

''(2) DETERMINATION.—A court shall grant a request for delayed notification made under paragraph (1) if the court determines that there is reason to believe that notification of the existence of the warrant may result in—

''(A) endangering the life or physical safety of an individual;

''(B) flight from prosecution;

''(C) destruction of or tampering with evidence;

''(D) intimidation of potential witnesses;

''(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial; or

''(F) endangering national security.

''(3) EXTENSION.—Upon request by a governmental entity, a court may grant 1 or more extensions of the delay of notification granted under paragraph (2) of not more than 90 days.

''(4) EXPIRATION OF THE DELAY OF NOTIFICATION.—Upon expiration of the period of delay of notification under paragraph (2) or (3), the governmental entity shall serve upon, or deliver to by registered or first-class mail, electronic mail or other means reasonably calculated to be effective as specified by the court approving the search warrant, the customer or subscriber—

''(A) a copy of the warrant; and

''(B) notice that informs the customer or subscriber—

''(i) that information maintained for the customer or subscriber by the provider of electronic communication service, remote computing service, or geolocation information service named in the process or request was supplied to, or requested by, the governmental entity;

''(ii) of the date on which the request to the provider for information was made by the governmental entity and the date on which the information was provided by the provider to the governmental entity;

''(iii) that notification of the customer or subscriber was delayed;

''(iv) the identity of the court authorizing the delay; and

''(v) of the provision of this chapter under which the delay was authorized.

''(b) PRECLUSION OF NOTICE TO SUBJECT OF GOVERNMENTAL ACCESS.—

''(1) IN GENERAL.—A governmental entity that is obtaining the contents of a communication or information or records under section 2703 or geolocation information under section 2713 may apply to a court for an order directing a provider of electronic communication service, remote computing service, or geolocation information service to which a warrant, order, subpoena, or other directive under section 2703 or 2713 is directed not to notify any other person of the existence of the warrant, order, subpoena, or other directive for a period of not more than 90 days.

''(2) DETERMINATION.—A court shall grant a request for an order made under paragraph (1) if the court determines that there is reason to believe that notification of the existence of the warrant, order, subpoena, or other directive may result in—

''(A) endangering the life or physical safety of an individual;

''(B) flight from prosecution;

''(C) destruction of or tampering with evidence;

''(D) intimidation of potential witnesses;

''(E) otherwise seriously jeopardizing an investigation or unduly delaying a trial; or

''(F) endangering national security.

''(3) EXTENSION.—Upon request by a governmental entity, a court may grant 1 or more extensions of an order granted under paragraph (2) of not more than 90 days.''.

SEC. 5. LOCATION INFORMATION PRIVACY.

(a) IN GENERAL.—Chapter 121 of title 18, United States Code, is amended by adding at the end the following:

"§ 2713. Location tracking of electronic communications device

''(a) PROHIBITION.—Except as provided in subsection (b), (c), or (d), no governmental entity may access or use an electronic communications device to acquire geolocation information.

''(b) ACQUISITION PURSUANT TO A WARRANT OR COURT ORDER.—A governmental entity may access or use an electronic communications device to acquire geolocation information if the governmental entity obtains—

''(1) a warrant issued and executed in accordance with the Federal Rules of Criminal Procedure relating to tracking devices (or, in the case of a State court, issued using State warrant procedures), issued by a court of competent jurisdiction authorizing the accessing or use of an electronic communications device to acquire geolocation information; or

''(2) a court order under title I or title VII of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq. and 1881 et seq.) authorizing the accessing or use of an electronic communications device to acquire geolocation information.

''(c) PERMITTED ACQUISITIONS WITHOUT COURT ORDER.—A governmental entity may access or use an electronic communications device to acquire geolocation information—

''(1) as permitted under section 222(d)(4) of the Communications Act of 1934 (47 U.S.C. 222(d)(4)) in order to respond to a call for emergency services by a user of an electronic communications device; or

''(2) with the express consent of the owner or user of the electronic communications device concerned.

''(d) EMERGENCY ACQUISITION OF GEOLOCATION INFORMATION.—

''(1) IN GENERAL.—Subject to paragraph (2), an investigative or law enforcement officer specially designated by the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any acting Assistant Attorney General, any United States attorney, any acting United States attorney, or the principal prosecuting attorney of any State or political subdivision thereof acting pursuant to a statute of that State may access or use an electronic communications device to acquire geolocation information if the investigative or law enforcement officer reasonably determines that—

''(A) an emergency situation exists that—

''(i) involves—

''(I) immediate danger of death or serious bodily injury to any person;

''(II) conspiratorial activities characteristic of organized crime; or

''(III) an immediate threat to national security; and

''(ii) requires the accessing or use of an electronic communications device to acquire geolocation information before an order authorizing the acquisition may, with due diligence, be obtained; and

''(B) there are grounds upon which an order could be entered under this section to authorize the accessing or use of an electronic communications device to acquire geolocation information.

''(2) ORDER AND TERMINATION.—If an investigative or law enforcement officer accesses or uses an electronic communications device to acquire geolocation information under paragraph (1)—

''(A) not later than 48 hours after the activity to acquire the geolocation information has occurred, or begins to occur, the investigative or law enforcement officer shall seek a warrant or order described in subsection (b) approving the acquisition; and

''(B) unless a warrant or order described in subsection (b) is issued approving the acquisition, the activity to acquire the geolocation information shall terminate immediately at the earlier of the time—

''(i) the information sought is obtained;

''(ii) the application for the warrant or order is denied; or

''(iii) at which 48 hours have elapsed since the activity to acquire the geolocation information began to occur.

''(3) VIOLATION AND SUPPRESSION OF EVIDENCE.—

''(A) IN GENERAL.—In a circumstance described in subparagraph (B), a court may determine that—

''(i) no information obtained, or evidence derived from, geolocation information acquired as part of the accessing or use of an electronic communications device to acquire geolocation information may be received into evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof; and

''(ii) no information concerning any person acquired from the geolocation information may be used or disclosed in any other manner, without the consent of the person.

''(B) CIRCUMSTANCES.—A circumstance described in this subparagraph is any instance in which—

''(i) an investigative or law enforcement officer does not—

''(I) obtain a warrant or order described in subsection (b) within 48 hours of commencing the accessing or use of the electronic communications device; or

''(II) terminate the activity to acquire geolocation information in accordance with paragraph (2)(B); or

''(ii) a court denies the application for a warrant or order approving the accessing or use of an electronic communications device to acquire geolocation information.

''(e) ASSISTANCE AND COMPENSATION.—

''(1) IN GENERAL.—A warrant described in subsection (b)(1) authorizing the accessing or use of an electronic communications device to acquire geolocation information shall, upon request of the applicant, direct that a provider of electronic communication service, remote computing service, or geolocation information service shall provide to the applicant forthwith all information, facilities, and technical assistance necessary to accomplish the acquisition unobtrusively and with a minimum of interference with the services that the provider is providing to or through the electronic communications device in question.

''(2) COMPENSATION.—Any provider of electronic communication service, remote computing service, or geolocation information service providing information, facilities, or technical assistance under a directive under paragraph (1) shall be compensated by the applicant for reasonable expenses incurred in providing the information, facilities, or assistance.

''(f) NO CAUSE OF ACTION AGAINST A PROVIDER.—No cause of action shall lie in any court against any provider of electronic communication service, remote computing service, or geolocation information service, or an officer, employee, or agent of the provider or other specified person for providing information, facilities, or assistance necessary to accomplish an acquisition of geolocation information authorized under this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Title 18 of the United States Code is amended—

(1) in the table of sections for chapter 121, by adding at the end the following:

''2713. Location tracking of electronic communications device.'';

(2) in section 2703—

(A) in subsection (d), as redesignated by section 3, by inserting ''geolocation information service, or remote computing service,'' after ''electronic communication service,'';

(B) in subsection (e)(1), as redesignated by section 3, by striking ''electronic communication services or a'' and inserting ''electronic communication service, geolocation information service, or''; and

(C) in subsection (f), as redesignated by section 3—

(i) by inserting '', geolocation information service,'' after ''electronic communication service''; and

(ii) by inserting '', geolocation information,'' after ''contents of communications'';

(3) in section 2711—

(A) in paragraph (3), by striking ''and'' at the end;

(B) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(5) the term 'electronic communications device' means any device that enables access to or use of an electronic communications system, electronic communication service, remote computing service, or geolocation information service;

''(6) the term 'geolocation information'—

''(A) means any information concerning the location of an electronic communications device that is in whole or in part generated by or derived from the operation or use of the electronic communications device;

''(B) does not include—

''(i) information described in section 2703(b)(2)(B); or

''(ii) the contents of a communication;

''(7) the term 'geolocation information service' means the provision of a global positioning service or other mapping, locational, or directional information service;

''(8) the term 'electronic communication identifiable information' means the—

''(A) name of a person or entity;

''(B) address of a person or entity;

''(C) records of session times and durations of a person or entity;

''(D) length of service and types of service used by a person or entity;

''(E) telephone or instrument number or other subscriber number or identity (including any temporarily assigned network address) of a person or entity; and

''(F) dialing, routing, addressing, and signaling information associated with each communication to or from the subscriber account of a person or entity (including the date, time, and duration of the communications, without geographical limit);

''(9) the term 'toll billing records' means the—

''(A) name of a person or entity;

''(B) address of a person or entity;

''(C) length of service of a person or entity; and

''(D) local and long distance billing records of a person or entity; and

''(10) the term 'customer' means any person, or authorized representative of that person, who used or is using any service provided by an electronic communication service, remote computing service, or geolocation information service, regardless of whether the service was, or is, being provided for a monetary fee.''; and

(4) in section 3127—

(A) in paragraph (1), by striking ''and 'contents' have'' and inserting '' 'contents', and 'geolocation information' have'';

(B) in paragraph (3), by inserting '' or geolocation information,'' after ''contents of any communication''; and

(C) in paragraph (4), by inserting ''or geolocation information'' after ''contents of any communication''.

SEC. 6. REQUIRED DISCLOSURE OF LOCATION INFORMATION AND WARRANT REQUIREMENT.

Section 2703 of title 18, United States Code, as amended by section 3, is amended by adding at the end the following:

''(g) LOCATION INFORMATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a governmental entity may not require a provider of electronic communication service, remote computing service, or geolocation information service to disclose geolocation information contemporaneously or prospectively.

''(2) EXCEPTIONS.—

''(A) WARRANTS.—A governmental entity may require a provider of electronic communication service, remote computing service, or geolocation information service to disclose geolocation information contemporaneously or prospectively pursuant to a warrant issued and executed in accordance with the Federal Rules of Criminal Procedure (or, in the case of a State court, issued using State warrant procedures), issued by a court of competent jurisdiction.

''(B) CALL FOR EMERGENCY SERVICES.—A provider of electronic communication service, remote computing service, or geolocation information service may provide geolocation information contemporaneously or prospectively to a governmental entity as permitted under section 222(d)(4) of the Communications Act of 1934 (47 U.S.C. 222(d)(4)) in order to respond to a call for emergency services by a user of an electronic communications device.

''(3) HISTORICAL LOCATION INFORMATION.—

''(A) IN GENERAL.—A governmental entity may require a provider of electronic communication service, remote computing service, or geolocation information service to disclose historical geolocation information pertaining to a subscriber or customer of the provider only if the governmental entity—

''(i) obtains a warrant issued and executed in accordance with the Federal Rules of Criminal Procedure (or, in the case of a State court, issued using State warrant procedures) that is issued by a court of competent jurisdiction directing the disclosure;

''(ii) obtains a court order directing the disclosure under subsection (c); or

''(iii) has the consent of the subscriber or customer to the disclosure.

''(B) NOTICE NOT REQUIRED.—A governmental entity that receives historical geolocation information under subparagraph (A) is not required to provide notice to a subscriber or customer.''.

SEC. 7. VOLUNTARY DISCLOSURES TO PROTECT CYBERSECURITY.

Section 2702 of title 18, United States Code is amended—

(1) in subsection (b)(5), by inserting '', cybersecurity,'' after ''rights'';

(2) in subsection (c)(3), by inserting '', cybersecurity,'' after ''rights''; and

(3) by adding at the end the following:

''(e) REPORTING OF CYBERSECURITY DISCLOSURES.—On an annual basis, the Attorney General of the United States shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report containing—

''(1) the number of accounts from which the Federal Government has received voluntary disclosures under subsection (b)(5) that pertain to the protection of cybersecurity; and

''(2) a summary of the basis for disclosure in each instance where—

''(A) a voluntary disclosure under subsection (b)(5) that pertains to the protection of cybersecurity was made to the Department of Justice; and

''(B) the investigation pertaining to the disclosure was closed without the filing of criminal charges.''.

SEC. 8. ELECTRONIC COMMUNICATION IDENTIFIABLE INFORMATION.

(a) IN GENERAL.—Section 2709(a) of title 18, United States Code, is amended by striking ''electronic communication transactional records'' and inserting ''electronic communication identifiable information''.

(b) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

''(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation, or a designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, may request the toll billing records and electronic communication identifiable information of a person or entity if the Director (or designee) certifies in writing to the wire or electronic communication service provider or geolocation information service provider to which the request is made that the toll billing records and electronic communication identifiable information sought are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the First Amendment to the Constitution of the United States.''.

By Mr. BAUCUS (for himself, Mr. HATCH, Mr. ROCKEFELLER, and Mr. ENZI):

S. 1013. A bill to renew the authority of the Secretary of Health and Human Services to approve demonstration projects designed to test innovative strategies in State child welfare programs; to the Committee on Finance.

Mr. BAUCUS. Mr. President, the Finance Committee has a long history of working together in a bi-partisan fashion in the interest of children in Montana and across the Nation. I am happy to have you as a partner on child welfare issues. The Fostering Connections to Success and Increasing Adoptions Act of 2008 was a first step on the road to reforming the child welfare system. Today, with the introduction of the State Child Welfare Innovation Act, we take another step on the path toward making lives better for the children we serve.

As the authors of this legislation, we build on the successes of waivers since they were first authorized in 1994. Since that time, these waivers have given States the flexibility needed to focus on new practices that prevent abuse and neglect and encourage permanency for children in our child welfare system.

It is important for us to understand that the goal of reauthorizing child welfare waivers is not simply to develop and test new service delivery models, but to put in place sound practices that state innovation has determined to be effective in increasing positive outcomes for youth in the system.

Our March 11 hearing entitled ''Innovations in Child Welfare Waivers'' continued a productive conversation and helped us to craft legislation to address some of the issues facing our Nation's most-vulnerable youth. I was happy we were able to welcome two graduates of the foster care system to share their perspectives. In our conversations with youth, service providers and local government officials, we have noted the successes of the program in spurring innovative new practices while listening to the concerns regarding the challenges that they have faced in the implementation of these waivers and in the system overall.

In this legislation, we continued to focus the waivers on producing improvements in three important areas: the prevention of abuse and neglect; safety for children at home and in placements; and permanency outcomes. We have also asked States to focus on increasing the quality of care for kids in the foster care system. We heard from youth about what is important to them, including knowing what your rights are and understanding how to reconnect with biological parents in a healthy way. I am so pleased we were able to work together to give States the opportunity and incentive to address these concerns.

Mr. HATCH. Mr. President, I am also pleased to join with my partner on the Senate Finance Committee in producing bipartisan legislation that gives States increased flexibility to improve the lives of children and youth.

The legislation we will introduce today is the product of many months of work and is the result of an open and transparent process bringing together relevant stakeholders. The Committee has heard from the state groups, the advocacy community and most importantly, youth both in and out of the foster care system. Young people in ''Foster Club,'' have a saying: ''Nothing about us, without us.'' We have taken their motto to heart and the legislation we are introducing today reflects years of input for youth in and out of foster care.

I agree with the Chairman of the Finance Committee when he characterized the State Child Welfare Innovation Act as another step on the pathway to comprehensive child welfare reform.

Comprehensive child welfare reform is desperately needed. The current financing system is antiquated, relying on an income eligibility proxy dating back to pre-welfare reform standards. The majority of Federal support goes to the least desirable outcome: the placement of a child or youth into foster care. Federal priorities should be aligned so that States are able to keep families together, safely.

But financing reform is not enough. The underlying foster care system needs to be improved. Often times when children enter foster care, siblings are separated. Children and youth are shuttled from place to place. Their education is disrupted. Their ability to play sports or engage in after school

activities is thwarted. Under the current system, about 30,000 young people a year exit foster care without a permanent connection and are at risk for homelessness, incarceration and drug abuse.

My State of Utah informs me that with flexibility, Utah can improve on the State's decade-old effort to protect children and strengthen families.

As we look to make improvements to our social service delivery systems, we should be relying on the States to chart the way through flexibility and innovation. The States are the critical units within our constitutional democracy. The States are the laboratories of democracy, where appropriate solutions to problems are best crafted. The Federal Government needs to give States maximum flexibility in crafting solutions that work for their citizens. I am pleased that this legislation is consistent with that approach and look forward to making further progress to improve the lives of children and young people.

Mr. BAUCUS. I am happy to introduce this legislation with my partner on the Senate Finance Committee, the Ranking Member of that Committee, Senator HATCH. I look forward to a new chapter in our work together that helps put our Nation's child welfare system on the pathway to reform.

By Mrs. FEINSTEIN (for herself, Mr. KYL, Mr. CORNYN, Ms. KLOBUCHAR, Mr. MCCAIN, Mrs. HUTCHISON, and Mr. FRANKEN):

S. 1014. A bill to provide for additional Federal district judgeships; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise to introduce, together with my colleague and friend Senator KYL, the Emergency Judicial Relief Act of 2011.

This bill would create a total of ten District judgeships in five courts across the country that are facing true emergency situations.

I want to thank our cosponsors, Senators CORNYN, KLOBUCHAR, BOXER, MCCAIN, HUTCHISON, and FRANKEN, for working with Senator KYL and me on this bill.

As a member of the Senate, I take very seriously our duty to ensure that the Nation's Federal courts have the resources they need to administer justice for the American people. Our Federal courts bear responsibility for adjudicating criminal cases, deciding civil rights and employment cases, and resolving commercial disputes between companies. When our courts become overburdened, we leave crime victims and criminal defendants in limbo and civil litigants without resolution to their problems.

In the Eastern District of California, the need for additional judges is acute. This District, which extends over 87,000 miles and encompasses California's Central Valley, faces far and away the worst caseload crisis in the Nation.

The District is home to more than eight million Californians, but it has only 6 active District Judges. For three decades, the District's population has been steadily growing, but the size of the Court has been unchanged. Congress has not created a permanent judgeship in the Eastern District since 1978 and the only temporary judgeship created was allowed to expire and never renewed despite repeated attempts by myself and Senator LEAHY.

The result is unacceptable. As of December 31, 2010, the District was managing 1,133 weighted filings per authorized judgeship, a caseload that is not only the highest in the Nation, but also 300 weighted filings per judge higher than any other District Court in the country and almost three times the threshold at which the Judicial Conference recommends additional judgeships.

For everyday life, what this means is that individuals and businesses must wait months, or even years to have their disputes resolved. According to the most recent statistics, criminal felony cases remained pending in this court for a median of 12.7 months; and more than 10 percent of all civil cases were taking more than 3 years from the date of filing to be decided.

The delay is not for lack of effort. As Judge Lawrence O'Neill testified before the Senate Judiciary Committee in 2009, the Eastern District's judges are among the most productive in the Nation, and the court is utilizing every resource currently at its disposal. The caseloads are simply unmanageable.

U.S. Supreme Court Chief Justice John Roberts has publicly remarked on the problems in the District; so has Associate Justice Anthony Kennedy; and the Judicial Conference of the United States has formally called on Congress to create more judgeships here.

The Emergency Judicial Relief Act of 2011 would provide a narrow, targeted solution.

The bill would create new judgeships in five Districts across the country where the need is most staggering, four in the Eastern District of California, two in the District of Arizona; two in the Western District of Texas; one in the Southern District of Texas; and one in the District of Minnesota. Additionally, the bill would convert a temporary judgeship in the District of Arizona and one in the Central District of California to permanent status. The bill would be offset by raising civil filing fees $10, from $350 to $360.

Let me be clear. California needs far more judgeships than this bill would create, and I will work with my colleagues to create those badly needed judgeships.

In the meantime, this bill is a narrow, emergency measure to provide relief in the handful of Districts that need it the very most.

I urge my colleagues to work with me to pass this commonsense, good government bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Emergency Judicial Relief Act of 2011''.

SEC. 2. FEDERAL DISTRICT JUDGESHIPS.

(a) ADDITIONAL PERMANENT DISTRICT JUDGESHIP.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 2 additional district judges for the district of Arizona;

(2) 4 additional district judges for the eastern district of California;

(3) 1 additional district judge for the district of Minnesota;

(4) 1 additional district judge for the southern district of Texas; and

(5) 2 additional district judges for the western district of Texas.

(b) CONVERSION OF TEMPORARY JUDGESHIPS.—The existing judgeships for the district of Arizona and the central district of California authorized by section 312(c) of the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 133 note; Public Law 107–273; 116 Stat. 1788), as of the effective date of this Act, shall be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this Act.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table contained in section 133(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the district of Arizona and inserting the following:

''Arizona ..... 15'';

(2) by striking the item relating to California and inserting the following:

''California:	
Northern	14
Eastern	10
Central	28
Southern	13'';

(3) by striking the item relating to the district of Minnesota and inserting the following:

''Minnesota ..... 8''; and

(4) by striking the item relating to Texas and inserting the following:

''Texas:	
Northern	12
Southern	20
Eastern	7
Western	15''.

(d) INCREASE IN FILING FEES.—Section 1914(a) of title 28, United States Code, is amended by striking ''$350'' and inserting ''$360''.

By Mr. BINGAMAN (for himself, Mr. CRAPO, Mr. KERRY, Ms. SNOWE, Mr. CARDIN, and Mr. GRASSLEY):

S. 1016. A bill to amend the Internal Revenue Code of 1986 to permanently modify the limitations on the deduction of interest by financial institutions which hold tax-exempt bonds, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today to introduce the Municipal Bond Market Support Act of 2011. This bill is

similar to ones that Senator CRAPO and I introduced in the 110th and 111th Congresses. I am grateful for Senator CRAPO's continued leadership on this issue, as well as the cosponsorship of our Finance Committee colleagues, Senators KERRY, SNOWE, CARDIN, and GRASSLEY.

Municipal bonds have long played an essential role in financing the construction, expansion, and repair of schools; highways, roads, and bridges; affordable housing; hospitals; public transit; water and sewage systems; and community-owned utilities. Since the enactment of the Federal income tax in 1913, Congress has supported the municipal bond market by exempting municipal bond interest from taxation. Tax exemption confers Federal assistance on State and local capital investments; it also recognizes that decisions about which projects to fund are most appropriately made at the State or local level.

Historically, banks were significant purchasers of tax-exempt debt. But the Tax Reform Act of 1986 severely curtailed banks' participation by automatically disallowing deductions for interest expense whenever municipal bonds are purchased. The 1986 Act left an exception only for bonds purchased from smaller municipalities, those selling no more than $10 million of bonds each year. But because the $10 million level was not indexed to inflation, its purchasing power has eroded significantly since 1986, leaving many smaller governments and non-profit educational and health care facilities either to defer projects to comply with this low limit or find non-bank purchasers.

I was very pleased that the American Recovery and Reinvestment Act incorporated a bill that Senator CRAPO and I introduced, the Municipal Bond Market Support Act of 2009, raising the $10 million small issuer exception to $30 million. Additionally, the Recovery Act included a provision ensuring that the small issuer is made applicable at the ultimate borrower level, so that bonds benefiting non-profit universities and hospitals will not exceed the limitation merely because they issue bonds through statewide authorities.

Taken together, those steps significantly enhanced demand for debt issued by small municipal governments, enabling municipalities across the Nation, and particularly those in small and rural communities, to finance the critical infrastructure projects that play an important role in growing our national economy.

In 2009, the dollar amount of bank qualified issuances reached $32.7 billion, double the prior year's level, with more than 6,000 issuances. Beneficiaries included a broad range of counties, cities, and school districts in all corners of my home state of New Mexico. For instance, the proceeds of a $17 million bond issued by Santa Fe County financed roads, trails and parks for open space, a fire facility, a solid waste transfer station, water rights acquisition and water projects. The City of Artesia completed two bank-qualified transactions, to finance building a public safety complex and a new waste water treatment facility. The Bloomfield School District placed $19 million in bank-qualified debt to finance capital expenditures. Similarly, in 2010, issuances climbed even further, to $36.8 billion, with more than 6,700 issuances representing a similarly diverse array of counties, cities, school districts, infrastructure districts, and hospitals across my home state of New Mexico and the country.

The ARRA-enacted provisions helped small communities across New Mexico and the country finance critical infrastructure needs and create jobs. The higher bank-qualified limit is a great success and deserves to be made permanent. The bill that Senators CRAPO, KERRY, SNOWE, CARDIN, GRASSLEY, and I are introducing today would do just that, ensuring that smaller governments and non-profit educational and health care facilities can finance their capital needs, particularly in periods of tight credit, and save taxpayer dollars.

At least 14 national organizations representing issuers of tax-exempt bonds are supporting the Act. These include the American Hospital Association; American Public Power Association; Council of Development Finance Authorities; Council of Infrastructure Financing Authorities; Government Finance Officers Association; International City/County Management Association; International Municipal Lawyers Association; National Association of College and University Business Officers; National Association of Counties; National Association of Health and Educational Facilities Finance Authorities; National Association of State Auditors, Comptrollers, and Treasurers; National Association of State Treasurers; National League of Cities; and the U.S. Conference of Mayors. I urge my colleagues to join these organizations in supporting our bill, to ensure that small municipalities across the country are able to finance critical infrastructure projects at reduced costs to their residents.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Municipal Bond Market Support Act of 2011''.

SEC. 2. PERMANENT MODIFICATION OF SMALL ISSUER EXCEPTION TO TAX-EXEMPT INTEREST EXPENSE ALLOCATION RULES FOR FINANCIAL INSTITUTIONS.

(a) PERMANENT INCREASE IN LIMITATION.—Subparagraphs (C)(i), (D)(i), and (D)(iii)(II) of section 265(b)(3) of the Internal Revenue Code of 1986 are each amended by striking ''$10,000,000'' and inserting ''$30,000,000''.

(b) PERMANENT MODIFICATION OF OTHER SPECIAL RULES.—Paragraph (3) of section 265(b) of the Internal Revenue Code of 1986 is amended—

(1) by redesignating clauses (iv), (v), and (vi) of subparagraph (G) as clauses (ii), (iii), and (iv) of such subparagraph, respectively, and

(2) by striking so much of subparagraph (G) as precedes such clauses and inserting the following:

''(G) QUALIFIED 501(C)(3) BONDS TREATED AS ISSUED BY EXEMPT ORGANIZATION.—In the case of a qualified 501(c)(3) bond (as defined in section 145), this paragraph shall be applied by treating the 501(c)(3) organization for whose benefit such bond was issued as the issuer.

''(H) SPECIAL RULE FOR QUALIFIED FINANCINGS.—

''(i) IN GENERAL.—In the case of a qualified financing issue—

''(I) subparagraph (F) shall not apply, and

''(II) any obligation issued as a part of such issue shall be treated as a qualified tax-exempt obligation if the requirements of this paragraph are met with respect to each qualified portion of the issue (determined by treating each qualified portion as a separate issue which is issued by the qualified borrower with respect to which such portion relates).''.

(c) INFLATION ADJUSTMENT.—Paragraph (3) of section 265(b) of the Internal Revenue Code of 1986, as amended by subsection (b), is amended by adding at the end the following new subparagraph:

''(I) INFLATION ADJUSTMENT.—In the case of any calendar year after 2011, the $30,000,000 amounts contained in subparagraphs (C)(i), (D)(i), and (D)(iii)(II) shall each be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 2010' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $100,000.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 186—HONORING THE 100TH ANNIVERSARY OF THE UNITED STATES ARMY FIELD ARTILLERY SCHOOL AT FORT SILL, OKLAHOMA

Mr. INHOFE (for himself and Mr. COBURN) submitted the following resolution; which was considered and agreed to:

S. RES. 186

Whereas May 19, 2011, has been set aside as Field Artillery Day at Fort Sill, Oklahoma, the Home of the Field Artillery, to commemorate the 100th anniversary of the School of Fire for the Field Artillery;

Whereas the School of Fire for the Field Artillery at Fort Sill was established on June 5, 1911, under the command of Captain Dan T. Moore, its first commandant;

Whereas the first class of 14 captains and 22 non-commissioned officers arrived on September 15, 1911, and the school continues to operate today as the world renowned United States Army Field Artillery School;

Whereas thousands of soldiers, Marines, and allied foreign military students have

been trained for service in the Field Artillery at the United States Army Field Artillery School;

Whereas the Field Artillery lives up to its nickname, ''The King of Battle'', by continuing to be the most responsive all-weather fire support available to ground forces engaged in combat;

Whereas the modern Field Artillery branch employs, and the United States Army Field Artillery School trains troops on, a variety of powerful weapons, from the 105 millimeter M–199 howitzer, the 155 millimeter M–777 lightweight howitzer, and the 155 millimeter Paladin self-propelled howitzer to the Multiple Launch Rocket System;

Whereas the United States Army Field Artillery School has trained Field Artillery officers and non-commissioned officers to be the Army's experts on the employment of lethal and non-lethal effects that have contributed to our Nation's successes in Iraq and Afghanistan;

Whereas Field Artillery officers stand among our Nation's most revered civilian and military leaders, including founding fathers and Revolutionary War officers Alexander Hamilton and Henry Knox; Major General William J. Snow, the first Chief of the Field Artillery; Captain Harry S. Truman of the Missouri National Guard; Generals Jack Vessey, John Shalikashvili, and Maxwell Taylor, Chairmen of the Joint Chiefs of Staff; Generals William Westmoreland, Carl Vuono, and Dennis Reimer, Chiefs of Staff of the Army; General Tommy Franks, U.S. Central Command Commander who led coalition forces during Operation Iraqi Freedom; and General Raymond Odierno, U.S. Joint Forces Command Commander, who led Multi-National Forces-Iraq;

Whereas Field Artillerymen have fought with courage, strength, and fidelity in every United States conflict, and have been awarded more than 90 Medals of Honor, including, most recently, a Medal of Honor awarded posthumously to Sergeant First Class Jared Monti, a forward observer in Afghanistan who demonstrated conspicuous gallantry and intrepidity as he called in artillery fire to save his outnumbered patrol and was mortally wounded as he attempted to save a fellow soldier; and

Whereas the people of the United States take great pride in the history of Fort Sill, the United States Army Field Artillery School, and the continuing critical role that the Field Artillery plays in the defense of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) honors the 100th anniversary of the United States Army Field Artillery School at Fort Sill, Oklahoma; and

(2) honors the long line of men and women of the Army Field Artillery who have served and continue to serve in the protection of the national security of the United States.

SENATE RESOLUTION 187—SUPPORTING NATIONAL MINORITY HEALTH AWARENESS IN ORDER TO BRING ATTENTION TO THE SEVERE HEALTH DISPARITIES FACED BY MINORITY POPULATIONS SUCH AS AMERICAN INDIANS AND ALASKA NATIVES, ASIANS, BLACKS OR AFRICAN AMERICANS, HISPANICS OR LATINOS, AND NATIVE HAWAIIANS AND OTHER PACIFIC ISLANDERS

Mr. CARDIN (for himself, Ms. MURKOWSKI, and Mr. BEGICH) submitted the following resolution; which was considered and agreed to:

S. RES. 187

Whereas many minority populations disproportionately experience health care barriers, exposure to environmental hazards, mortality, morbidity, behavioral risk factors, disability status, and unique social determinants of health;

Whereas the expected increase in minority populations in the near future will impact the entire health system of the United States, making the collective improved health of minority populations even more critical to the Nation;

Whereas the Department of Health and Human Services has identified 6 main categories in which racial and ethnic minorities experience the most disparate access and health outcomes, including infant mortality, cancer screening and management, cardiovascular disease, diabetes, HIV/AIDS infection, and immunizations;

Whereas according to the Centers for Disease Control and Prevention, African-American, American Indian, and Puerto Rican infants have higher mortality rates than White infants;

Whereas African-American women are more than twice as likely to die of cervical cancer than White women and are more likely to die of breast cancer than women of any other racial or ethnic group;

Whereas in 2006, among adults older than 44, the rate of death from coronary heart disease was 20 percent higher among African Americans than among Whites, and the death rate from stroke was 48 percent higher among African Americans than among Whites;

Whereas in 2008, as compared to non-Hispanic Whites, African American adults were 6 times more likely to have medically-diagnosed diabetes, Hispanics were 1.5 times more likely to have medically-diagnosed diabetes, and Asians were 1.2 times more likely to have medically-diagnosed diabetes;

Whereas African Americans and Hispanics represented only 27 percent of the United States population in 2008, but accounted for an estimated 68 percent of adult AIDS diagnoses and 71 percent of estimated pediatric AIDS diagnoses in 2008;

Whereas in 2008, Hispanics and African Americans age 65 and older were less likely than non-Hispanic Whites to report having received influenza and pneumococcal vaccines;

Whereas American Indians and Alaska Natives have a life expectancy that is 5.2 years less than the life expectancy of the population of the United States overall;

Whereas the Department of Health and Human Services has identified diseases of the heart, malignant neoplasm, unintentional injuries, diabetes, and cerebrovascular disease as the 5 leading causes of death among American Indians and Alaska Natives;

Whereas American Indians and Alaska Natives die at higher rates than other people in the United States from tuberculosis, diabetes, unintentional injuries, and suicide; and

Whereas health care experts, policymakers and tribal leaders are seeking to address the disproportionate disease burden and lower life expectancy for the American Indian and Alaska Native people by examining various factors that contribute to health status: Now, therefore, be it

Resolved, That the Senate supports national minority health awareness in order to bring attention to the severe health disparities faced by minority populations such as American Indians and Alaska Natives, Asians, Blacks or African Americans, Hispanics or Latinos, and Native Hawaiians and other Pacific Islanders.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs, be authorized to meet during the session of the Senate on May 17, 2011, at 10 a.m., to conduct a hearing entitled ''Oversight and Reauthorization of the Export-Import Bank of the United States.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on May 17, 2011, at 10 a.m., in room SD–366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FINANCE

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on May 17, 2011, at 10 a.m., in 215 Dirksen Senate Office Building, to conduct a hearing entitled ''Financing 21st Century Infrastructure.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 17, 2011, at 9:30 a.m., to hold a hearing entitled, ''Strategic Implications of Pakistan and the Region.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 17, 2011, at 2:15 p.m.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on May 17, 2011, at 2:30 p.m. in room SD–430 of the Senate Dirksen Office Building, to conduct a hearing entitled ''A Nation Prepared: Strengthening Medical and Public Health Preparedness and Response.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on May 17, 2011, at 3:30 p.m.

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on May 17, 2011, at 10:30 a.m. to conduct a hearing entitled, ''Addressing the U.S. Postal Service's Financial Crisis.''

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

SUBCOMMITTEE ON IMMIGRATION, REFUGEES, AND BORDER SECURITY

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary, Subcommittee on Immigration, Refugees, and Border Security, be authorized to meet during the session of the Senate, on May 17, 2011, at 10 a.m. in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Improving Security and Facilitating Commerce at America's Northern Border and Ports of Entry.''

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

HONORING THE 100TH ANNIVERSARY OF THE U.S. ARMY FIELD ARTILLERY SCHOOL

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 186, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 186) honoring the 100th anniversary of the United States Army Field Artillery School at Fort Sill, Oklahoma.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 186) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 186

Whereas May 19, 2011, has been set aside as Field Artillery Day at Fort Sill, Oklahoma, the Home of the Field Artillery, to commemorate the 100th anniversary of the School of Fire for the Field Artillery;

Whereas the School of Fire for the Field Artillery at Fort Sill was established on June 5, 1911, under the command of Captain Dan T. Moore, its first commandant;

Whereas the first class of 14 captains and 22 non-commissioned officers arrived on September 15, 1911, and the school continues to operate today as the world renowned United States Army Field Artillery School;

Whereas thousands of soldiers, Marines, and allied foreign military students have been trained for service in the Field Artillery at the United States Army Field Artillery School;

Whereas the Field Artillery lives up to its nickname, ''The King of Battle'', by continuing to be the most responsive all-weather fire support available to ground forces engaged in combat;

Whereas the modern Field Artillery branch employs, and the United States Army Field Artillery School trains troops on, a variety of powerful weapons, from the 105 millimeter M–199 howitzer, the 155 millimeter M–777 lightweight howitzer, and the 155 millimeter Paladin self-propelled howitzer to the Multiple Launch Rocket System;

Whereas the United States Army Field Artillery School has trained Field Artillery officers and non-commissioned officers to be the Army's experts on the employment of lethal and non-lethal effects that have contributed to our Nation's successes in Iraq and Afghanistan;

Whereas Field Artillery officers stand among our Nation's most revered civilian and military leaders, including founding fathers and Revolutionary War officers Alexander Hamilton and Henry Knox; Major General William J. Snow, the first Chief of the Field Artillery; Captain Harry S. Truman of the Missouri National Guard; Generals Jack Vessey, John Shalikashvili, and Maxwell Taylor, Chairmen of the Joint Chiefs of Staff; Generals William Westmoreland, Carl Vuono, and Dennis Reimer, Chiefs of Staff of the Army; General Tommy Franks, U.S. Central Command Commander who led coalition forces during Operation Iraqi Freedom; and General Raymond Odierno, U.S. Joint Forces Command Commander, who led Multi-National Forces-Iraq;

Whereas Field Artillerymen have fought with courage, strength, and fidelity in every United States conflict, and have been awarded more than 90 Medals of Honor, including, most recently, a Medal of Honor awarded posthumously to Sergeant First Class Jared Monti, a forward observer in Afghanistan who demonstrated conspicuous gallantry and intrepidity as he called in artillery fire to save his outnumbered patrol and was mortally wounded as he attempted to save a fellow soldier; and

Whereas the people of the United States take great pride in the history of Fort Sill, the United States Army Field Artillery School, and the continuing critical role that the Field Artillery plays in the defense of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) honors the 100th anniversary of the United States Army Field Artillery School at Fort Sill, Oklahoma; and

(2) honors the long line of men and women of the Army Field Artillery who have served and continue to serve in the protection of the national security of the United States.

SUPPORTING NATIONAL MINORITY HEALTH AWARENESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 187, introduced earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 187) supporting national minority health awareness in order to bring attention to the severe health disparities faced by minority populations such as American Indians and Alaska Natives, Asians, Blacks or African Americans, Hispanics or Latinos, and Native Hawaiians and other Pacific Islanders.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

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

The resolution (S. Res. 187) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 187

Whereas many minority populations disproportionately experience health care barriers, exposure to environmental hazards, mortality, morbidity, behavioral risk factors, disability status, and unique social determinants of health;

Whereas the expected increase in minority populations in the near future will impact the entire health system of the United States, making the collective improved health of minority populations even more critical to the Nation;

Whereas the Department of Health and Human Services has identified 6 main categories in which racial and ethnic minorities experience the most disparate access and health outcomes, including infant mortality, cancer screening and management, cardiovascular disease, diabetes, HIV/AIDS infection, and immunizations;

Whereas according to the Centers for Disease Control and Prevention, African-American, American Indian, and Puerto Rican infants have higher mortality rates than White infants;

Whereas African-American women are more than twice as likely to die of cervical cancer than White women and are more likely to die of breast cancer than women of any other racial or ethnic group;

Whereas in 2006, among adults older than 44, the rate of death from coronary heart disease was 20 percent higher among African Americans than among Whites, and the death rate from stroke was 48 percent higher among African Americans than among Whites;

Whereas in 2008, as compared to non-Hispanic Whites, African American adults were 6 times more likely to have medically-diagnosed diabetes, Hispanics were 1.5 times more likely to have medically-diagnosed diabetes, and Asians were 1.2 times more likely to have medically-diagnosed diabetes;

Whereas African Americans and Hispanics represented only 27 percent of the United States population in 2008, but accounted for an estimated 68 percent of adult AIDS diagnoses and 71 percent of estimated pediatric AIDS diagnoses in 2008;

Whereas in 2008, Hispanics and African Americans age 65 and older were less likely than non-Hispanic Whites to report having received influenza and pneumococcal vaccines;

Whereas American Indians and Alaska Natives have a life expectancy that is 5.2 years

less than the life expectancy of the population of the United States overall;

Whereas the Department of Health and Human Services has identified diseases of the heart, malignant neoplasm, unintentional injuries, diabetes, and cerebrovascular disease as the 5 leading causes of death among American Indians and Alaska Natives;

Whereas American Indians and Alaska Natives die at higher rates than other people in the United States from tuberculosis, diabetes, unintentional injuries, and suicide; and

Whereas health care experts, policymakers and tribal leaders are seeking to address the disproportionate disease burden and lower life expectancy for the American Indian and Alaska Native people by examining various factors that contribute to health status: Now, therefore, be it

Resolved, That the Senate supports national minority health awareness in order to bring attention to the severe health disparities faced by minority populations such as American Indians and Alaska Natives, Asians, Blacks or African Americans, Hispanics or Latinos, and Native Hawaiians and other Pacific Islanders.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, pursuant to Executive Order 12131, renewed by Executive Order 13446, reappoints the following members to the President's Export Council: the Senator from Idaho (Mr. CRAPO), and the Senator from Texas (Mr. CORNYN).

ORDERS FOR WEDNESDAY, MAY 18, 2011

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Wednesday, May 18; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; and that following leader remarks, the Senate proceed to a period for the transaction of morning business until 10:30 a.m. for debate only, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided or controlled between the two leaders or their designees; finally, that the Senate resume consideration of the motion to proceed to S. 953, the Offshore Production and Safety Act, as under the previous order.

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

PROGRAM

Mr. DURBIN. Mr. President, there will be a rollcall vote tomorrow around 2:30 p.m. on the motion to proceed to S. 953.

Additionally, the majority leader filed cloture on the nomination of Goodwin Liu to be U.S. Circuit Judge for the Ninth Circuit. As a result, Senators should expect a cloture vote on the nomination sometime Thursday.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:32 p.m., adjourned until Wednesday, May 18, 2011, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate, May 17, 2011:

THE JUDICIARY

SUSAN L. CARNEY, OF CONNECTICUT, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

CORRECTION

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S3003–S3062

Measures Introduced: Twelve bills and two resolutions were introduced, as follows: S. 1006–1017, and S. Res. 186–187. **Page S3052**

Measures Passed:

United States Army Field Artillery School 100th Anniversary: Senate agreed to S. Res. 186, honoring the 100th anniversary of the United States Army Field Artillery School at Fort Sill, Oklahoma. **Page S3061**

National Minority Health Awareness: Senate agreed to S. Res. 187, supporting national minority health awareness in order to bring attention to the severe health disparities faced by minority populations such as American Indians and Alaska Natives, Asians, Blacks or African Americans, Hispanics or Latinos, and Native Hawaiians and other Pacific Islanders. **Pages S3061–62**

Measures Considered:

Close Big Oil Tax Loopholes Act: Senate began consideration of the motion to proceed to consideration of S. 940, to reduce the Federal budget deficit by closing big oil tax loopholes. **Pages S3013–39**

During consideration of this measure today, Senate also took the following action:

By 52 yeas to 48 nays (Vote No. 72), Senate did not agree to the motion to proceed to consideration of the bill. **Page S3039**

A unanimous-consent agreement was reached providing that having failed to achieve 60-affirmative votes, the motion to proceed to consideration of the bill, be withdrawn. **Page S3039**

Offshore Production and Safety Act—Agreement: Senate began consideration of the motion to proceed to consideration of S. 953, to authorize the conduct of certain lease sales in the Outer Continental Shelf, to amend the Outer Continental Shelf Lands Act to modify the requirements for exploration. **Page S3013**

A unanimous-consent agreement was reached providing for further consideration of the motion to proceed to consideration of the bill at 10:30 a.m., on Wednesday, May 18, 2011. **Page S3062**

Appointments:

President's Export Council: The Chair, pursuant to Executive Order 12131, renewed by Executive Order 13446, reappointed the following members to the President's Export Council: Senator Crapo and Senator Cornyn. **Page S3062**

Liu Nomination—Cloture: Senate began consideration of the nomination of Goodwin Liu, of California, to be United States Circuit Judge for the Ninth Circuit. **Pages S3039–40**

A motion was entered to close further debate on the nomination, and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur on Thursday, May 19, 2011. **Pages S3040, S3062**

Nomination Confirmed: Senate confirmed the following nomination:

By 71 yeas 28 nays (Vote No. EX. 71), Susan L. Carney, of Connecticut, to be United States Circuit Judge for the Second Circuit. **Pages S3005–13, S3062**

Measures Placed on the Calendar: **Pages S3003–04, S3047**

Executive Communications: **Pages S3047–49**

Petitions and Memorials: **Pages S3049–51**

Executive Reports of Committees: **Pages S3051–52**

Additional Cosponsors: **Pages S3052–54**

Statements on Introduced Bills/Resolutions: **Pages S3054–60**

Additional Statements: **Pages S3046–47**

Authorities for Committees to Meet: **Pages S3060–61**

Record Votes: Two record votes were taken today. (Total—72) **Pages S3013, S3039**

Adjournment: Senate convened at 10 a.m. and adjourned at 7:32 p.m., until 10 a.m. on Wednesday, May 18, 2011. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S3062.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS: FEDERAL RAILROAD ADMINISTRATION AND NATIONAL RAILROAD PASSENGER CORPORATION

Committee on Appropriations: Subcommittee on Transportation, Housing and Urban Development, and Related Agencies concluded a hearing to examine proposed budget estimates for fiscal year 2012 for the Federal Railroad Administration and the National Railroad Passenger Corporation, after receiving testimony from Joseph C. Szabo, Federal Railroad Administrator, and Joseph H. Boardman, President and CEO, AMTRAK, both of the Department of Transportation.

APPROPRIATIONS: UNITED STATES NORTHERN COMMAND AND UNITED STATES SOUTHERN COMMAND

Committee on Appropriations: Subcommittee on Department of Defense received a closed briefing on the proposed budget estimates for fiscal year 2012 for the United States Northern Command and the United States Southern Command from Admiral James A. Winnefeld, Jr., USN, Commander, Northern American Aerospace Defense Command, and Commander, U.S. Northern Command, and General Douglas M. Fraser, USAF, Commander, U.S. Southern Command, both of the Department of Defense.

EXPORT-IMPORT BANK

Committee on Banking, Housing, and Urban Affairs: Committee concluded an oversight hearing to examine reauthorization of the Export-Import Bank of the United States, after receiving testimony from Fred P. Hochberg, President and Chairman, Export-Import Bank of the United States.

ENERGY BILLS

Committee on Energy and Natural Resources: Committee concluded a hearing to examine S. 516, to extend outer Continental Shelf leases to accommodate permitting delays and to provide operators time to meet new drilling and safety requirements, S. 843, to establish outer Continental Shelf lease and permit processing coordination offices, S. 916, to facilitate appropriate oil and gas development on Federal land and waters, to limit dependence of the United States on foreign sources of oil and gas, and S. 917, to amend the Outer Continental Shelf Lands Act to reform the management of energy and mineral resources on the Outer Continental Shelf, after receiving testimony from Ken Salazar, Secretary of the Interior; Admiral Thad W. Allen (Ret.), United States Coast Guard, Department of Defense, Burke, Virginia; Nancy G. Leveson, Massachusetts Institute of Technology Aeronautics and Astronautics Department, Cambridge; and W. Jackson Coleman, EnergyNorthAmerica, LLC, Washington, D.C.

FINANCING INFRASTRUCTURE

Committee on Finance: Committee concluded a hearing to examine financing 21st century infrastructure, after receiving testimony from Joseph Kile, Assistant Director, Microeconomic Studies, Congressional Budget Office; Edward G. Rendell, former Governor of Pennsylvania, Washington, D.C., on behalf of Building America's Future; Matt Posner, Municipal Market Advisors, Chicago, Illinois; and Gabriel Roth, Chevy Chase, Maryland.

STRATEGIC IMPLICATIONS OF PAKISTAN AND THE REGION

Committee on Foreign Relations: Committee concluded a hearing to examine strategic implications of Pakistan and the region, after receiving testimony from General James L. Jones, Jr., USMC (Ret.), former National Security Advisor, McLean, Virginia.

BUSINESS MEETING

Committee on Foreign Relations: Committee ordered favorably reported the following business items:

S. 618, to promote the strengthening of the private sector in Egypt and Tunisia, with an amendment in the nature of a substitute;

S. 954, to promote the strengthening of the Haitian private sector;

S. Con. Res. 15, supporting the goals and ideals of World Malaria Day, and reaffirming United States leadership and support for efforts to combat malaria as a critical component of the President's Global Health Initiative; and

The nominations of Daniel Benjamin Shapiro, of Illinois, to be Ambassador to Israel, Stuart E. Jones, of Virginia, to be Ambassador to the Hashemite Kingdom of Jordan, George Albert Krol, of New Jersey, to be Ambassador to the Republic of Uzbekistan, and Henry S. Ensher, of California, to be Ambassador to the People's Democratic Republic of Algeria, all of the Department of State, Mara E. Rudman, of Massachusetts, to be an Assistant Administrator of the United States Agency for International Development, Matthew Maxwell Taylor Kennedy, of California, and James A. Torrey, of Connecticut, both to be a Member of the Board of Directors of the Overseas Private Investment Corporation, and Sim Farar, of California, and William J. Hybl, of Colorado, both to be a Member of the United States Advisory Commission on Public Diplomacy, and a promotion list in the Foreign Service.

U.S. POSTAL SERVICE'S FINANCIAL CRISIS

Committee on Homeland Security and Governmental Affairs: Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security concluded a hearing to examine addressing the United States Postal Service's financial crisis, including a strategy needed to address the aging delivery fleet, after receiving testimony from Patrick R. Donahoe, Postmaster General and Chief Executive Officer, and David C. Williams, Inspector General, both of the United States Postal Service; Phillip Herr, Director, Physical Infrastructure Issues, Government Accountability Office; Margaret Cigno, Director, Office of Accountability and Compliance, Postal Regulatory Commission; Cliff Guffey, American Postal Workers Union, AFL–CIO, Shawnee, Oklahoma; Mark Strong, National League of Postmasters, Phoenix, Arizona; and Jerry Cerasale, Direct Marketing Association, Inc., Middletown, Connecticut.

MEDICAL AND PUBLIC HEALTH PREPAREDNESS AND RESPONSE

Committee on Health, Education, Labor, and Pensions: Committee concluded a hearing to examine strengthening medical and public health preparedness and response, after receiving testimony from Nicole Lurie, Assistant Secretary of Health and Human Services for Preparedness and Response, RADM, United States Public Health Service; Susan R. Cooper, Tennessee Department of Health Commissioner, Nashville; Colonel Robert P. Kadlec, USAF (Ret.), PRTM Management Consultants LLC, and Phyllis Arthur, Biotechnology Industry Organization, both of Washington, D.C.; and Michael R. Anderson, American Academy of Pediatrics, Cleveland, Ohio.

IMPROVING BORDER SECURITY

Committee on the Judiciary: Subcommittee on Immigration, Refugees and Border Security concluded a hearing to examine improving security and facilitating commerce at America's northern border and ports of entry, after receiving testimony from Alan Bersin, Commissioner, U.S. Customs and Border Protection, and John Morton, Assistant Secretary, U.S. Immigration and Customs Enforcement, both of the Department of Homeland Security.

NOMINATION

Select Committee on Intelligence: Committee concluded a hearing to examine the nomination of Lisa O. Monaco, of the District of Columbia, to be an Assistant Attorney General, Department of Justice, after the nominee testified and answered questions in her own behalf.

House of Representatives

Chamber Action

The House was not in session today. The House is scheduled to meet at 2 p.m. on Monday, May 23, 2011, pursuant to the provisions of H. Con. Res. 50.

Committee Meetings

No hearings were held.

Joint Meetings

No joint committee meetings were held.

COMMITTEE MEETINGS FOR WEDNESDAY, MAY 18, 2011

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Appropriations: Subcommittee on Department of Defense, to hold hearings to examine proposed budget estimates and justification for fiscal year 2012 for the Department of the Army, 10:30 a.m., SD–192.

Subcommittee on Energy and Water Development, to hold hearings to examine proposed budget estimates and justification for fiscal year 2012 for the Department of Energy, 2:30 p.m., SD–192.

Committee on Armed Services: Subcommittee on Readiness and Management Support, to hold hearings to examine the current materiel readiness of U.S. Forces in review of the Defense Authorization Request for fiscal year 2012 and the Future Years Defense Program, 10 a.m., SR–232A.

Subcommittee on SeaPower, to hold hearings to examine Marine Corps acquisition programs in review of the Defense Authorization Request for fiscal year 2012 and the Future Years Defense Program; with the possibility of a closed session in SVC–217 following the open session, 2:30 p.m., SR–232A.

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Securities, Insurance and Investment, to hold hearings to examine the state of the securitization markets, 9:30 a.m., SD–538.

Committee on Commerce, Science, and Transportation: Subcommittee on Science and Space, to hold hearings to examine contributions of space to national imperatives, 10:30 a.m., SR–253.

Committee on Energy and Natural Resources: Subcommittee on Public Lands and Forests, to hold hearings to examine S. 220, to provide for the reforestation of forest landscapes, protection of old growth forests, and management of national forests in the eastside forests of the State of Oregon, S. 270, to direct the Secretary of the Interior to convey certain Federal land to Deschutes County, Oregon, S. 271, to require the Secretary of Agriculture to enter into a property conveyance with the city of Wallowa, Oregon, S. 278, to provide for the exchange of certain land located in the Arapaho-Roosevelt National Forests in the State of Colorado, S. 292, to resolve the claims of the Bering Straits Native Corporation and the State of Alaska to land adjacent to Salmon Lake in the State of Alaska and to provide for the conveyance to the Bering Straits Native Corporation of certain other public land in partial satisfaction of the land entitlement of the Corporation under the Alaska Native Claims Settlement Act, S. 322, to expand the Alpine Lakes Wilderness in the State of Washington, to designate the Middle Fork Snoqualmie River and Pratt River as wild and scenic rivers, S. 382, to amend the National Forest Ski Area Permit Act of 1986 to clarify the authority of the Secretary of Agriculture regarding additional recreational uses of National Forest System land that is subject to ski area permits, and for other permits, S. 427, to withdraw certain land located in Clark County, Nevada, from location, entry, and patent under the mining laws and disposition under all laws pertaining to mineral and geothermal leasing or mineral materials, S. 526, to provide for the conveyance of certain Bureau of Land Management land in Mohave County, Arizona, to the Arizona Game and Fish Commission, for use as a public shooting range, S. 566, to provide for the establishment of the National Volcano Early Warning and Monitoring System, S. 590, to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands, S. 607, to designate certain land in the State of Oregon as wilderness, to provide for the exchange of certain Federal land and non-Federal land, S. 617, to require the Secretary of the Interior to convey certain Federal land to Elko County, Nevada, and to take land into trust for the Te-moak Tribe of Western Shoshone Indians of Nevada, S. 683, to provide for the conveyance of certain parcels of land to the town of Mantua, Utah, S. 684, to provide for the conveyance of certain parcels of land to the town of Alta, Utah, S. 667, to establish the Rio Grande del Norte National Conservation Area in the State of New Mexico, S. 729, to validate final patent number 27–2005–0081, S. 766, to provide for the designation of the Devil's Staircase Wilderness Area in the State of Oregon, to designate segments of Wasson and Franklin Creeks in the State of Oregon as wild rivers, S. 896, to amend the Public Land Corps Act of 1993 to expand the authorization of the Secretaries of Agriculture, Commerce, and the Interior to provide service opportunities for young Americans; help restore the nation's natural, cultural, historic, archaeological, recreational and scenic resources; train a new generation of public land managers and enthusiasts; and promote the value of public service, and S. 897, to amend the Surface Mining Control and Reclamation Act of 1977 to clarify that uncertified States and Indian tribes have the authority to use certain payments for certain noncoal reclamation projects and acid mine remediation programs, 2:30 p.m., SD–366.

Committee on Foreign Relations: Subcommittee on European Affairs, to hold hearings to examine Administration priorities for Europe in the 112th Congress, 2:30 p.m., SD–419.

Committee on Health, Education, Labor, and Pensions: Business meeting to consider the nominations of Cora B. Marrett, of Wisconsin, to be Deputy Director of the National Science Foundation, Martha Wagner Weinberg, of Massachusetts, Paula Barker Duffy, of Illinois, Cathy N. Davidson, of North Carolina, Constance M. Carroll, of California, and Albert J. Beveridge III, of the District of Columbia, all to be a Member of the National Council on the Humanities, Clyde E. Terry, of New Hampshire, and Janice Lehrer-Stein, of California, both to be a Member of the National Council on Disability, Judith A. Ansley, of Massachusetts, and John A. Lancaster, of New York, both to be a Member of the Board of Directors of the United States Institute of Peace, Aaron Paul Dworkin, of Michigan, to be a Member of the National Council on the Arts, and a routine list in the Public Health Service, Time to be announced, S–211, Capitol.

Committee on Homeland Security and Governmental Affairs: Business meeting to continue consideration of S. 772, to protect Federal employees and visitors, improve the security of Federal facilities and authorize and modernize the Federal Protective Service, S. 550, to improve the provision of assistance to fire departments, and S. 792, to authorize the waiver of certain debts relating to assistance provided to individuals and households since 2005, 9:45 a.m., SD–342.

Committee on the Judiciary: To hold hearings to examine improving efficiency and ensuring justice in the immigration court system, 10 a.m., SD–226.

Committee on Veterans' Affairs: To hold hearings to examine seamless transition, focusing on improving Veterans Affairs and Department of Defense collaboration, 10 a.m., SR–418.

House

No hearings are scheduled.

Joint Meetings

Commission on Security and Cooperation in Europe: To hold hearings to examine what dissidents need from the Internet, focusing on changes in technologies and social media platforms that enable dissidents to access information and to communicate, 2 p.m., 2218, Rayburn Building.

Next Meeting of the SENATE

10 a.m., Wednesday, May 18

Senate Chamber

Program for Wednesday: After the transaction of any morning business (not to extend beyond 10:30 a.m.), Senate will continue consideration of the motion to proceed to consideration of S. 953, Offshore Production and Safety Act, and after a period of debate, vote on the motion to proceed to consideration of the bill, at approximately 2:30 p.m.

Next Meeting of the HOUSE OF REPRESENTATIVES

2 p.m., Monday, May 23

House Chamber

Program for Monday: To be announced.

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