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Senate

The Senate met at 10 a.m. and was called to order by the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York.

PRAYER

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

Let us pray.

Almighty God, the Prince of Peace, give our Senators this day the grace to move away from divisions. Take from them all cynicism and resentment and anything else that may hinder them from experiencing harmony. May the bonds of patriotism, truth, peace, faith, and love provide the glue that will enable them to glorify You with their oneness. Grant in their hearts the love of Your Name, as You nourish them with all goodness and mercy. May they find in You a faithful guide.

We pray in Your great Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND 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, March 28, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KIRSTEN E. GILLIBRAND, a Senator from the State of New York, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mrs. GILLIBRAND 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 leader remarks, if any, the Senate will resume consideration of the motion to proceed to S. 2230; that is, the Paying a Fair Share Act. The Republicans will control the first 30 minutes and the majority will control the next 30 minutes.

ORDER OF PROCEDURE

I now ask unanimous consent that following the first hour, the time until 5 p.m. today be equally divided and controlled between the two leaders or their designees, and that the time from 2 p.m. to 3 p.m. be under the control of the majority, and the time from 3 p.m. to 4 p.m. be under the control of the Republicans.

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

Mr. REID. Thank you, Madam President.

At 5 p.m. this evening, the Senate will proceed to executive session to consider the Du and Morgan nominations—prospective judges from Nevada and Louisiana. At 6 p.m. there will be two votes on confirmation of those nominations.

MEASURES PLACED ON THE CALENDAR—H.R. 2682, H.R. 2779, AND H.R. 4014 EN BLOC

Mr. REID. Madam President, there are three bills at the desk due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the bills by title en bloc for a second time.

The legislative clerk read as follows:

A bill (H.R. 2682) to provide end user exemptions from certain provisions of the Commodity Exchange Act and the Securities Exchange Act of 1934, and for other purposes.

A bill (H.R. 2779) to exempt inter-affiliate swaps from certain regulatory requirements put in place by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

A bill (H.R. 4014) to amend the Federal Deposit Insurance Act with respect to information provided to the Bureau of Consumer Financial Protection.

Mr. REID. Madam President, I object to any further action at this time with respect to H.R. 2682, H.R. 2779, and H.R. 4014.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bills will be placed on the calendar.

NOMINATION OF MIRANDA DU

Mr. REID. Madam President, today the Senate will consider the nomination of a woman by the name of Miranda Du to be a U.S. district judge for the District Court of Nevada. I was very pleased to recommend this woman because she is such an experienced litigator and very proud Nevadan.

Ms. Du has enormous love for the State and this country and a tremendous dedication to public service. Her story is about as inspiring as it gets, and it proves without any question the American dream is alive and well.

Nevada's Asian Pacific population is less than 10 percent. But if confirmed, Ms. Du will be the first Asian American Federal judge in the history of the State of Nevada.

Miranda Du left Vietnam when she was 8 years old with her family in a boat. She was one of the boat people. She was born in Vietnam. She and her family survived the war, and they left. They left voluntarily because they could not get out any other way. I said they left voluntarily—they sneaked

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

out and got on a boat and took off. They wound up in Malaysia. She spent more than 2 years in a refugee camp in Malaysia—this little girl. She was then, with her family, taken to Alabama: Vietnam, Malaysia, Alabama.

When she got there, she enrolled in an American school for the first time. She did not know how to speak English, and that is an understatement. But as a third grader, everyone recognized how smart she was. She picked up the language very quickly. Miranda Du speaks—it does not matter if she had an accent, but she has none—today as well as you or I.

Her family, after living in Alabama—where her father worked on a dairy farm—eventually worked their way to California. She continued to be pointed out as always one of the smartest in any class. She was able to go to college. She got a degree in history and economics from the University of California at Davis and a law degree from one of the finest law schools in the world, the University of California, Berkeley—the famous Boalt Hall. She did well wherever she went to school.

After law school, she moved to Nevada. She joined at that time a law firm McDonald Carano Wilson, which is a very respected law firm. Bob McDonald, the founder of that firm, was a protege of the famous Nevada Senator Pat McCarran, and he was involved in politics. He was a very prominent lawyer until he died a couple years go. Don Carano is also a very well known, famous man in Nevada, a lawyer, and he has done extremely well. He owns major hotels and casinos. He is one of the biggest producers of wine in the State of California. Spike Wilson was a long-time Nevada State senator. They are just a very fine group of people, these three men who started this law firm.

She was made a partner of the law firm in 2002. Her specialty is litigation. She is a trial lawyer and a very good one. She specializes in complex civil litigation and also employment law. She has appeared before the State and Federal courts in all phases of litigation—trial lawyer, an appellate lawyer before the Nevada Supreme Court, and the Ninth Circuit Court of Appeals.

She has the support of a bipartisan coalition of Nevada officials, including the Governor. By the way, the Governor was one of my appointments to the Federal bench. He was a Federal judge, Brian Sandoval, and a good Federal judge. He resigned that position and ran for Governor against my son, and he won. He is a fine man. He is my friend, and he has come out vocally and very publicly that this woman is a great lawyer and should be on the bench—something he should know a little bit about.

She has received vocal support from the Lieutenant Governor, also a Republican; the mayor of Reno, also a Republican. In fact, Governor Sandoval wrote to the Judiciary Committee to say, Du ''has exhibited great character and is well respected in the legal community.'' He has given her his unqualified support.

Republican Lt. Gov. Brian Krolicki called Ms. Du ''intelligent, inquisitive, reliable and dedicated.'' The Republican mayor of Reno—with whom, by the way, we had a visit yesterday—Bob Cashell said Du ''will be a great addition to our federal bench.''

In addition to being an experienced litigator, she is also an outstanding citizen. She is involved in the northern Nevada community. There are many things she has done, but she served on the Nevada Commission on Economic Development. She has also served as a court-appointed special advocate representing abused and neglected children. She now, and has in the past for a number of years, mentored high school students in Reno, NV. She is a fine example to those students.

I have had the good fortune to be able to forward to Presidents about 10 names, and I have never been more proud of one than Miranda Du. I repeat, if there were ever a success story, it is this woman who was born in Vietnam, took a boat and wound up in Malaysia, came from Malaysia to America, to Alabama, to California, and is now one of the most respected lawyers we have in the State of Nevada. This is what America is all about.

Mr. MCCAIN. Madam President, will the Senator from Nevada yield just for a comment?

Mr. REID. I sure will.

Mr. MCCAIN. I thank him for honoring those who came to this country who fled reeducation camps and execution in a most horrible, brutal regime period. The enormous contribution those individuals and their children now have made to our Nation, our economy, our political scene, is remarkable and one of which all of us should be extremely proud. I thank the Senator from Nevada for recognizing those individuals' contribution.

Mr. REID. Madam President, this is coming from a person who was held for 7 years in a prisoner-of-war camp in that country. So I think anyone hearing this—and there are lots of people watching this—should understand what JOHN MCCAIN just said. JOHN MCCAIN and I have battled on a number of substantive issues over the years, but I do not think there is anyone—at least I speak from my perspective—for whom I have more admiration and respect than JOHN MCCAIN, who has done so much for his country.

Mr. MCCAIN. Madam President, I thank the leader for his generous and kind remarks. As he said, he and I have done battle on the honorable field of combat, but I think the feeling of respect and appreciation and admiration is mutual. I thank the leader.

RECOGNITION OF THE MINORITY LEADER

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

LEGAL IMMIGRATION

Mr. MCCONNELL. Madam President, if I may just add, the colloquy between the majority leader and my good friend from Arizona certainly underscores once again the extraordinary contribution legal immigration has made to our country for over 200 years. I think of, as an example, my own wife, who came here at age 8, not speaking a word of English. The majority leader was just pointing out an immigrant from Vietnam who has done well. Senator MCCAIN has said the same thing that all three of us have said on numerous occasions. So it is indeed something to celebrate.

HIGH GAS PRICES

Mr. MCCONNELL. Madam President, yesterday afternoon I came to the floor to suggest that what has been happening in the Senate this week is precisely the kind of thing the American people do not like about Washington.

Gas prices have more than doubled under President Obama and the Democratic-controlled Senate. This is a problem that affects every single American, that drives up the cost of everything from commuting to groceries. Yet the Democratic response is to propose legislation that even they admit does not do a thing to lower the price of gas.

We have seven Democrats, in fact, on record saying the bill does not do a thing to lower gas prices. One of them has called it laughable. But this is apparently the best our friends on the other side can do. It is the most, apparently, they are willing to do. At a time when gas prices are at a national average of nearly $4 a gallon, this is what passes for a response to high gas prices for Washington Democrats: a bill that simply does nothing about it.

But it even gets worse than that because not only is the Democratic solution to high gas prices a bill that even they admit does nothing to lower gas prices, they will not even allow Republicans to offer any amendments that would help. Not only are they pushing a bill that will not lower gas prices, they are blocking any measure that would actually make a difference.

So at a moment when working Americans are struggling with high gas prices, the message Democrats in Washington are sending this week is simple: Get used to it. Get used to it because they have nothing—nothing—but a phony proposal aimed at distracting people from the fact that they have nothing to offer.

Maybe the reason they voted yesterday to get off their own bill is they realized the American people were on to them. Maybe they realized they did not have the political issue they thought they did. Well, my point is that they should be more concerned about helping Americans than helping their own campaigns.

So if Democrats will not allow us to offer any proposals to address this crisis, we are still going to talk about

them anyway because Americans need to know there are some things we could do about this issue. We could actually have an impact on high gas prices right here in Congress. They need to hear us debate these ideas, and they need to know Democratic leaders in the Senate will not even allow a vote on any of these ideas.

This whole episode is completely unacceptable. Hopefully, at some point, a number of Democrats will recognize this—will recognize that this should be about more than political games. We ought to actually try to accomplish something.

This issue affects real people. For them, it is an urgent matter. Democrats should summon the same urgency in dealing with it. We were sent here to solve problems, not to hide from them.

KENTUCKY BASKETBALL

Mr. MCCONNELL. Madam President, something very special in the world of sports is happening in the Commonwealth of Kentucky.

Kentucky is well known as the home of the Kentucky Derby, often called the greatest 2 minutes in sports. But this coming Saturday, March 31, we will witness one of the greatest moments in Kentucky sports history. Two of the most storied and winningest programs in all of college basketball, the University of Louisville and the University of Kentucky, will meet this Saturday in the 2012 NCAA Tournament Final Four. The two teams will face off in a semifinals game in New Orleans, and the winner of that game will contest for the national championship next Monday night.

In my State of Kentucky, the rivalry between UofL and UK is indeed a passionate one. From birth, it seems, Kentuckians are raised to root for one of these two teams; you either wear red for the Louisville Cardinals or blue for the Kentucky Wildcats. The two teams boast two legendary coaches, Rick Pitino and John Calipari. The teams have met every year since 1983, and they have met in the NCAA tournament four times in the past—most recently in the Mideast Regionals way back in 1984. Between them, they have 24 visits to the Final Four. But never have these two teams faced each other in the Final Four with the stakes so high. If the excitement and frenzy and turbulence that has been stirred up in Kentucky could be harnessed, we could solve our energy crisis. Basketball fans from Kentucky have been waiting their whole lives for this game.

On Saturday, we will prove that these two schools have the best rivalry in all of college basketball and that the Commonwealth of Kentucky is the best college basketball State in the Nation.

Let me say that again so my friends in North Carolina can hear it. UofL and UK have the best rivalry in all of college basketball, and the Commonwealth of Kentucky is the best college basketball State in the Nation.

But only one team can win on Saturday.

I am actually an alumnus of both schools. I attended the University of Louisville as an undergraduate, and I went to law school at the University of Kentucky.

I don't know who will win Saturday's game, but whoever the winner is will go on to defeat either Kansas or Ohio State and bring the national championship back home to Kentucky where it belongs. So count me in with my fellow Kentuckians and college basketball fans everywhere as we tune in this Saturday to see history in the making. It is going to be really exciting to watch.

I yield the floor.

RESERVATION OF LEADER TIME

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

IMPOSING A MINIMUM EFFECTIVE TAX RATE FOR HIGH-INCOME TAXPAYERS—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2230, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 339 (S. 2230) a bill to reduce the deficit by imposing a minimum effective tax rate for high-income taxpayers.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 5 p.m. will be equally divided and controlled between the two leaders or their designees, with the Republicans controlling the first 30 minutes, the majority controlling the second 30 minutes, the majority controlling the time from 2 p.m. to 3 p.m., and the time from 3 p.m. to 4 p.m. to be controlled by the Republicans.

The Senator from Wyoming.

Mr. BARRASSO. Madam President, I ask unanimous consent to engage in colloquy with a number of my colleagues for the next 30 minutes.

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

HEALTH CARE

Mr. BARRASSO. Madam President, I come to the floor today, as I have over the last 2 years since the health care law was passed, with a doctor's second opinion. I do that as someone who has practiced medicine and taken care of families across the country—primarily in Wyoming—for a quarter of a century, listening to them, trying to care for them, and knowing that what the American people want is the care they need, a doctor they want, at a price they can afford.

During the last 2 years since the health care law was passed, the American public has found out that now that it has passed, they get to know what is in it, they don't like what they are seeing. Instead of providing patients with the care they need from the doctor they want and at a cost they can afford, they are seeing time and time again a significant change and the promises the President has made broken.

I am here with my colleagues to talk about some of these concerns. I see the Senator from Arizona, who has heard the promises made. I know that when he goes to townhall meetings and talks to people, they have found out that the costs they were promised would go down have gone up instead. The opportunity of patients to keep the care they want and the doctor they want—they are not able to do that. Is that what the Senator from Arizona has been finding?

Mr. MCCAIN. Madam President, I thank my colleague for his continued leadership on this issue and his eminent qualifications to address it and help educate the American people about what is at stake.

I think this colloquy we are having has to be considered in the context of the arguments before the U.S. Supreme Court. I think my colleague from South Carolina, Senator GRAHAM, will mention that we should not draw too many conclusions from the questions that are asked by the Justices of the Supreme Court.

One of the things I find when I watch the talk shows—and I ask the Senator from Wyoming this—the first thing they say is that the most important thing about ObamaCare is that parents can keep their children on their health insurance plan until they reach age 26. Well, you know, I think all four of us right now would be glad to put that into law as an amendment in a New York minute. If they want to keep their children home living in the basement until they are 30, that is fine. But for that to be the centerpiece, saying that this is why we have to preserve ObamaCare, is, of course, a bad joke.

What we are arguing about here is the thousands of pages—I guess the Senator from Wyoming knows—is it 100,000 pages of regulations that have been already issued to try to implement this plan?

Mr. BARRASSO. Yes.

Mr. MCCAIN. Also, we have promised to repeal and replace ObamaCare, depending on not only the Supreme Court decision but the will of the people as expressed, perhaps, next November.

Of the areas that I think we have not focused enough attention on, one is the unsavory process that resulted in passage of this legislation—behind closed doors and everybody at Blair House bludgeoning the AMA and the pharmaceuticals and the deals that were cut here.

Another area was a promise made by the President that he would consider—it wasn't committed to, I will admit—medical malpractice reform. And here we are talking about 20 to 30 percent of the health care costs in America

which, in the view of some, can be attributed to the unnecessary tests that are being administered and prescribed by physicians and health care providers because of their fear of ending up in court. Yet, in all of this bill, there is not one mention that I know of that has a meaningful approach to medical malpractice reform.

Since the Senator from South Carolina not only is an expert on the Supreme Court, but also he is one of the trial lawyers' Republican favorites, maybe he could address that aspect of medical care as well.

Would the Senator from Wyoming comment on that?

Mr. BARRASSO. I agree with my colleague from Arizona that there are a number of things that continue to drive up the cost of health care. One of the things I believe should have been included in the health care law—I would think we could actually lower the cost of care, lower unnecessary testing, and part of that—all of the studies show—is doing away with these junk lawsuits that result in significant numbers of additional expensive tests being done. It seems to me that we spend more time trying to protect the doctors than trying to help the patients.

Even in a rural State such as Wyoming—and I see my colleague from South Dakota on the floor—this is a national concern and should have been included in any health care law that was supposed to target lowering the cost. That is what the President promised in the beginning, that families would see their health care premiums go down by $2,500 per year. Instead, the premiums have gone up by about $2,100 year.

My colleague from South Carolina has cosponsored legislation to try to give States the opportunities to opt out of a number of provisions of the health care law because they are onerous as to the costs and what is happening in the States and for people at home. If you look at the President's proposals, I would think that any national health care law ought to look at certain components of things that actually bring down the cost of care. With this one-size-fits-all approach and the demand that everyone buy government-sponsored or government-approved health care insurance, the rates are going up instead.

I turn to my friend from South Carolina and ask him about that, plus the unfunded mandates that are forced on the States with Medicaid, which is a significant part of what is being discussed today in the Supreme Court.

Mr. GRAHAM. I will be glad to discuss that. I have enjoyed the opportunity to create legislation that would allow States to opt out of Medicaid's expansion under this bill. About 30 percent of the people in South Carolina will be eligible for Medicaid by 2014 when this law is fully implemented. It is the second largest expense in South Carolina. With the matching requirement, we get three Federal dollars for every State dollar you put on the table dealing with Medicaid. That sounds like a good deal until Medicaid explodes in costs and becomes the No. 1 driver of the budget in South Carolina, Wyoming, South Dakota, and Arizona. Under this bill, the problem we have today with Medicaid becomes Medicaid on steroids.

I am confident that there are plenty of Democrats who have Governors who are Democrats who will say: Wait a minute, before you expand Medicaid and put additional burden on my State's budget, see if we can find more creative ways of dealing with it and give people the ability to opt out of that. That would be good policy.

I want to comment about this. One rule of thumb is that any bill passed on Christmas Eve on a party-line vote is probably no good to the country. And that is what happened.

As Senator MCCAIN would say, this was a party-line vote, 60 to 40, on something dealing with one-sixth of the economy.

This was supposed to happen on C–SPAN. President Obama said: I am coming and we are going to change the way Washington works.

If I had to offer exhibit A of what is wrong with Washington, it would be the ObamaCare process. Everything that people hate about Washington resulted in this bill being passed. There was absolutely no bipartisanship; there were behind-closed-door negotiations, beating people over the head to get their support; there was buying votes based on special interest deals for their States. That is not exactly what the American people had in mind. Is it any surprise that something that came out of that process is going over like a lead balloon?

One of the problems with health care is getting doctors to take Medicare and Medicaid patients. What did we do with Medicare? We took $500 billion out of a system that is $33 trillion underfunded to help the uninsured. We have an uninsured problem, but we have a Medicare problem that will be an absolute nightmare.

What I wanted to do on malpractice is to tell a doctor: If you will take a Medicare or Medicaid patient, doing the country a service, and you get sued, we will go to arbitration—require arbitration—and let the panel render their judgment. And if you want to go to court, you can.

That is fair. I want people to have their chance to litigate differences on alleged malpractice. I also want doctors to feel there is an incentive to serve Medicare and Medicaid patients.

What was promised in this bill—the remedies to our health care system—none of them have come true. What you see 2 years later are our worst fears being realized at a faster pace.

The President promised: If you like your health care, you will be able to keep it. What is going on in this country is that employers are dropping health care for their employees because it is cheaper to pay the fine. What is happening in this country is that the idea of being able to expand Medicaid without bankrupting the budgets of this country at the State level, when you look at the consequences, is a nightmare in the making.

We were promised this bill would reduce the deficit. Well, to me, health care includes doctors, and in the bill itself we never dealt with the problem that doctors face of having their budgets, their reimbursements cut. That was not even addressed in ObamaCare. That is a couple hundred billion dollar liability. So the idea this thing has been paid for, as promised, no longer exists. It is adding to the deficit. It was projected to be $900 billion in cost; now it is about $1.7 trillion. So the basic promises around what this bill would do for our budget, what it would do for our choices in health care, have not come true.

I am here to say to our Democratic friends, fix this before it is too late. You will find people on our side willing to meet you in the middle when it comes to reforming health care because it needs to be reformed. But the model you have created—centralized health care—that is going to damage State budgets beyond belief, that will drive private sector insurance out of the market, and it is going to have a budget consequence on top of what we already have is not the right model.

I say to my colleagues here today, I will work with you to do two things: Educate the public about what awaits us if we don't change this bill quickly, and work with our Democratic friends to find a better alternative. I think that is what America wants. When 67 percent of the people, 2 years later, feel this is not the way to go, responsible leadership would say let's alter course.

The Supreme Court may strike down the mandate. They may say Medicaid expansion is a violation of the tenth amendment. I hope they do. But I can say one thing with certainty: Because nine judges, five of whom say it is legal to do something, doesn't make it smart to do something. What is smart is to fix health care in a sustainable way. And what is smart is for Republicans and Democrats to work together in a transparent, open fashion. We haven't done anything smart about health care yet, and I hope that changes.

Mr. MCCAIN. Could I ask my colleagues if they remember the Cornhusker kickback? Another Democratic holdout took credit for $10 billion in new funding for community health centers, an exemption for nonprofit insurance in their States; and Vermont and Massachusetts were given additional Medicaid funding; a $300 million increase for Medicaid in Louisiana, and the list goes on and on. This was the process they went through, culminating, as the Senator from South Carolina mentioned, on Christmas Eve—a process that, obviously, most Americans find unsavory.

It is interesting, and I would ask my two colleagues to comment on the fact that the same people, the same organizations—the AMA, the hospitals, the pharmaceuticals, and others, that all signed up and were bludgeoned into supporting ObamaCare—and by the way, that negotiating that took place, since the President promised there would not be lobbyists in the White House, that they would not play a major role, it was done in Blair House—these same people, these same organizations, have come to our offices asking for relief from ObamaCare. Isn't that fascinating. I mean, time after time, the same members of the same organizations that supported ObamaCare come and say, look, we can't live with this provision, we can't do this, it is impossible for us to comply with that provision. It is a fascinating commentary on trying to do the Lord's work in the city of Satan, is it not, I ask my colleagues?

Mr. THUNE. Well, I would say to my colleague from Arizona, he always has a way with words when it comes to describing the strange meanderings of the process here in Washington, but it is.

Unfortunately, all those groups that had access to the process in the end all got sort of kowtowed into going along with it and now they are all being hit with this huge tax bill, because everybody is getting taxed to pay for this. All of it is being passed on, I might add, to businesses in this country, driving up their costs.

But the one thing everyone here this morning has mentioned is who didn't have a seat at the table, and that is the States. Think about the States and what this means for them. Of course, in the first 3 years, the Federal Government said it was going to pay 100 percent of the new population to be covered under Medicaid. But if you look at what happens after that, the States then are starting to have to share or bear more of the burden and be forced to pay at least another $118 billion, according to one congressional report, through the year 2023, which crowds out priorities such as education, law enforcement, and all the things we expect our States to do.

So the States get all these mandates shoved down their throats, making it more difficult for them to bear the responsibilities they have to the people in their individual States because the Federal Government has not only said they are going to have to pay for this, but they have also become very prescriptive about what they can and cannot do. So States are no longer going to have—and frankly, even in the past, haven't had—a lot of flexibility when it comes to setting eligibility standards and determining who can and cannot be covered by Medicaid in their individual States. They just get the costs shoved down their throats, with very little input into how to implement this program, so much so that Governors all over the country are reacting to this, and that is why we have 26 Governors who are part of the litigation that is going on right now at the Supreme Court to challenge the mandate on Medicaid, which will be heard today by the Court.

But listen to what some of the Governors around the country have said—and these are Democratic Governors. This is the Democratic Governor of Kentucky:

> I have no idea how we're going to pay for it.

And, of course, he is referring to these new mandates, regulations.

The former Governor of Tennessee said:

> I can't think of a worse time for this bill to be coming. Nobody is going to put their State in bankruptcy or their education system in the tank for it.

The Governor of Montana said:

> I'm going to have to double my patient load and run the risk of bankrupting Montana.

Those are Democratic Governors reacting to this new mandate that is being shoved down their throat because of the changes that were made to Medicaid in the health care bill. So I think the States, unfortunately, did not have a seat at the table. If they did, they certainly didn't get their voices heard because they are going to be forced now, and people, individuals in these States, to come up with the billions and billions of additional dollars to pay to finance the new mandates in the legislation.

I want to make one other point, because there has been a lot said here on the floor of the Senate, and by people in general in Congress, about the importance of focusing like a laser on jobs and the economy. Frankly, I think there are some things that actually have been done around here. Last week, we finally passed a jobs bill, a private sector jobs bill, that would create jobs, and hopefully make it easier for our small businesses to access capital to grow their businesses and create jobs. But the health care bill, clearly, is going to have the opposite effect.

Interestingly enough, when it passed, there were lots of statements made at the time about how many jobs it was going to create. In fact, if you go back, the former Speaker of the House said it would create 4 million jobs—400,000 jobs almost immediately. That was former Speaker NANCY PELOSI. Interestingly enough, that contradicts what the Congressional Budget Office Director said. He testified the new law would actually reduce employment over the next decade by 800,000 jobs. And analysts at UBS stated the law is ''arguably the biggest impediment to hiring, particularly hiring of less skilled workers.''

So what we are seeing again is a promise made about creating jobs and the very opposite is what we are going to see.

There was a Gallup poll recently that found 48 percent of small businesses in this country are not hiring because of the potential cost of health insurance under the health care law; 46 percent are not hiring because of concerns over other government regulations. But if you look at the impact this legislation is having on hiring in America today, what we are hearing from the people who hire—the job creators out there and the small businesses—this is a huge impediment to hiring.

The device manufacturer Stryker announced they are shedding 5 percent of their workforce over concerns about the impending 2.3 percent medical device tax which was included in the health care law. There is another employer here, somebody who owns a restaurant chain, who stated bluntly, ''This law will cost my company more than we make.''

Another employer in this country said this: ''The new health care law has wrecked our plans to grow our business and create jobs.''

That is exactly the thing many of us predicted would happen, notwithstanding the assertions made by the proponents of this legislation—that it was going to create jobs. We see the very opposite happening. We see our small businesses pulling back, not hiring, not growing their businesses because of the concerns about the costs and the penalties that would be imposed and the taxes that are included in the health care law.

I know my colleague from Wyoming represents a lot of small businesses, as I do. South Dakota and Wyoming are similar in terms of the size of the States and the way people make their living. We have a lot of small businesses and entrepreneurs, and we look to them to grow the economy in our States. Obviously, it becomes much more difficult when you continue to drive and shove these mandates, these requirements, down the throats of our small businesses, these new taxes they are going to have to bear. And the list of new taxes that are going to imposed under this is pretty amazing. It adds up to—and this is just over the cost of the first decade—$552 billion; when it is fully implemented, $1 trillion of tax increases, all of which get passed on in the form of higher costs of health insurance and other costs around the economy.

My point is simply that if we are sincere in being focused on creating jobs in this country, perhaps the biggest impediment, the biggest barrier to that now is the ObamaCare law that is currently being heard by the Supreme Court.

I guess I would ask my colleague from Wyoming to comment on his view with regard to some of these promises that were made regarding this legislation and how actually the bill is now playing out, as we get to know more about it. That is what the former Speaker of the House also said: We have to get this bill passed to find out what is in it. The American people are finding out what is in it and are becoming increasingly convinced this was the

wrong direction to go. I assume that is a view shared by the majority of people in Wyoming.

Mr. BARRASSO. Well, it is. And as neighboring States, South Dakota and Wyoming work closely together and are very similar. The experiences we are having in Wyoming—we now have a Republican Governor but previously had a Democratic Governor—as my colleague talked about, with the Medicaid mandates, which were called by one Governor the ''mother of all unfunded mandates,'' is that the money that has to be used for that is crowding out other things, so that is money that can't be used specifically for education. One of the worst things that is happening for education across our country is the health care law, because for every penny the State now has to add to pay for this Medicaid expansion—this unfunded mandate—and I heard the numbers from my colleague from South Dakota, and these are astronomically large numbers—those are dollars that are not going to go to the universities and the institutions of higher education, as well as our additional schools throughout the State. So all of a sudden, if you have a student in college and you see the tuition has gone up much more than you thought it should have—when you likely think it shouldn't go up at all—and you say, why is that, well, it is President Obama's health care law. That is what is happening by mandating money be spent for Medicaid. That unfunded mandate is taking dollars away from education.

This month, in March 2012, a report came out entitled ''The 2011 Actuarial Report on the Financial Outlook for Medicaid.'' The figures are astonishing on this health spending law called ''ObamaCare'' or the so-called ''Affordable Care Act.'' And by the way, just because you call it that doesn't mean it is affordable, as we see from this report. It drives up Federal Medicaid costs by hundreds and hundreds of billions of dollars through 2020. It forces many more people onto the Medicaid rolls.

The President has talked so much and used interchangeably the words ''coverage and care.'' What we know is that across the country, if somebody has a Medicaid card, that does not equate necessarily to receiving care. My colleague from South Dakota talked about reimbursement rates for physicians. Medicaid, in many ways, underpays sometimes even the cost of seeing a patient, so it is harder for those patients to get seen. So I think the President has used two words interchangeably which are in no way interchangeable. Someone can have a Medicaid card but not be able to get care.

The concern is now, as my colleague from South Dakota said, $500 billion of Medicare taken out of Medicare, not to strengthen Medicare, not to increase the security for people on Medicare, not to help improve Medicare but to start a whole new government program for other people. The Medicare patients are having a harder and harder time finding a physician to care for them.

I would say the President of the United States, by using those two words interchangeably—coverage and care—has, unfortunately, misled people to think coverage equals care, and we know it does not. That is one of the concerns with the health care law, as we talked about the broken promises and the unfunded mandates sent to the States.

As I stand with my colleague from South Dakota, I assume when he goes home on weekends—and he does almost every weekend—he hears the same things I hear. When I have a townhall meeting and I ask the question: How many of you believe that under the health care law—remember, the one the President promised your insurance rates would go down $2,500 a year—how many believe that actually, because of the law, your rates are going up faster than if there hadn't been a law at all, all the hands go up. I ask: How many of you believe the quality and availability of your care is going to get worse because of this law? Again, the hands go up.

For a second, I thought maybe that was just something we saw in Wyoming and in South Dakota. But in a national poll yesterday—in the New York Times, of all places—on page A15 of yesterday's New York Times, in terms of the health care law: How will this health law affect you personally? Will this help you? Less than one in five Americans said this will help them. Twice as many said it will actually hurt them. When they asked: Will this decrease your costs, one in six said it would decrease their costs. More than half said it would increase their costs. When it asked, How about the quality of your care, only one in six said they actually expected better quality of care. Many more expected worse quality of care. So it is not just Wyoming, it is not just South Dakota. It is the entire country which is seeing this same impact.

I would ask my colleague from South Dakota, as he travels around, is this what he is seeing everywhere as well?

Mr. THUNE. It certainly is. As the Senator from Wyoming mentioned, the huge majority of businesses around this country—and especially small businesses such as those he and I represent in Wyoming and South Dakota—are enormously concerned about what this is going to do to their ability to create jobs, to maintain coverage for their employees. There are so many huge impacts from this, much of which, frankly, we predicted. But again, the idea or the notion that somehow imposing over $½ trillion in new taxes on businesses in this country, on health insurance plans, was somehow going to lead to lower costs for people to get coverage in this country is beyond me.

I am at a loss to explain how anybody could make the argument this was going to create jobs. Former Speaker PELOSI predicted 4 million new jobs. The Congressional Budget Office had said it would cost us 800,000 jobs. I suspect that is a conservative estimate, based on what I hear from employers in my State and elsewhere around the country.

But I do wish to point out too that in so many ways, because of the new mandates, because of the new taxes, because of the new costs, this is just going to make everybody's lives more complicated and more difficult, including our States. We represent States where our Governors, our legislators work hard to balance our budgets and to live within their means, not to spend money they don't have. Yet here they are being forced by the Federal Government to swallow these additional costs that are coming because of this new health care plan.

Basically, what the Obama administration has done is put shackles on the States when it comes to making decisions about the eligibility needs in their States. They are going to have lower spending on Medicaid providers. In some cases, our States are trying innovative approaches to care and delivery. They are trying to come up with new ways of doing this and to do it more effectively. Yet the Federal Government is going to make that much more difficult.

The bottom line is the combined effect of the ObamaCare's policies has taken power from the States, given more of it to Washington. It has forced unrealistic new spending mandates on the States that are going to crowd out those local priorities the Senator from Wyoming mentioned, such as education, such as law enforcement, the things I think constituents in our individual States expect their Governors and their State legislators to deal with.

Again, I would come back to what these Governors have said, and I am not talking about the conservative Republican Governors in this country. Look at what the Democratic Governors have said. The Governor of Kentucky: ''I have no idea how to pay for this.'' The Governor of Montana basically saying that increasing the patient load under this bill will cause bankruptcy or force him to bankrupt his State.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. THUNE. Then, of course, there is even the Governor of a State such as California, which I will submit for the RECORD.

But the point is, there are lots of promises made that haven't been kept with this legislation.

I yield the floor.

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

BIG OIL SUBSIDIES

Mr. MENENDEZ. Madam President, I come to the floor to talk about what is the pending business before the floor, which is my legislation to end Big Oil subsidies in this country.

Middle-class families are hurting, struggling to make ends meet. Yet today we are on the floor of the Senate fighting an uphill battle against those on the other side of the aisle who, with one hand, would continue handing out $24 billion in wasteful subsidies to five of the biggest, most profitable oil companies in the country and, with the other hand, take away vital programs from our Nation's veterans, its seniors, disabled children, just to name a few.

We hear our Republican friends talk about balanced budgets and we hear them talk about austerity. We hear them saying we all have to tighten our belts, we all have to make hard choices on Medicare and veterans and veterans' benefits and student loans, just to name a few. Yet they will not, in that austerity or shared sacrifice, say we will end unnecessary tax breaks to Big Oil. They will continue to ask the same things they have asked a thousand times before, which is that the American taxpayers subsidize the richest five companies in the world, while we cut programs for our wounded soldiers, for our seniors, and for our students.

Some people think of budgets just as boring documents with lots of bewildering numbers. In reality, they are statements about our priorities. This debate draws the brightest lines between our priorities and theirs. The Romney-Ryan budget, for example, cuts $2.2 billion in education for children with disabilities. What do they say to these parents? I guess they justify it by saying we can't afford it.

Why is it we cannot afford it when five companies that collectively made $137 billion in profits last year alone are getting $24 billion in subsidies over the next 10 years? So we tell these children on the Romney-Ryan budget they cannot be helped to fulfill their God-given potential because we can't afford it, but we can afford to give these five companies that made $137 billion in profits—not proceeds, profits—that we should give them an additional $24 billion of our taxpayers money? I don't think so.

Here is another example. Republicans are proposing cutting $13 billion per year from the SNAP program—that was formerly called the food stamp program—for families who do not know where their next meal will come from. So laid-off workers may not be able to feed their families, but our Republican colleagues will ensure that big oil companies continue to stuff their face at the taxpayer trough and they make sure no subsidies are cut that will hurt the bonuses of the big five oil companies' CEOs.

Here is one of them, Rex Tillerson, the CEO of ExxonMobil. He made nearly $29 million in 2010. How is it we can afford to protect Mr. Tillerson's pay but not a program designed to help hungry children? Why is it we need to protect those who need it the least but take it from those who need it the most?

Another issue we keep hearing from the other side is that cutting these subsidies will somehow raise gas prices. The notion that gas prices will go up is only in Washington. Anyplace else in this country, they get it. But only in Washington are we hearing from the other side that cutting subsidies will somehow raise gas prices. The notion that gas prices will go up if we end subsidies to Big Oil is nothing more than Republican snake oil, and the American people aren't buying it.

Let me put it plainly. We are subsidizing these companies to the tune of over $2 billion per year. Collectively, just these five companies—not talking about other sized producers. Just these five companies made $137 billion last year. Can anybody, with a straight face, tell the American people that they could not live with $135 billion in profits, that they could not give up their $2 billion; and, therefore, if they could only live with $135 billion, they wouldn't need to raise gas prices a dime—unless they are so greedy that $135 billion is not enough in profits that they need, out of each and every taxpayer's pocket in this country, another $2 billion to add to their profits.

Yesterday morning I heard one of my colleagues on the floor ask why are we picking on the poor oil companies when everyone gets the same tax deductions. So I took out my 1040 tax form to look for myself, and I was looking, let's see, for intangible drilling costs. No, I don't see it in my 1040 form. Tertiary injectants, I don't see it in my 1040 form. So I guess not everyone gets the special tax deductions for drilling.

There is a tax deduction Big Oil gets called domestic manufacturing deduction. When Congress was contemplating that provision, Big Oil, through their legion of lobbyists, managed to convince many on the other side of the aisle that drilling for oil was somehow manufacturing. When we think of manufacturing, we think about creating a product. I don't know about you, but being able to call drilling for oil manufacturing seems like a real special tax break to me.

As I said yesterday in this Chamber, it is time to get back to reality, the type of reality middle-class families face in this country, the type of reality middle-class families face as they go to the pump, as they have to get to work, take their children to school, to doctor appointments, the type of reality small businesses face when they are trying to send their sales force across a State and have them traveling in a car to do so. It is time to tell middle-class families struggling to make ends meet that fairness means everyone pays their fair share when it comes to reducing the deficit and that it also means it is time to stop wasting taxpayer moneys on oil subsidies and use this money to invest in clean energy, in jobs, in lowering the deficit. It is time for us to repeal the Big Oil tax breaks. It is time for our colleagues on the other side to join us to end this corporate welfare for big oil companies, to create competition to help lower gas prices and to reduce the deficit rather than continue to sell snake oil to the American people to protect Big Oil profits.

I have listened to some of the debate. I don't get it. I have seen average Americans who are struggling, and they say: Wait a minute, $24 billion of our money is going to the big five oil companies and they are making $137 billion? As a matter of fact, that is just 1 year. The $24 billion we want to eliminate and put into renewable energy fuels would create competition, will ultimately help drive down gas prices, to reduce the deficit significantly, instead of calling upon cuts to children, whether in their nutrition or cuts to children who are disabled. I only talked about $137 billion in 1 year. We want to cut $24 billion over the course of 10 years. Guess what they will make in 10 years—over $1 trillion in profits. I find it hard to fall for the crocodile tears that taking $24 billion over 10 years, a little over $2 billion a year, when they are going to make $1 trillion over a decade is somehow not enough, that leaves them with not enough profits—$24 billion from $1 trillion—and that because we take that $24 billion, gas prices are going to go up.

All these subsidies have not made gas prices go down. As a matter of fact, as I pointed out yesterday, at a time when they were making $137 billion in profits, they were producing 4 percent less oil. Come on. It is time to give working families in this country a break. We can do that as we vote to end Big Oil subsidies.

I yield the floor.

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. MURKOWSKI. Madam President, we continue the discussion about the impact of high energy prices, high gasoline prices at the pump, what they mean to families from Alaska to New York—the very reality we face as a nation that is struggling still, coming out of a recession. We are worried about jobs. We are clearly worried about the high price of energy and what can be done. I think it is important to note this is something to which there are no clear and easy answers. There are no short-term, quick, flip-the-switch fixes we can do. But there are a lot of things we can help to make happen by either affirmative action or, in many cases, getting the government out of the way.

In doing so, I think it is important we speak honestly about the situation before us, about what the potential solutions are and how they translate. In the past day or so, I have heard some comments from some of my colleagues that I think deserve a fair and honest

rebuttal so this conversation, the dialog, can continue and be better understood in terms of what we are talking about with these oil and gas tax increases—because that is exactly what the Menendez proposal would do. It would increase the taxes on an industry that is providing not only much needed resources for this country but much needed jobs.

The first point I have heard is that American taxpayers are, somehow or other, subsidizing the oil companies. Again, it is important to put this in context. This argument I think rather bizarrely labels basic tax deductions, somehow or other, as a subsidy, as though the Federal Government allowing businesses to retain more of their earned dollars—because that is what is happening with the situation of the oil companies; they have earned the dollars and they are basically keeping more of the dollars they have earned—that, somehow or other, that action is the equivalent to handing them a check from the government; whether it is what we see, for instance, with the situation at Solyndra, where they got a check from the government. It is important to put in context that when some say we need to end subsidies for oil companies, I think what that translates into is raising taxes on oil production.

I think it important to note and understand this is an industry that does pay substantial taxes to the Treasury. Their taxes are already higher than we see in most other industries. The four largest companies have an effective tax rate that is over 40 percent. In 2010, they paid $55 billion in income taxes to Federal, State, local, and foreign governments. That is a huge sum. It probably increased, along with the oil prices, back in 2011. These numbers are from 2010. But when people say we all need to pay our fair share, I think it is important to ask the question: How much does the industry have to pay before it is sufficiently considered to be doing its part?

One of the other points of contention that has been raised by my colleagues on the other side of the aisle is that raising taxes on oil companies will not increase gas prices. Well, it is certainly not going to lower them. I think we can probably agree on that.

If we raise taxes on oil production, we are going to get less oil production, and it is a question that I think we need to ask. Think of any situation where if we tax it more, we will have more of it, and it will be more affordable. It just doesn't make sense here.

Both the President and the sponsor of the legislation before us have publicly stated that more production can help lower prices. Loss of oil production due to punitive taxes—I think we have seen this play out time and time again. Back in the Carter administration they advanced a failed windfall profits tax.

I mentioned yesterday on the Senate floor the example that we are seeing play out in Great Britain right now. One year ago the United Kingdom decided to do essentially what is being proposed here. They reacted to high oil prices by raising taxes on the industry, and the net result was companies produced less, and they diverted their investment elsewhere.

In the year since the UK imposed its tax hikes, the production decline has tripled from 6 percent to 18 percent. They are now looking at reversing that decision and have announced new oil tax breaks to try to bring back that production.

Another point that has been raised is that somehow or other oil companies are getting special treatment, and I just mentioned this a little bit. Again, the four largest oil companies have an effective tax rate that is over 40 percent. What that means in terms of where they stack up with other industries—this is a higher effective rate than in most other industries that we would see there.

Another point that has been raised is that oil companies are not investing their profits in more oil production. The President seems to disagree with this statement, arguing that the United States is producing the most oil it has seen in years. But the reality is, efforts to produce oil here in this country have been blocked or slowed by the Federal Government seemingly at every turn. Again, I think it is important to put this in context in terms of where we are seeing increased production because that part of the discussion is true. We are seeing increased production but not necessarily on our Federal lands.

On this map of the lower 48, the Federal lands are all these areas in yellow. The red dots are Federal shale well operations on Federal land. The blue is the shale well private land operations. So we have a situation where 96 percent of all production increases have occurred on our States and on our private lands. This comes from the administration's own EIA that we have seen production on the Federal side drop under this administration. The fact that exists is that America's largest untapped oilfields—whether they are in the offshore areas, the mountain west, Alaska, which is not even on this map—are still off-limits under Federal law. None of these resources are counted when people say the United States only has 2 percent of the world's reserves.

I showed a chart yesterday that indicated we are not even allowed to count these areas that have not been truly proven. It is because of the lands being off-limits or the permitting delays that we see that the United States is not a larger producer of oil. If the Federal Government wanted to, it could allow us to become the world's top oil producer and be virtually independent of OPEC sources.

A fifth point that deserves some comment: Yesterday, the majority leader said for every 1 cent increase per gallon of gas, Big Oil profits rise by $200 million. Presuming this figure is true in the general sense that it has been alleged, I think my Democratic colleague appears to prefer that perhaps those profits should go to OPEC rather than to U.S. companies or to the pension holders. At least in the United States those dollars are taxable. They support jobs—including 9.2 million jobs within the oil and gas industry—and help us with the balance of trade issues. So, again, that is a contention that needs to be directed, some commentary.

Another point is that America is now a major or net exporter of oil. This was raised yesterday by the Senator from California when I was on the Senate floor. She said: We are now a major or net exporter of oil. That statement is absolutely false and needs to be corrected. Under 15 CFR 754.2, it is illegal to export crude oil from the United States without a rare and very special waiver. Therefore, 99 percent of the oil that is produced here stays here. Ninety-nine percent of the oil produced in this country stays in this country. Only 1 percent of U.S. oil is exported.

The very small, very insignificant exports of crude that do occur require a very extensive review process. It is typically sent to Canada or Mexico for refining purposes. Ultimately, that fuel is returned for use in the United States.

In terms of exporting refined products, if that is the concern, Secretary Chu came before the Senate Energy and Water Appropriations Subcommittee and stated that the only refined product exports from the United States consist of certain types of diesel fuel and products we don't use in the United States. So that is a big difference between refined product and crude.

But it is important to correct the record and demonstrate that we are not in a situation where, as a country, we are exporting our crude oil. It is totally inaccurate to say the United States is running a surplus or acting as some major exporter of any of the fuels which Americans need and use to fill up their vehicles or heat their homes. As a result, almost 90 percent of refined products stay in this country. Pretty much the only products that are exported are those products we don't use.

The last and final point I would like to make is about a statement that was, again, made yesterday that somehow or other Republicans only want to drill, and they are not interested in renewable energy. Again, I think that statement is a false one and needs to be corrected.

I come from an oil-producing State and certainly believe very strongly that we need to also focus our efforts on renewable energy. Republicans are simply proposing that we pay for renewable energy research and development without raising taxes on employers and consumers.

I have been pushing for years to allow for revenues from the development of ANWR to help us build out that next generation of energy source for our country. ANWR revenues alone could provide as much as $300 billion in Federal revenues for renewables—depending on what the price of oil is—if Democrats would simply allow access to it. Instead, they propose to raise taxes on whatever production is taking place and hand out loan guarantees, unfortunately, to many unstable companies.

I would also point out that allowing the Keystone Pipeline has nothing to do with drilling. Neither does pressing the EPA to settle down with its regulations that are making refineries so expensive to operate and in some cases actually shutting them down. I think most Republicans also support the new CAFE standards and many of the other renewable provisions that were in the energy law passed in 2007. This Congress has passed multiple efficiency and renewable bills out of the Energy Committee. Unfortunately, none of them have been allowed a vote on the floor of the Senate.

So I think it is wrong to suggest that Republicans are not willing to talk about anything but drilling. We just want it included in part of that discussion when we are talking about ''all of the above.'' I think we absolutely need to mean all of the above, and that includes increased domestic production and it includes a strong future for renewables. It must focus on conservation and efficiency. This is how we will get to a true level of energy independence and reduce our energy vulnerability on our insecurity.

With that, I know my time has expired. I would ask unanimous consent that the time during all quorum calls be divided equally.

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

I yield the floor.

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

The assistant legislative clerk proceeded to call the roll.

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

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

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

Mr. BINGAMAN. Madam President, a week or so ago I came to the floor to talk about the general issues of gasoline prices and domestic energy production. I believe it is important for us to use accurate facts as we are talking about our energy challenges and we work on energy policy issues. Only by using actual facts can we identify policies that will hopefully bring down the price of gasoline at the pump.

So I would like to focus on a particular aspect of our domestic production; that is, production on federally owned land. This is something which has been the subject of a lot of political discussion, both out on the Presidential campaign trail and to some extent in the Senate.

Let me first comment with respect to the price of gasoline and the impact of domestic production on the price of gasoline. This chart, which I put up before, ''U.S. oil production and gasoline prices during the period 1990 through 2011,'' I think, makes the point very well. That point is that the price of oil is set on the world market. What we produce domestically does not have a significant effect on that market. So the red line on the chart represents increases and decreases in domestic production of oil and the blue line represents the price of gasoline. Clearly, there is not a lot of correlation between those two. It is worth looking again at this chart because I think it makes the point that as U.S. production has increased from 2009 to the present, oil prices have also increased. So increased production has not resulted in lower prices, and it cannot, because the price of oil is set on the world market and the price of gas is, in effect, pegged to the price of oil.

Increased domestic production, while important for our country—and it is important for many reasons—does not bring us lower gas prices. Our policy approach must be to find ways to use less oil and be less dependent on the volatility we see in the world oil markets. We know how to do that. We know how to decrease our vulnerability to those world oil markets and we have made some, in my view, enlightened policy steps to accomplish that. We got a good start in the 2007 Energy bill. It was a bipartisan bill, and that bill requires the use of more biofuels; that is, homegrown energy which is not traded on a world market. We require the use of those biofuels in transportation. We require that vehicles of all sizes be more fuel efficient. We have seen dramatic results from that, and we have hopes for even greater results in the future.

This next chart shows the real progress we have made in reducing our reliance on imported oil. It was about 60 percent in 2005; it is now down closer to 45 percent in 2011. The Energy Information Administration projects that this progress will continue and their projection is that under current law, if we do nothing else, imports should drop to around 38 percent of our oil consumption by 2020. I, for one, hope we are able to do some other things and bring that dependency on foreign oil down even more.

One way to continue that improvement is to support the expansion of our renewable fuels industry and support efficient vehicle production. In the context of our debate about energy tax policy, we must use some of our limited taxpayer resources to encourage a diverse supply of both energy and fuel. Promoting homegrown advanced biofuels and highly efficient alternative vehicles needs to remain a priority for our country.

Yesterday we had a hearing in the Finance Committee's Subcommittee on Energy, Natural Resources, and Infrastructure, the purpose of which was to explore how the exploration of a number of tax incentives directed at advanced biofuels and at energy efficiency and at renewable energy has affected those industries. I hope very much that we can find a way to work together to keep those incentives in place and continue to make progress in developing these alternative ways to meet our energy needs.

Unfortunately, there are those involved in these discussions who persist in focusing almost entirely on how to increase domestic production instead of on any other policy that could help us to use less oil. While we know domestic production will not significantly impact gasoline prices, at the very least when we discuss domestic production, I think it is important to get the facts right.

There is an ongoing misunderstanding or misstatement of the facts about the production of oil on federally owned land. Let me address that for a bit. One of the Republican candidates stated last week in the context of gasoline prices that ''[p] roduction on government lands has gone down under Obama.'' Indeed, he went on to suggest—without any basis I could determine—that increasing domestic production of oil would reduce the price of oil by $1.13 a gallon. How he came up with that number I have no idea, but it is important that we all work from the same facts.

Here are the facts: It is undisputed that overall domestic production of oil has increased, not decreased, over the last 3 years. We are showing a chart that makes that point. This chart shows that during the 3 years of 2006, 2007, and 2008—the last 3 years of the Bush administration—we produced 1.78 billion barrels of oil. During the first 3 years of the Obama administration—2009, 2010, and 2011—we produced 2 billion barrels of oil. One of the witnesses we had in a recent hearing in the Energy Committee was James Burkhard, a managing director of IHS/Cambridge Energy Research Associates, and he described our situation in this country as the ''great revival'' of U.S. oil production.

Over the last 3 years, the U.S. increase in oil production was far greater than that in any other country in the world. The United States is now the third largest oil producer in the world after Russia and Saudi Arabia. This trend is also true for the subset of domestic oil production which we would define as federally owned resources; that is, oil production on Federal land. This chart I think illustrates that very well. Production on federally owned land is higher in every year of the Obama administration than it was in the previous administration.

Between 2006 and 2008, as I said before, we had a total of 1.78 billion barrels of oil produced on Federal land. Between 2009 and 2011, the total is over 2 billion barrels being produced on Federal land.

Secretary Salazar testified to the Energy Committee recently that oil production from the Federal Outer Continental Shelf increased by 30 percent between 2008 and 2010. Offshore production decreased somewhat between 2010 and 2011 because of the BP disaster in the gulf, but it still remained higher than it was in 2008, and that production, of course, is increasing substantially again in 2012.

The Energy Information Administration suggests that clearly the decrease experienced in 2011 in offshore production was due to the Deepwater Horizon disaster. It projects that domestic oil production will increase over the next 10 years, in part due to ongoing development in the Gulf of Mexico. The projection is that it will increase by over 1 million barrels per day as compared to 2010. Annual oil production onshore on Federal lands has increased by over 8 million barrels between 2008 and 2011 and is now over 111 million barrels.

Oil production has always fluctuated a bit from year to year on Federal lands and on private lands. There is no doubt that will continue to be the case. The important point here is that we need to put to rest once and for all the claim that the Obama administration is causing a reduction in production of federally owned resources. That simply is not the fact.

We should also be aware that the industry has access to a great deal of productive Federal acreage that it has not yet developed. This chart is instructive. This shows total federally owned acres leased for oil and gas development as of 2011. We can see there are 74 million acres that are currently under lease. This is Federal land currently under lease, both onshore and offshore. The striking thing about this chart is that roughly 25 percent of this is actually being produced—producing oil and gas at this time. There are many reasons for that. I am not accusing anyone of not diligently pursuing this; I am just saying there is a lot of land under lease, a lot of area under lease that is available for production, and I assume the companies that have leased it are aggressively pursuing that production.

This final chart I wish to share with my colleagues covers the number of acres offered to industry for lease on the Outer Continental Shelf, all of which were in the resource-rich central and western Gulf of Mexico and the number of those acres actually leased. As we can see from this chart, the blue area is the area that was offered for lease but not purchased and the red is the area that was actually leased. The administration, of course, has announced they will have another lease sale in the Gulf of Mexico—in the central and western gulf—and this will cover 38 million initial acres. So there is a very substantial amount of land being offered for release.

It is useful to keep in mind that federally owned oil production today is about 37 percent of our total domestic production. Many of our oil resources are located on private lands or State lands and resources from all of these areas are important in meeting our energy needs.

We need to produce domestic oil and produce it responsibly. There are a lot of good national security and economic reasons for that. I have always supported doing that. But to suggest that some change in policy regarding domestic production is going to change the price of gasoline at the pump is disingenuous. In order to move toward policies that will work to moderate the impact of gasoline prices in the future, I think it is important we be honest with our constituents and ourselves about what the factors are that influence that price.

We enacted some policies in 2007 that have been helpful. I hope we can build on that work at a time and on an issue of such great importance to the future of our country. I hope we can work together and stick to the same facts. If we do that, I believe we can develop and enact policies that can provide real help in the long run to our constituents who are suffering from high gas prices.

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 assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. 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. INHOFE. Madam President, I ask unanimous consent to be recognized for up to 25 minutes.

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

Mr. INHOFE. I thank the Chair.

Madam President, I voted against the motion to proceed to the Menendez bill on Monday because, quite frankly, it is just a bill to continue raising gas prices. I talked for quite some time yesterday on the Senate floor about this; that by raising taxes on the oil and gas industry it sounds good to a lot of people because people do not like the oil and gas industry. They have been vilified, so everybody thinks we ought to get the oil and gas industry.

What they do not understand is—I think they understand it, but they will not admit it—that is the way to increase prices at the pump. Somebody has to pay for all that stuff. So even Senator MENENDEZ and several Democrats have said this bill is not going to lower gas prices. It would raise gas prices. I do not think anyone who looks at it logically could come to any other conclusion.

As I discussed Monday on the Senate floor, the Democrats' plan goes against everything we know about basic economics—higher taxes limits supply. Whenever we limit supply, the price goes up. I do not think there is a person out there right now who does not remember, back in their elementary school days, the basic concept of supply and demand. We have this huge supply out there. But if we cut the supply, then the demand is going to be greater, and the prices are going to go up.

The bottom line is, President Obama and his allies do not have an answer to high gas prices. That is because high gas prices—higher prices for all the energy we use—are exactly what they want. This administration remains committed to a cap-and-trade, green agenda. It is a plan that severely restricts domestic development and drives up the price of gas and electricity.

Let me put it another way. Their policies are designed to make recoverable traditional energy more expensive so their desired green energy can compete. There is no question that is what the Obama administration has wanted.

You all remember—and we have quoted so many times on this Senate floor—that Steven Chu, the Secretary of Energy, told the Wall Street Journal: ''Somehow we have to figure out''—speaking on behalf of President Obama and the Obama administration; not so much the Democrats in the House and the Senate, but this is the Obama administration—he said: ''Somehow we have to figure out how to boost the price of gasoline to the levels in Europe.'' Well, the levels in Europe were ranging, at that time, when he made the statement, around $8. Well, we are getting up there. He is getting his way. This is something that is happening now.

We all know the infamous quote from President Obama in 2008 when he said under his cap-and-trade plan—this is a quote now—''electricity prices would necessarily skyrocket.'' Notice the word ''necessarily.'' It is going to happen. The President had it right. The point of the cap-and-trade regulations is to make us pay more on our utility bills.

A lot of times people do not draw the connection. Energy is energy. If we raise the price of energy on utilities, on utility bills, or gas prices at the pump, it all relates to the rest. If we somehow put coal out of business so we have to use more natural gas and more gas, then that raises the price because that makes more demand for that particular product. I think most people understand that. That is very basic.

If we are serious about lowering prices at the pump, then we need to open the vast oil and gas reserves we have at home to develop. After all, CRS recently reported—this is kind of interesting because it was a CRS report; so far, I have not heard anyone counter this report—we have more recoverable

reserves of oil, gas, and coal than any country in the world—more than Saudi Arabia, more than China, more than Canada, all of them combined.

In fact, with more than 160 billion barrels of recoverable oil, we have enough to maintain America's current rate of production and replace all of our imports from the Persian Gulf for 50 years. That is just domestically what we could do. It is out there.

A lot of them try to say: Oh, no, we only have 2 percent of the reserves. I have said this so many times, and yet the other side just keeps repeating it over and over: We only have 2 percent of the reserves, and we are using some 25 percent when, in fact, they are talking about proven reserves. Proven reserves are reserves where we have drilled and proved there is oil there. Recoverable are the areas where we have not drilled yet because we have not had an opportunity.

So if we have a policy, as this administration has, not to allow us to drill for oil, then we cannot prove anything. So the 2 percent means absolutely nothing. It is totally false. The thing is they know it. The key is ''recoverable.'' We have more recoverable reserves in fossil fuels; that is, oil, gas, and coal, than any other country in the world.

But today we have awful government regulations that prevent us from accessing it, and we are the only Nation that does this. I defy anyone to tell me the name of another country that does not develop its own resources. They all do it, and we have this President saying, well, we encourage them down in Brazil and Venezuela to drill but not here.

Well, anyway, we have these reserves that we need to start doing something with. That is why I have submitted three amendments that will address President Obama's war on affordable energy. I am going to talk about them.

First of all, amendment No. 1974 is the American Jobs and Domestic Energy Production Act. In order to increase the development of our wealth of resources, I have submitted a substitute amendment to this bill that will open literally billions of barrels of oil and gas for commercial development. It is something that will actually bring down the prices, directly bring down the price of oil, of gasoline at the pump.

First, the bill opens significant portions of the Outer Continental Shelf for development. Right now, the entire east coast and west coast and much of the Gulf of Mexico are completely off-limits. For the most part, the only offshore development allowed is in the western portion of the gulf and in certain areas offshore of Alaska. But we have to keep in mind, to do this, we have to get the permits, and that is where they have dragged their feet.

My amendment would require the rest of the OCS to be leased over time. According to a recent study, these areas have at least 63 billion barrels of recoverable oil and up to 186 trillion cubic feet of natural gas. Once brought fully online, this will create tens of thousands of new jobs and ultimately may bring in an additional $1.4 trillion in additional tax revenue for the government.

My amendment would also require the administration to move forward with three lease sales that were conducted by the Bush administration but were subsequently pulled by the Obama administration after taking office.

Additionally, my amendment allows ANWR on the Northern Slope of Alaska to be developed. Experts believe this area contains 16.4 billion barrels of oil and 18.2 trillion cubic feet of natural gas.

I have been up there. People talk about ANWR and all this, and it is a beautiful area. They have systems now where we cannot even tell where they are developing it. I have seen polls ranging from 70 to 85 percent—and I can actually identify these polls—of the people in Alaska, they want to do it. Why are we, in our infinite wisdom in Washington, DC, telling them in Alaska they cannot go after their own oil and gas?

I think it is ludicrous. Anyway, this amendment will correct that situation.

My amendment removes also the statutory moratorium on the development of this resource, and it requires the Secretary of the Interior to begin an oil and gas leasing program in that area.

Today, oil shale—particularly that in Western States—represents some of our greatest energy potential. Just a few years ago we didn't know this. We didn't have any idea of the size of this.

Some experts believe the Western States hold as much as 1.8 trillion barrels of oil shale, of which 800 billion barrels is presently recoverable. This is simply an astonishing amount of oil, and it would do a lot to help lower the price at the pump. That is what we are talking about. Everything we have talked about on the floor in opposition to the Menendez bill is something that will lower prices of gasoline at the pump.

My bill forces the administration to release 10 research and development leases that were approved by the Bush administration but then canceled by the Obama administration.

Thereafter, the Obama administration would be forced to conduct additional oil shale leases on Federal lands. We have 93 percent of the Federal lands that are off-limits. That needs to be corrected.

Lastly, my bill reserves the right of regulating hydraulic fracturing to the States. I know a little bit about this because the first hydraulic fracturing that took place in this country was in my State of Oklahoma in 1949. Since 1949, there has not been one documented case of groundwater contamination. It has worked beautifully, I think most people agree, now that it is better regulated by the States. The States differ in the depth of their resources, what they have to do to achieve it. It has worked. The old saying is ''if it ain't broke, don't fix it.'' We have to look behind the motive of the Federal Government. This administration, if they can stop hydraulic fracturing, can stop the production of oil and gas. I believe that is their motivation. It is a State process that is successfully regulated by the States, and in 60 years there has not been one documented case of groundwater contamination.

Because States have done such a good job regulating fracking, I think they ought to continue having that exclusive right. My bill does this. It takes away the temptation of the power grab by the Federal Government to regulate this thing that doesn't need to be regulated at the Federal level, particularly when their motivation is to do away with hydraulic fracturing. If we do that and we talk about when they are trying to go after these types of formations, they cannot extract 1 foot of natural gas without using hydraulic fracturing.

That is what the bill does. It would be a big win for energy production because we all know the administration's regulations would likely prevent anybody from ever using hydraulic fracturing again. I can remember when the President was giving his speech to the Nation at the joint session. All of a sudden, people caught on that he has had this war on fossil fuels. He started saying complimentary things about good, clean natural gas. I agree. But what we didn't hear him say—because he said it so fast toward the end of his remarks—is we have to do something about hydraulic fracturing. If we kill hydraulic fracturing, we cannot get the natural gas we are talking about.

All told, by tapping into our domestic supply of oil and gas, we could increase our economic output by trillions of dollars over the next several decades. It could increase government tax revenues by $2 trillion, and it would create hundreds and thousands of new well-paying jobs.

We have the energy resources we need, and if we develop them, it will significantly improve our economy and, there again, lower the price at the pump.

By raising taxes, as the Menendez bill would, it would only make the problem worse. I urge adoption of that amendment.

The next amendment I introduced is the Gas Regulations Act of 2012. To hold the Obama administration accountable for their role in gas prices, I am also introducing the Gas Regulations Act of 2012 as an amendment. We actually have this, and we are going to try to introduce it as a bill. This amendment would require an interagency committee to conduct a cumulative analysis on certain EPA rules and actions that impact the price of gasoline and diesel fuels.

My amendment is the companion amendment to a bill introduced last

week by House Energy and Power Subcommittee Chairman ED WHITFIELD. This amendment will help us to obtain a better understanding of the costs of all these levels of regulation. I have often talked about the regulation and what the cost is. It is kind of masquerading. I will read the cost of these regulations that this administration is accountable for and that directly relate to the increased price of gas at the pump. Tier 3 motor vehicle emissions and fuel standards—that would levy a $12 billion gas tax on refiners. Who will pay for it? You will and my wife will at the pump. New source performance standards for petroleum refiners could result in billions of additional environmental and compliance costs. Again, that will be passed on to the consumer. The RFS2 standards too would force Americans to consume 21 billion gallons of expensive biofuels, such as the one the Navy procured for $26 a gallon last year, instead of paying $3.50 a gallon.

Ozone standards would result in a $676.8 billion loss in GDP. Again, these standards increase directly the price of gas at the pump. There is greenhouse gas PSD and title V permitting actions—again, another regulation. This regulation slows down the permitting process and would prevent upgrading refining capacity from coming online quickly. Again, this causes an increase in the gas price. People know pretty much the supply-and-demand argument, but they don't know what the regulations do. Anyway, this amendment No. 1963 is designed to do that.

The next one I introduced is amendment No. 1967. This is kind of called the Inhofe-Upton Energy Tax Prevention Act. FRED UPTON, a Congressman, actually passed this. I have introduced this now for 3 years. We have been trying to do this.

Just yesterday, we found out President Obama fully intends to make good on his campaign promise that under his plan of a cap-and-trade system, electricity prices would ''necessarily skyrocket.'' That is what we are talking about with this amendment, cap and trade. People remember that. A lot of Republicans were concerned about this issue after Kyoto, and they said let's do something about this; this idea that somehow we are going to have to reduce and regulate greenhouse gases in order to do this. They are introducing cap-and-trade bills. It goes back to the Kyoto convention in 1993, when the famous meeting was held, and Al Gore went down to try to put it together in Rio de Janeiro 20 years ago. He was going to put this together to come up with an international convention called Kyoto, and they tried to, of course, get us to pass it. We saw it would cost the American people between $300 billion and $400 billion a year, and it would treat developing countries differently, so we didn't do it.

The interesting thing about the Kyoto treaty is that the President—then President Clinton—never submitted it for ratification in this body. After that didn't work out, they went ahead and did a second effort to do it through cap-and-trade legislation. We beat all the cap-and-trade regulations. The main reason is because it became evident the science was cooked—all put together by the United Nations. It started back in 1992. They developed something called the IPCC, which is the Intergovernment Panel on Climate Change, which was designed in order to, I believe, cook the science and make people believe we are going to have to do something and that CO_2 and anthropogenic gases were causing global warming.

We know what happened since that time, and with climategate, which showed they cooked the science. Consequently, we introduced this legislation. This legislation merely does one thing. It will take away the jurisdiction of the EPA to regulate greenhouse gases. My concern is this: We were able to stop all these bills from passing that would have imposed a tax increase on the American people.

To give an idea how much that $300 billion or $400 billion would mean, in Oklahoma, I keep track of the number of families who file tax returns, and I do the math. If we do the math with what it would cost for cap and trade and do the legislation they were talking about passing, which we defeated on the Senate floor, it would cost each taxpayer in Oklahoma over $3,000 a year. What would they get for that? This is interesting. Even those people out there who think I am way off base and wrong, in terms of CO_2 and anthropogenic gases—keep in mind we asked the question to President Obama's Administrator of the EPA: ''If we were to pass cap and trade, would this reduce CO_2 emissions worldwide?'' She said: ''No, logically, it would not.''

This isn't where the problem is. The problem is in China and in India. Those are the places where they would have to be regulated. But they don't regulate it to the degree we would here. We can carry that one step further. If we pass cap and trade, it would have the effect of increasing anthropogenic gases worldwide, because as our manufacturing base leaves the United States and seeks energy in those areas where there are less controls, that would have the effect of not reducing but increasing emissions.

What we would attempt to do is to take away that jurisdiction. Here is the reason we want to do that. It is bad enough—when I talked about $300 billion to $400 billion it would cost to do cap and trade through legislation, if we do it through regulation, it will be a lot more for this reason: Most of the bills that were introduced, starting back in 2003, ending up with the Waxman-Markey bill, which was a couple years ago, these were bills that would regulate emitters that emitted over 100,000 tons a year. However, if we do it through regulation, it has to be under the Clean Air Act, and the Clean Air Act specifically says not those that emit 100,000 tons a year but those who emit 250 tons or more. That would be every church, every school, and every hospital in America. We cannot even approximate that cost. That is what doing cap and trade by regulation would do.

Simply put, my third and last amendment would be to do here what they have already done in the House of Representatives, which is to take away the jurisdiction from the EPA. It directly relates to the price of gas at the pump. Take these three amendments, and if the Menendez bill should get through, with these amendments we can totally stop the increase of gas at the pump because that is what we will be faced with if we adopt the Obama-Menendez amendment.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Tennessee.

TRIBUTE TO FORMER SENATE MAJORITY LEADERS

Mr. ALEXANDER. Mr. President, last Wednesday, I had the privilege, as did many in this body, of attending a tribute to two former majority leaders of the Senate, Howard Baker and Bob Dole. It was a great evening. President Clinton sent a video and the Vice President attended, as did the Secretary of Defense, the Secretary of Health and Human Services, and all former majority leaders of the Senate, except one. It was a long evening but a good one. Along with Senator Baker was his wife former Senator Nancy Kassebaum Baker, and along with Senator Dole was his wife former Senator Elizabeth Dole. It was sponsored by the Bipartisan Policy Center. It was a reminder that while in this body we have differences, in fact, this body was created to resolve differences. People sometimes say to me: You Senators argue. That is what we are supposed to do. When they kick over to us issues that cannot be resolved other places, with respect for each other's points of view, we try to resolve them, and we often do. Well, Bob Dole and Howard Baker were among the best at working across party lines and getting results, and it was for that skill as much as for any other skill that they were honored.

I was asked to introduce a short film about Senator Baker, and I did. Senator ROBERTS of Kansas was asked to introduce a short film about Senator Dole, and he did. I ask unanimous consent to have printed in the RECORD my remarks about Howard Baker as I introduced the film.

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

Good evening. My job tonight is to introduce a short film about Howard Baker, but I want to do that the way he would do it with a story. I was thinking that—I believe the very last time I appeared anywhere with both Senator Baker and Senator Dole was almost exactly 16 years ago. It was just before the Tennessee Republican primary. Bob had run me clean out of the presidential race. I

was trying to do the only graceful thing, which was to support him.

And so Howard held a press conference at the Knoxville Airport, and I did what I thought was a good thing to do. I presented Bob Dole with one of my red and black plaid shirts and my endorsement, whereupon Howard Baker said loud enough for everybody in the news media to hear him: I hope that's Lamar's last red and black plaid shirt.

Howard Baker loves a good story. He especially loves a story about his maiden address. He spoke a little too long. His father-in-law, the late Senator Dirksen, walked over to congratulate him. And Howard said, well, Senator Dirksen, how did I do? And Senator Dirksen looked down and said, Howard, perhaps you should learn to occasionally be guilty of an unexpressed thought.

From that he learned eloquent listening.

My favorite story of his was when he suddenly found himself the majority leader after the Reagan sweep in 1980, and no one was more surprised than him except Bob Byrd, who suddenly found himself the minority leader.

So Howard went to see Bob Byrd, and he said, Senator Byrd, I'll never learn the rules of the Senate as well as you know them. So I'll make a deal with you. I won't surprise you if you won't surprise me.

Senator Byrd said, let me think about it. But he called him the next morning and said yes, and they worked beautifully together for four years, effectively, with the Senate.

Senator Baker, when he was the chief of staff to President Reagan, every single morning—so he tells me—would begin his day with the president sitting down, just the two of them, each of them telling the other one a little story. That got to be a lot of stories. But it always made me feel a lot better about our country to know we had a president and his chief of staff who were so secure in their own skin that they could sit down at the beginning of each day and tell each other a little story. That was one of Howard Baker's secret weapons.

His other secret weapon is that he remembers Roy Blunt's advice: People start getting into trouble when they stop sounding like where they grew up.

Howard Baker has never stopped sounding like where he grew up, because he never stopped living where he grew up, the little town of Huntsville, Tennessee.

Earlier this week a student asked me, what's the best way for me to get into politics?

And I said, I can tell you exactly how to do it. Pick out the person you admire the most, volunteer to go to work for them without any pay, carry their bag, drive them wherever they want to go, baby-sit their children, write their speeches for them, even if they don't give your speeches. I know that works, because that's what I did. I did it for the very best. And 45 years ago, I went to work in the United States Senate for Howard Baker, in the very same office that I occupy today.

So I agree with Senator Dan Quayle, who once said, there's Howard Baker, and then there are the rest of us senators.

Mr. ALEXANDER. Mr. President, Senator Baker, recalling the story of his maiden speech, asked that his remarks be put into the CONGRESSIONAL RECORD. The story was this, which I told that night:

Senator Baker was here in 1967 and made his maiden speech at a time when his father-in-law, Everett Dirksen, was the Republican leader. I was here then, as Senator Baker's young legislative assistant, right out of law school. Senator Dirksen walked over to Senator Baker and sat down next to him after what had been a fairly long speech—maybe 45 minutes. Senator Baker looked at his father-in-law and said: Senator Dirksen, how did I do? And Senator Dirksen said to his son-in-law Howard: Maybe occasionally you should enjoy the luxury of an unexpressed thought.

So Senator Baker, recalling that advice, I assume, asked that his remarks to be delivered that night at the end of a long ceremony be placed in the CONGRESSIONAL RECORD, and so I ask unanimous consent to have printed in the RECORD Senator Baker's remarks.

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

BIPARTISAN POLICY CENTER
A CENTURY OF SERVICE HONORING HOWARD BAKER AND BOB DOLE
THE MELLON AUDITORIUM
WASHINGTON, D.C.
WEDNESDAY, MARCH 21, 2012
REMARKS BY HOWARD H. BAKER, JR.

When I first arrived in Washington as a newly-elected Senator in 1967, the Vietnam War was at its height, with no end in sight and with anti-war protests growing increasingly violent.

Race riots were burning down American cities.

A president of the United States had been assassinated just over three years earlier, and there were more assassinations to come.

It was a dangerous time in America, and many of us feared the center would not hold.

We came to Washington as the last of the World War II generation to seek public office. We had been, in President Kennedy's words, ''tempered by war, disciplined by a hard and bitter peace,'' and we sought positions of leadership to help heal the Nation we had sworn to defend as very young men and women.

Bob Dole, a genuine hero of the Second World War, had already come to Washington six years earlier as a Congressman from Kansas, and he would join me in the Senate two years later.

George Bush the elder, another young hero of the war, was elected to the House the same day I was elected to the Senate.

The overwhelming majority of members of the House and Senate in those days had served their country in uniform, most of us in war.

We had a perspective on political conflict that today's leaders cannot have.

We knew what it was like to be a nation totally at war.

Most of us were old enough to have suffered through the gloom of the Great Depression that had gripped our economy for more than a decade.

And now our country was being torn apart by an unpopular war, by racism, by extremism, by violence.

We were no less committed to the success of our political parties and the supremacy of our policy objectives than the leaders of today.

Indeed, we understood profoundly that the vigorous contest of political ideologies and policy ideas lay at the very heart of a successful democracy.

We knew that it was through those contending interests, passionately but peacefully pursued, that the full range of the American people's demands and dissents could be properly addressed, and sound public policy could emerge from this constitutional crucible.

But we also knew that none of us had a monopoly on truth, or wisdom, or the best interests of our countrymen.

We had—and we kept throughout our Washington careers—a decent respect for differing points of view.

Without this respect, democracy cannot work. With such respect, with good will toward our adversaries even when political passion is most intense, democracy cannot fail.

The abundant harvest of this philosophy is plain to see.

In our time of testing, we replaced race riots with racial justice.

We won the Cold War.

We saved Social Security from bankruptcy and created a social safety net that rescued millions from poverty and desperation.

We created economic policies that led to the most sustained and widely shared prosperity in the history of the world.

In much worse times than these, President Lincoln told his deeply divided countrymen, ''We are not enemies but friends. We must not be enemies.''

This is the credo of the Bipartisan Policy Center, which does great honor to Bob Dole and me tonight.

This is the secret of America's success.

This is the foundation of America's democracy.

And this is my fondest wish for the country I love.

Thank you, and God bless us all.

Mr. ALEXANDER. Mr. President, I would like to make a few remarks on the subject we are debating here, which is energy.

Last week the majority leader said he was disappointed that we were not moving to the Ex-Im Bank and to postal reform and to cybersecurity, all of which he said are urgent national issues the citizens of the United States expect our Senate to deal with. The Republican leader said that, on our side, we are ready to deal with all three, and the Republican leader offered to join the majority leader in dealing with the Ex-Im Bank, with a few relevant amendments. That might be a pretty good way to begin our process of getting the Senate back to doing what the Senate is supposed to do, which is to bring up important pieces of legislation, allow Senators on both sides to offer their amendments, speak on them, and then vote on them. It is easier to do if the amendments are relevant to the legislation that is being offered.

So we were looking forward this week to dealing with a postal reform bill, which needs to be dealt with. We have a several-billion-dollar debt for the post office, which has been a part of our lives ever since our country was founded, and we have competing pieces of legislation on the issue, with very good Senators on both sides of the aisle ready to discuss it. Yet, suddenly the majority leader changed his mind, which he has a right to do, and instead, he brought up legislation repealing six tax provisions for five oil companies—provisions that, for the most part, are tax provisions that are similar to those available to most other companies in America.

Why would the majority leader do that? Well, in the Senate it is not considered to be good form to inquire into the motivation of other Senators, and I won't do that, but I will read a paragraph or two from The National Journal this week that speculated on what might have happened this past Monday evening. I quote:

> The Senate holds a procedural vote this evening on legislation sponsored by Senator Menendez of New Jersey that would repeal tax incentives for the country's biggest oil companies. It won't pass, but it will create a platform for Democrats to try to reclaim the debate on gas prices. Indeed, a memo circulated over the weekend by John Podesta, president of the liberal Center for American Progress, and Democratic pollster Geoff Garin, notes that the vote ''offers a huge opportunity for progressives to frame energy policy through the gas price debate.'' Democrats will use familiar tactics of linking high gas prices to Big Oil, and Big Oil to Republicans, with the aim of attacking GOP presidential candidates and of putting three vulnerable Republican Senators up for reelection—Scott Brown of Massachusetts, Richard Lugar of Indiana and Dean Heller of Nevada—in tough spots.

That is the end of the speculation from the National Journal.

Now, maybe that was the reason the majority leader decided to bring this up, but clearly we are spending a whole week on a political exercise. If this is true—that it is being brought up to frame an issue to put Republican Senators who may be running for reelection in a difficult spot—well, then the Republicans must not think so because we all voted to bring it up. So instead of doing cybersecurity or postal reform, we are spending a whole week on something we all know is not going to pass and is a misuse of the time of the Senate. It would be much better if we were using the time on those other issues.

But as long as we are discussing lowering gasoline and fuel prices, I have a suggestion to make. Here is a plan to lower fuel prices: Double energy research. And here is a way to pay for it without adding to the Federal debt: Stop wasteful, long-term subsidies that are exclusively or mostly for both Big Oil and Big Wind.

Look at shale gas. The Senator from Oklahoma was talking about shale gas, which is being produced thanks to new technology found through energy research. This is a remarkable development in our country. But, as Daniel Yergin, the leading expert on energy, reports in his new book ''The Quest,'' the innovation on this began over 20 years ago, some of it from the private sector, some from government funding. Basically we found a way to find natural gas and oil through a process called hydraulic fracking. It is possible all around the world. I was in Australia in January, and they are doing it and selling it to China. The remarkable difference for the United States is not just that we suddenly have a lot more natural gas but that it is cheap gasoline. Instead of being $15 a unit, which it was when we passed the last Energy bill in 2005, it is $2 a unit or $3 a unit.

More than that, while Australians are selling their gas to China and paying the world price at home for their own natural gas, in the United States it appears likely we will be able to buy our gas at a U.S. price rather than a world price. What does that mean? That means that natural gas in Europe and in Asia is going to be worth four to five times what natural gas is here. So chemical companies that were thinking about moving overseas 5 years ago in order to be able to buy cheap natural gas for their feedstock, their raw materials, are staying here, expanding here, thinking about moving back. Older people who need to heat and cool their homes can use natural gas at a cheaper price. Manufacturing companies that are adding up the costs to make a decision on whether to put a plant in Mexico or some other place in the United States can put cheap energy in there with the natural gas. For the foreseeable future, it appears that natural gas in Europe and Asia is going to be four or five times what it is in the United States, giving us a tremendous advantage.

So energy research, both in the government and in the private sector, has given the United States the advantage that, if truth be told, has been our advantage ever since World War II. The principal reason we have produced 25 percent of all the money in the world is because of the innovation, technology, and research that have come since World War II, and it is hard to think of an important advance in biological or physical sciences without support from government research. So shale gas is one example of that.

So shale gas is one example of that. Here is another example: I drive an all-electric Nissan LEAF and pay about $3 for the electricity to travel 100 miles—better than spending an equivalent $20 on gasoline. Researchers at battery maker Envia have invented a way to double the density of lithium ion batteries, hastening the arrival of the $20,000 electric cars that travel 300 miles per charge. That research is permitting us, in the case of shale gas, to find more American energy and in the case of electric batteries, to use less of it.

That is why I argue that the United States should launch a series of mini Manhattan Projects with the same focus and determination of the original World War II Manhattan Project, this time with the goal of finding more energy and finding ways to use less of it.

The United States has a resource no other country has—dozens of major research universities and 17 national laboratories that can advance research on cheaper solar, better batteries, recapturing carbon from coal plants, biofuels from crops we don't eat, better ways to dispose of nuclear fuel, offshore winds, green buildings, and even fusion. To pay for doubling the $5 billion the United States now spends on energy research, Congress should end current tax breaks that are exclusively or mostly for both Big Oil and Big Wind and of every $3 saved, use $1 for more research and $2 to reduce the Federal debt.

For all we hear about Big Oil—and we hear a lot about it—you may be surprised to learn that special tax breaks for Big Wind are even greater. During the 5 years between 2009 and 2013, Federal taxpayer subsidies for wind power developers equaled $14 billion, according to the Joint Committee on Taxation and the U.S. Department of Treasury.

Here, I am only counting the production tax credit and the cash grants that the 2009 stimulus law offered to wind developers in lieu of the tax credit. An analysis of that stimulus cash grant program, which this legislation offered here would extend, found that 64 percent of the 50 highest dollar grants awarded—or about $2.7 billion in subsidies—went to projects that had begun construction before the stimulus measures started. Steve Ellis, vice president of Taxpayers for Common Sense, told Greenwire:

> It's essentially funding economic activity that would have occurred. So it's just a pure subsidy.

It sounds like, in the President's budget, Big Oil receives multiple tax subsidies that are exclusively for Big Oil. Doing away with them, they say, would save about $4.7 billion next year or about $22 billion to $24 billion over 5 years. So far, it sounds as though Big Oil with $22 billion is bigger with its subsidies than Big Wind with only $14 billion. But here is the catch: Many of these subsidies the President is attacking oil companies for receiving are regular tax provisions that are the same or similar to tax provisions that are available to hundreds, even thousands of companies in America. For example, Xerox, Microsoft, and Caterpillar all benefit from tax provisions such as the manufacturing tax credit, amortization or depreciation of used equipment that the President is counting as Big Oil subsidies. And of course wind energy companies also benefit from many of these same provisions, but the production tax credit that benefits mostly wind is in addition to the regular Tax Code provisions that benefit many companies. So the only way to make a fair comparison is to look at subsidies that mostly benefit only oil or mostly benefit only wind, and by that measure, Big Wind gets more tax breaks than Big Oil.

So the bill proposed by the Senator from New Jersey that is limited to just five big oil companies is limited to them even though many of the tax breaks they receive are the same or similar to tax breaks many other companies receive. This bill also extends many tax breaks, including the wind production tax credit and the 1603 grant program for renewable energy, which mostly benefits wind.

Two weeks ago, during the debate on the Transportation bill, the Senate wisely refused to extend the 20-year-old

temporary production tax credit which mostly benefits wind. That was the correct decision. We should allow this tax provision to expire. Congress made a much more difficult decision last year to allow the ethanol tax credit to expire, and we should hold our ground and do the same thing for the wind production tax credit.

There are three reasons Big Wind subsidies should go the way of the $5 billion annual ethanol subsidy. First, we can't afford it. The Federal Government borrows 40 cents of every dollar we spend.

It can't justify such a subsidy, especially for what the U.S. Energy Secretary calls a mature technology. According to a 2008 Energy Information Agency report, Big Wind received in subsidies 25 times as much per megawatt hour as all other forms of electricity production combined.

Second, wind turbines produce a relatively puny amount of unreliable, expensive energy. Wind produces about 2.3 percent of all of our electricity. A better alternative is clean natural gas. An even better alternative is cleaner nuclear power. Nuclear power reactors power our Navy and produce 70 percent of our pollution-free electricity. Using windmills to power a country that uses one-fourth of the world's electricity would be the energy equivalent of going to war in sailboats.

The Tennessee Valley Authority has erected 18 massive wind turbines on 3,300-foot Buffalo Mountain outside Knoxville. Other than deface the landscape and waste ratepayer dollars, the turbines have done little. The wind there blows 19 percent of the time, usually at night when we don't need it, and its unused electricity production cannot be stored.

Finally, there is the question of whether, in the name of saving the environment, wind turbines are destroying the environment. These are not your grandma's windmills. They are taller than the Statue of Liberty. Their blades are as long as a football field, and their blinking lights can be seen for 20 miles. In Nashville, Vanderbilt and the Metro water system is about to erect a small wind turbine as tall as the Parthenon replica we have in Nashville. It would take 1.1 million of these eyesores to equal the production of TVA's new Watts Bar 2 nuclear reactor. Building that many turbines would cost 15 times the cost of the nuclear reactor, and you would still need the nuclear plant for when the wind doesn't blow.

When wind advocate T. Boone Pickens was asked whether he would put turbines on his Texas ranch, he answered, ''No. They're ugly.''

Birds must think of turbines as Cuisinarts in the sky. Eagle killing has become so commonplace that the U.S. Department of the Interior has set up a process to grant licenses for eagle takings, sort of a hunting license. A new documentary, ''Windfall,'' chronicles the despair of upstate New York residents debating whether to build giant turbines in their town.

So I ask the question: If wind has all these drawbacks, is a mature technology, and receives subsidies greater than any other form of energy per unit of actual energy produced, why are we subsidizing it with billions of dollars and why are we not including it in this debate? Why are we talking about Big Oil subsidies and not Big Wind subsidies?

Our energy policies should be, first, to double the $5 billion Federal energy research budget we now have and focus it on new forms of cheap, clean, reliable energy. I am talking about the 500-mile battery for electric cars; commercial uses of carbon captured from coal plants; solar power installed at less than $1 per watt; or offshore wind turbines. That would be research.

Second, we should strictly limit a handful of jumpstart research and development projects to take new technologies from the R&D phase to the commercial phase. I am thinking here of projects such as ARPA–E, modeled after the defense department's DARPA agency that led to the Internet, to the stealth, and to other remarkable technologies; or the 5-year program for small modular nuclear reactors; or incentives for the first 200,000 electric vehicles purchased in America. These are a strictly limited number of jumpstart R&D projects.

Third, we should end wasteful, long-term, special tax breaks, such as those for Big Oil and those for Big Wind. I am talking about the tax breaks that are exclusively mostly for Big Oil and Big Wind and not similar to what other industries receive. These savings from those subsidies should be used to double clean energy research and to reduce our Federal debt.

But that is not what this bill does. This bill ends subsidies for five companies that many other companies receive, and it extends subsidies for a few companies that other industries don't get.

This debate isn't even about an energy plan, which is what we should be debating when gas is around $4 a gallon right now.

Here is a very specific plan: Increase energy research—double it—to find more American oil and more American natural gas and more American alternative forms of energy, and increase energy research to find ways to use less of that energy. I have highlighted the best ways to use less, and I have highlighted a way to pay for it.

I thank the President and I yield the floor.

The PRESIDING OFFICER (Mr. DURBIN). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, a couple weeks ago, and just now my colleague, the Senator from Tennessee, has been speaking on the Senate floor in opposition to the wind energy production tax credit.

Obviously, I have great respect for Senator ALEXANDER. A person who has been in the Cabinet, a person who has been Governor of their State, a person who has been president of a university, and probably a lot of other important positions, can't help but be respected as a very important Senator and a very knowledgeable Senator. While I differ with him greatly on this issue, I will continue to respect him.

The greatness of this body allows for debate and disagreeing points of view to be heard. I disagree strongly with my colleague. It might be natural for me to do that because I have championed the wind energy tax credit as a way to provide a level playing field for a very clean renewable resource.

As a result, wind energy has become more efficient and cost effective. The cost of wind energy has declined by 90 percent since the 1980s. Wind has accounted for 35 percent of all new American electric generation in the last 5 years. Wind already provides 20 percent of the electric generation in my State of Iowa. It supports as many as 5,000 good-paying jobs in our State.

As a result of the tax incentive, the wind energy has actually created new manufacturing jobs in the United States. Today, 60 percent of the wind turbines' value is now produced in the United States, compared with 25 percent 6 years ago. There are now 400 facilities building wind components in 43 States. That is why a bill in the House of Representatives to extend the wind energy production tax credit has 80 cosponsors, including 18 Republicans.

If we fail to extend the incentive, thousands of jobs will be lost in the wind manufacturing industry. Unemployment remains high at 8.3 percent. Why would Congress exacerbate the unemployment in our country by failing to extend this successful incentive?

The Senator from Tennessee has criticized wind turbines because he believes they are ugly and they kill birds. Well, I happen to find them majestic and awe-inspiring on the landscape.

With regard to bill-kill accusations, the Senator's claims were evaluated by Politifact, a fact-checking organization. They concluded that the estimates of birds killed by wind turbines vary widely and that there is no consensus. They do point out that the 400,000-bird estimate used by Senator ALEXANDER is the conclusion of just one person. It is not an official U.S. Fish and Wildlife estimate. In fact, the U.S. Fish and Wildlife cites figures that are, at most, half that, if not less by much.

By comparison, 976 million birds die annually from collisions with buildings. Collisions with high-tension lines kill between 130 million and 1 billion birds. Cars kill 80 million birds each year.

The Senator from Tennessee referred many times to the wind project built in his State by the Tennessee Valley Authority. They constructed a 29-megawatt wind farm at Buffalo Mountain at a cost of $60 million. But it only generates 6 megawatts, because it generates electricity only 19 percent of the

time. The Senator criticized it as being inefficient, wasteful, and ill-advised. The TVA apparently characterizes it as a failed experiment. He blames the Federal incentive for this failed wind project. The blame is totally misplaced. I think the blame should go to the taxpayer-subsidized TVA which put windmills where there was very little wind.

We do agree that the modification made to the renewable energy incentives in the stimulus bill of 2009, specifically the creation of the 1603 cash grant program, is in fact bad policy and should not be extended. However, the production tax credit, which I first authored in 1992, provides the incentive only for electricity that is actually produced. Under the production tax credit, there is no tax benefit simply for placing the turbine in the ground. Electricity must be produced in order to get the credit.

The Senator from Tennessee went on to say that the tax incentive has encouraged developers to build wind projects in places with insufficient wind resources. The TVA project is the only one I am aware of that was built with no prospects of generating electricity. For-profit utilities have to look out for the bottom line. They are not going to make an investment if it doesn't make economic sense. A nonprofit such as TVA can fritter away money, which is what they apparently did in this wind energy project.

The Senator from Tennessee might spend a bit of time criticizing the leaders of the TVA over their poor decision to build this wind project in the first place. I am not aware of a policy forcing them to develop wind. There is no mandate that they build a wind farm there in the State of Tennessee.

Most intelligent businesses determine whether an investment makes common sense. The Tennessee Valley Authority obviously failed in that regard in relationship to this wind project. The Senator from Tennessee might use his time getting to the bottom of this leadership failure and squandered resources by the Tennessee Valley Authority.

I am also glad that he raised the issue of the Tennessee Valley Authority. Much of the criticism aimed at the wind production tax credit is that it is costly, was meant to be temporary, and that it provides a small benefit at great cost. Those same accusations could clearly be aimed at the Tennessee Valley Authority. Regardless of one's opinion of the TVA, there is no doubt—it is a big government program subsidized by all Americans that benefits just a few.

The TVA was created in 1933 to provide flood control, navigation services, and electrical power in the Tennessee Valley region. For more than 60 years, Congress appropriated funds to cover losses by the Tennessee Valley Authority.

A 2009 article published by Jim Powell of the Cato Institute noted that a study estimated the annual cost of capital subsidies exceeded $1.2 billion, including taxes that the Tennessee Valley Authority was able to avoid.

In 1997, the Heritage Foundation issued a report entitled ''Five Good Reasons to Force the TVA into Mandatory Retirement.'' This report stated:

> Throughout its history, the TVA has benefited from generous subsidies, tax breaks, and regulatory exemptions that allow it to keep its power rates lower than the national averages. Yet, despite its protected geographic monopoly, substantial indirect subsidies totalling roughly $1.2 billion each year, sweeping, across-the-board regulatory exemptions, the TVA has managed to amass a debt of well over $27 billion and a disturbing record of waste, mismanagement, and chronic cost overruns.

The private nonprofit group Citizens Against Government Waste has suggested selling the TVA's electric power assets and privatizing its nonpower functions. In their 2011 list of ''Prime Cuts,'' they argued this move would save taxpayers $16.2 billion over 5 years.

Even the Congressional Budget Office listed the TVA in its March 2011 report on spending and revenue options to reduce the national debt and the annual deficit. When the Federal Government is borrowing 40 cents of every dollar we spend, perhaps the time has come to review an entity that benefits 3 percent of the population at a cost of over $1.2 billion annually. And I use that 40 cents the Federal Government is borrowing of every dollar we spend just as the Senator from Tennessee a few minutes ago used that very same figure as a rationale for eliminating certain expenditures. In this particular case, I apply it to the Congressional Budget Office recommendation of selling TVA.

Rather than blaming the tax incentives for an ill-conceived wind project, I think a review of the management and taxpayer subsidy of TVA would be more appropriate. On many occasions, the Senator from Tennessee has argued that the incentives should be repealed and the savings used to double the Federal energy research budget and to support development of new nuclear.

First, I support research efforts to develop clean energy, but I do not support imposing a tax hike on one energy industry so we can spend billions through our Federal bureaucracy. This idea is nothing more than a tax increase to pay for further Washington spending. It is this kind of activity that helped create the fiscal mess our country is in right now.

Second, I strongly support nuclear energy. In fact, I believe there are four critical elements to a comprehensive energy policy. They are drilling for domestic oil and gas, promoting renewable and alternative energy, supporting conservation and, of course, fourth, nuclear energy.

Nuclear is an emission-free resource. It certainly should play a key role in providing our Nation and economy with renewable emission-free energy. However, this discussion of wind energy versus nuclear energy should be an intellectually honest debate. The fact is, nuclear energy in the United States would not exist today—would not even be here today—without significant government support over 60 years, and development of new nuclear in the United States is unlikely to happen without even greater government intervention and subsidies.

An analysis done by the Christian Science Monitor concluded that the nuclear power industry in the United States receives about $9 billion annually in subsidies. They state that the subsidies stem from things such as Federal decommissioning, waste management policy, and research and development in the Nation's National Laboratories.

The Union of Concerned Scientists published a document in February of last year entitled ''Nuclear Power: Still Not Viable without Subsidies.'' They contend that the 50-year-old nuclear industry has benefited from 30 subsidies. The Price-Anderson insurance liability policy was enacted in 1957 as a temporary measure for an infant industry. It was recently extended until the year 2025.

The Cato Institute published an article, June 2003, entitled ''No Corporate Welfare for Nuclear Power.''

That report states:

> Despite extensive and continued government assistance—including more than $66 billion in research and development alone—no nuclear powerplant has been ordered and built in the United States since 1973.

But it goes further.

> The decline of nuclear power is the result of several factors: the Three Mile Island disaster heightened public safety fears and citizen opposition to the siting of grants in their neighborhood grew. But nuclear power was ultimately rejected by investors because it simply does not make economic sense. In truth, nuclear power has never made economic sense and exists purely as a creature of government.

A more recent piece by the Cato Institute cites an economist who believes existing nuclear power subsidies are equal to one-third or more of the value of the power produced, and that they face a negative 49-percent tax rate.

There are only two new nuclear plants on the drawing board in the United States today. Both are recipients of loan guaranties provided by the Department of Energy. One is an $8.3 billion loan guaranty, and the other is $2 billion. When the Loan Guaranty Program was first created by Congress, the Congressional Budget Office estimated that ''the risk of default on such loan guaranties to be very high—well above 50 percent.'' This is the same program that backed Solyndra.

Congress originally set aside $18.5 billion for loan guaranties for nuclear. President Obama has requested tripling that amount to $54.5 billion. It is estimated that this $54 billion would help construct 12 new nuclear plants. That is about $4.5 billion each.

Congress created a production tax credit for new nuclear in the year 2005.

Now the nuclear industry is advocating a 30-percent investment tax credit for these new nuclear constructions.

They are also advocating that the production tax credit be extended to the year 2025—that is right; they are seeking to extend for another 13 years a temporary tax incentive.

Taxpayers for Common Sense, in an article published just last week, concluded:

> The U.S. cannot afford to shoulder the high price tag and long term fiscal risk. If the industry cannot figure out a way to manage its long term risks, the taxpayer should not step in. This is especially true when the nation is staring into a $15 trillion chasm of debt. After more than 50 years of subsidies and support, it's well past time for the nuclear industry to stand on its own two feet.

I do not raise these points to undermine our nuclear industry. I am not urging my colleagues to end the entire big nuclear gravy train at this time. I support that form of energy as one component of a comprehensive energy program. I support a real, ''all-of-the-above'' approach to energy security. But a fair comparison of Federal support for wind and nuclear needs to be made. That is the point of my remarks at this time.

I say to the Senator from Tennessee, as he just spoke and as he spoke a couple of weeks ago, it is intellectually dishonest to criticize wind incentives while at the same time ignoring those subsidies for nuclear energy. The Senator from Tennessee referred to a Wall Street Journal editorial that criticized the wind energy incentive. It called into question whether wind energy could survive a market-based system.

I will eagerly await an editorial in the Wall Street Journal—which, by the way, will never appear—calling for the gravy train for big nuclear to end after nearly 60 years of Federal subsidies with no market-based timetable on the horizon.

I yield the floor. 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. DURBIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, I ask unanimous consent the Senate proceed to executive session at 4:30 p.m. today and that all other provisions of the previous consent remain in effect, and that the previous order regarding the division of time on the motion to proceed to S. 2230 be modified to reflect this consent.

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

Mr. DURBIN. For the information of Senators, the two votes originally scheduled to begin at 6 p.m. will now begin at 5:30 p.m.

Mr. DURBIN. I ask unanimous consent to speak in morning business.

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

HEALTH CARE REFORM

Mr. DURBIN. Mr. President, right outside this Chamber, across the street, is a huge gathering. It is the third day in succession that people from all across America have gathered before the Supreme Court. They have different points of view. They express those points of view in various ways—with signs, chants, music, a variety of others—costumes that are worn to express their points of view.

Let me first salute the fact that it is part of America. It is protected, and no one is going to be arrested for expressing themselves, whether they are for or against health care reform. We take it for granted, and we should not because in some countries around the world it is an exception rather than a rule. In America, it is who we are. We should celebrate even when we disagree.

But let me say a word about what is going on inside the building across the street. They are considering the health care reform bill that was passed by the Congress and signed by President Obama. Some have tried to characterize it as ObamaCare. For the longest time that was the biggest applause line at Republican Presidential rallies, after candidate after candidate stood up and said: I will repeal ObamaCare.

Let me speak to the issue which I think is guiding the discussion across the street and give perhaps a perspective on it that is not often stated on this floor. Earlier this morning several of my colleagues on the Republican side who voted against health care reform came to the Senate floor to express their opposition to the notion of a mandate. Here is what the mandate is about.

Currently, in America, there are millions of people who have no health insurance. Some of them by choice—young people think they are invincible; they will not buy it. Some people cannot afford it. But the fact is, even these uninsured people get sick.

When they get sick or are the victims of trauma—automobile accidents, diagnosed with a disease—they don't stay at home and wait for death, they go to a hospital. When they arrive at that hospital they are treated—emergency rooms, regular treatment—and then the bills are sent their way. Without health insurance many of them cannot pay the bills.

A little over a year and a half ago I went in for one night, overnight surgery in Chicago—the first time I was ever in a hospital since I was born. Everything worked perfectly. The ending was great. I couldn't ask for a better result. The total bill, start to finish, was $100,000.

Lucky for me, I am a Senator. I have the Federal Employees Health Benefits Program. It paid for almost everything. What if I had no insurance? They would have sent me the bill. Perhaps I could have come up with the money to pay for it, but some people cannot. What happens then?

The hospitals and doctors then take these bills and say: Well, so-and-so didn't pay their bill. We are going to charge someone else who is paying more. Mr. President, 63 percent of the medical care given to uninsured people in America is not paid for, 63 percent. It is shifted, that financial responsibility is shifted to those who do pay, those who are under government insurance programs and private insurance programs. What it means is for those of us in private insurance programs, we pay $1,000 more a year—$80-plus a month—to pay off the bills of those who are uninsured. That is the subsidy which insured people pay to cover the unpaid medical expenses of the uninsured. That is the starting point.

Until we reach the point where everyone is under the tent of insurance, this will continue. Uninsured people will get sick, and those who buy insurance will pay for them. That is cost shifting. It happens every single day in America.

The health care reform bill said we have to have health insurance. It is a mandate. But we know some people cannot afford it. If someone is poor, in the lower income category, we will enroll them in Medicaid so they will have at least Medicaid insurance to pay their medical bills.

At Memorial Medical Center in my hometown of Springfield, IL, Ed Curtis, who runs that hospital, said to me: Senator, if you just did that alone, if we could just get Medicaid payment for everyone who walked through the door, we would be fine. What hurts us are those who pay nothing because they can't. That is a problem. The bill we passed went on to say that if you are working, you will never have to pay more than 8 percent of your income for health insurance premiums. People would rather pay nothing, but 8 percent is a lot more manageable than people who are facing 10, 20, 30 percent of their pay going to health insurance premiums. So we basically have created a requirement to have health insurance but with a helping hand to reach that goal.

So what about the people who already have health insurance? They are untouched by this mandate. They just continue on and let life continue. You have made your choice; you have health insurance; it doesn't affect you.

What I find interesting are so many Senators—primarily from the other side of the aisle—who come to this floor condemning government-administered health insurance. ''Get the government out of health insurance.'' You hear that speech over and over. What they don't tell you is their own health insurance policies are administered by the Federal Government.

Mr. President, as Members of the Senate, you and I are eligible—so too are Members of the House—to be part of the Federal Employees Health Benefits Program. This was created decades

ago to provide health insurance for people working for the Federal Government. Eight million people—employees and their families—are covered by this plan. What you have learned as a new Senator is that they come to us once a year and say: DURBIN, you and your wife are eligible for the Federal Employees Health Benefits Program, and here are the private insurance plans you can choose from that are enrolled in our program.

We have nine choices in Illinois, so Loretta and I looked through and picked the plan we liked. We pay part of my income as premium, and the government pays the remainder. It is a government-administered plan, and each year we have an open enrollment to change if we wish. This has been wildly successful and popular. Private insurance companies fight to enroll in it so they can cover Federal employees, and we have good, reliable, affordable insurance, insurance that we can change if we don't like it.

A few years back, one of my employees needed a specific foot surgery. It turned out her health insurance didn't cover it, but she knew the open enrollment period was coming. She waited and enrolled in a plan that covered it. What a luxury. People across America would applaud if they thought they could get that treatment, government-administered health care for Members of Congress.

I have waited patiently now throughout this entire debate for the first Republican Senator who condemns government-administered health care to come to the well of the Senate and announce they are dropping their own health insurance as a matter of principle. No way.

I think people across America are entitled to health insurance that is at least as good as the health insurance Members of Congress have today. I don't think that is a radical idea, and, in fact, the health care reform bill we passed said that Members of Congress will be part of the same insurance exchanges we are creating all across America. That is only fair. I am hoping it offers the same plans as the Federal Employees Health Benefits Program, but I am sure it will offer me a choice, and with that choice I am sure my family will get good coverage.

When I hear the debates across the street suggesting that the notion of requiring people to buy health insurance is somehow un-American or unconstitutional, I struggle with that concept. We know what we are trying to do—reduce the overall cost of health care for America. We also know that the requirement of having health insurance is not that much different from the requirement of paying into Social Security if you go to work in America. If you want another parallel, in my State you have to have insurance to drive an automobile. They don't want you getting involved in an accident without insurance. For one thing, it is not fair to the other driver, let alone the person who might be injured in the car. These are mandates under the law relative to insurance—one for retirement, the other for liability—that are built into the law, and we don't have people marching in the streets over them.

We have to come to a point in this country where we reach a balance, and the balance suggests personal responsibility. It means that the millions of Americans who should have and could have health insurance with the help of a tax break, perhaps with the help of Medicaid, should have that insurance so that the burden of their medical bills does not fall on every other family and every other insured person. Those who are screaming for freedom ought to stop and think a second. Those who are accepting the personal responsibility of having health insurance are exercising their right to protect their family, and they should have the peace of mind of knowing that their neighbor who didn't accept his personal responsibility will not pass his medical bills on to them. I think that is the basis of what we are debating across the street.

I would like to raise a point, if I can, about a bill that was pending this week. It was offered by Senator MENENDEZ of New Jersey to end Federal subsidies to oil companies.

Last Sunday in Chicago, I went by a BP gas station on the Congress Expressway, and I saw it for the first time—more than $5 a gallon for gas, $5.03 a gallon for ultimate gasoline at the BP station. For reasons I cannot explain, Illinois has the highest gasoline prices in America. We have refineries all over our State. I don't get it. But I know it is a recurring problem and a recurring theme. Every spring we go through it. The runup to Easter is the time for every politician in America to dust off the press release expressing outrage at our oil companies.

They do it to us every year. They come up with convenient excuses: You know, it is all about uncertainty in the Middle East. How long have they been playing that card. No, it is about the change of seasons. You see, when we go from winter to spring, we just are not ready for it. Really? You weren't ready for the change of seasons? There was a refinery accident in some town in the Midwest 400 miles away, and it has really disrupted everything. Well, I don't buy it, and I haven't over the years.

What they are doing is what they can do: they run up the price of this commodity because we have no choice. Until we have a choice in the vehicles we drive or in the sources of energy we use, we are kind of stuck with oil companies. But we are not stuck with paying a $4 billion annual subsidy to these oil companies. That is what the tax break we give to oil companies comes to. Senator MENENDEZ of New Jersey has said: Stop it. Take the $4 billion and invest it in renewable, sustainable energy research, and take the rest and reduce the deficit. The five biggest oil companies had profits of over $137 billion last year. They won't miss $4 billion. And we should be ashamed that we continue to shove subsidies at them when they are so profitable.

What is happening when it comes to oil exploration? It is a legitimate question. We are now at an 8-year high in terms of the oil production in America. Starting under President Bush and continuing under President Obama, we have more oil and gas rigs in place working today in the United States than in the rest of the world combined. So those who say that if we just drilled a little more, gasoline prices would come down, you have to look at that. We are increasing the supply, and yet the prices go up.

Secondly, we also understand that when it comes to these gasoline prices, even when the supply goes up, the prices are going up. It defies the law of physics. Demand is down because of the recession, supply is up, and prices are going up. That violates principles of economics 101 that I studied in college.

What Senator MENENDEZ is suggesting is a move in the right direction, not just because we cannot justify the subsidies to oil companies anymore but because we should be investing in new ideas that will move us forward in the right direction.

This morning we had a meeting that I think the Presiding Officer attended, and the CEO of Chrysler Corporation was there. He is an interesting and curious man, Sergio Marchionne. I don't think he owns a suit and tie. He never wears one. He is the CEO of a major corporation, and he wears kind of a black-knit sweater. I see him all the time. But you have to give him credit; he took Chrysler Corporation when it was on the ropes struggling and near extinction and turned it around completely. They are looking forward to more than doubling the automobiles they are going to sell. Those who thought that the automobile bailout, as they called it, was a bad idea should listen to this man.

I can tell him the story of Belvidere, IL, northern Illinois, Boone county. We have a Chrysler production facility that Marchionne said to me is one of our best. They have gone on to a second shift, and he said that by the end of the year, they will go to a third shift in producing cars for America. He gets it. And when you talk to him about fuel efficiency and fuel economy in cars, they are moving in that direction. They are committed to it.

The President brokered an agreement with the major auto companies that they would make more fuel-efficient vehicles. That is good news for consumers. We need to be subsidizing research into better, more efficient forms of energy instead of subsidizing oil companies with recordbreaking profits.

Mr. BROWN of Ohio. Would the Senator yield for a moment?

Mr. DURBIN. Yes.

Mr. BROWN of Ohio. I thank the assistant majority leader. I heard his comments about Chrysler and what

happened with the CEO when he was in town today talking to some of our colleagues. And one of the untold stories of the auto rescue is not just that in my State 800,000 people work directly or indirectly for the auto industry. Most of those are part of the supply chain that makes products and sells those products—a large number of them—that are assembled in Lordstown or Toledo or different places around Ohio. But one of the untold stories is that not only were these jobs and these companies saved from going bankrupt—and who knows what would have happened to a State such as mine where much of the State is pretty dependent on the auto industry—but in the case of the Toledo Jeep plant, prior to the auto rescue only 50 percent of the components that went into the Jeep Wrangler were made in the United States. After the President and Vice President negotiated with the auto industry and the auto task force and the House and Senate weighed in, now 75 percent of the components that go into the Jeep Wrangler are made in the United States. So we are not just seeing the 5,000 jobs in Lordstown making the Chevy Cruze or the jobs at the Honda assembly plants in Marysville, OH, or Toledo, or Ford, we are also seeing that a lot more of the components are made in the United States. And these are often union jobs, often not union jobs, but they are almost all good-paying jobs that give people a ticket to the middle-class. It helps them to buy a house, send their son or daughter to school, or buy a car. Without it, my State would probably be in a depression.

Mr. DURBIN. I say to the Senator from Ohio, that is a good point and one we ought to make over and over because there is no question that the downturn in the recession forced the management of these auto companies and the workers to step back and take a look at the challenges they faced.

Mr. Marchionne, the CEO of Chrysler, said this morning: We are where we are today because our UAW workers—union workers—sat down at the table and said, we have to agree on a future together or we are sunk. They agreed on that future, and he said: Now my workforce is excited and productive.

The Senator just made the point—more businesses are coming back from overseas. It is a great success story.

Mr. BROWN of Ohio. I have been to the plant where they make the engine for the Chevy Cruze, I have been to the plant where they make the bumper for some of these cars, and I have been to the assembly plants, and the workers are excited. And the workers sacrificed a lot, as the auto industry—all kinds of people took a hit with the managed bankruptcy of those two companies. But we have seen not just the auto industry, but for 12 years, from 1997 to 2009, in my State and I assume in Illinois too and all over the country we lost manufacturing jobs. Almost every month for the last 2 years we have gained manufacturing jobs.

The auto rescue is not the only reason we have seen things turn around. We also have a productive workforce and we are training workers better. I have 55 college presidents I just met with whom I bring to Washington for a conference—it is the fifth year in a row. Senator PORTMAN, Congresswoman SUTTON, and others have met with them. They are more focused than ever on manufacturing, working to train those people so they can go into manufacturing. The students they are educating are in a whole lot of fields, but one of them is focusing on how to train people to do this high-end, much more technical, complicated manufacturing than a generation ago, and it is starting to work.

Mr. DURBIN. It is not lost on the American people. There was a different point of view when President Obama said: I never wanted to own an automobile company; that is not why I ran for President. But he realized we faced an economic crisis. If he had not stepped in for Chrysler and General Motors at the moment he did, they might not exist today.

Mr. BROWN of Ohio. Mr. President, if my colleague would yield one more time, it wouldn't have just been Chrysler and General Motors that would have faltered. Honda—a foreign-owned company that has made a huge and positive presence in the Columbus area, in northwest Columbus and in Marysville—and Ford, obviously one of the Big Three but one that didn't ask for the rescue—both those companies wanted us to do the rescue because they knew if we didn't, their whole supply chain would begin to fall apart too. So this mattered not just for Chrysler and GM, saving them, and now that they are putting tens of thousands of people all over the country back to work, it mattered for the entire industry, including the foreign companies that have invested and hired a lot of American workers.

I thank the Senator from Illinois.

Mr. DURBIN. Mr. President, I would just add—and this is not lost on most Americans—there are some political figures who said publicly they should have just gone bankrupt and gone out of business. I think the President made the right decision. Today, Mr. Marchionne made it clear Chrysler has paid back everything. They have paid it all back. So now, he said, if we need to borrow money, we are not going to come knock on the door of Secretary Geithner of the Treasury Department; we can go to banks. We are a thriving corporation. We are doing well. He said: I have nothing but good news for you, which is great to hear in a recovering economy.

It was a bet made by the President on behalf of hundreds of thousands of workers and companies and it paid off. What it says is that if we stand behind the basic pillars of the American economy—and manufacturing is one of those; maybe the largest pillar that holds up this great economy—we can prosper and succeed. Jobs being brought back from Mexico and overseas into the United States, I am glad I have lived to see it because I can remember when they were headed in the other direction.

Companies that were almost given up on by some politicians turned out, such as GM and Chrysler, to be prosperous today, building new cars and thinking about the new demands of our economy and our future, tells me we can put this together.

So when we hear those who say what we need to continue to do is to shovel subsidies at oil companies that earn $137 billion a year in profits, let's take that money—we do have a deficit—take that money, invest it in something that will create jobs and take the balance and reduce the deficit. I don't think that is a bad outcome. There are lots of good things we can invest in. The Department of Energy is talking about battery technology. That is still going to be our challenge for the future—finding ways to create power and save power for when it is needed. I think we need to incentivize that kind of research in the future as well.

At this point, I will 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.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. 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. COATS. Mr. President, right now there is an issue on the mind of every Hoosier and most Americans, if not every American, and that issue is the high price of gas. Over the past few months, gas prices have risen higher and higher each week. Currently, across the Nation, the average price is $3.90. In Indiana, it is even higher. It is close to $4, and in many parts of our State it is well over $4 per gallon.

These prices obviously have a significant economic impact on our country. It causes budgets to get tighter, planned vacations to either be canceled or shortened; families, farmers, and businesses across the State of Indiana are having to rethink their budgets for the year and make tough financial decisions. This is all at a time when unemployment continues to remain high. Americans are struggling to make ends meet. Rising gas and energy costs only further weaken an already struggling economy.

It is true supply and demand of gasoline and oil prices are subject to global considerations. There are concerns that the supply is not meeting the demand. That triggers some clear increase in prices of crude oil. There is also the concern that conflict in the Middle East could potentially shut down lanes of commerce that bring oil out of the Middle East to the rest of

the world. So we need to acknowledge there are these spikes.

However, this is a trend that has been going up and up and up. We have seen gas prices more than double in the last 3 years and, clearly, now $3.50, $3.75 is not something that looks like a spike; it is starting to look like the normal average and that certainly has real serious economic implications for this country.

There is some good news. The good news is, Americans are increasingly understanding and learning we can be a major player in producing energy. We are discovering abundant amounts of energy in this country we didn't think we had. A lot of that is right in our backyard. That is the good news. The bad news is, we have had an administration that for 3 years has been promoting policies that work against the goal of achieving more energy independence. That is the problem with the bill we are currently discussing because that bill raises gasoline prices by raising taxes on oil production. Why in the world would we want to raise prices on gasoline at a time when America's economy is struggling to come out of recession? At a time when gasoline prices are rising through the supply-and-demand issues we have had, why in the world would we want to do anything that would further increase the cost of gas at the pump?

The current Tax Code provides a number of targeted tax incentives for the energy sector. It is important to note the vast majority of those subsidies go to the so-called new wave of energy production, the renewables, and only a small minority of those subsidies and credits go to producing the oil and gas that drives this economy. So eliminating only those benefits that go to the production of needed oil and gas that benefits our economy while at the same time extending the subsidies and credits and support for renewables is not the direction we need to go. This is not about producing more energy; it is about targeting just one sector of our energy industry, which is oil—a fossil fuel energy source that is absolutely essential to our economy. If we want to eliminate oil and gas subsidies, we ought to put all subsidies for energy on the table.

Senator WYDEN and I have coauthored a comprehensive tax reform bill, and in that bill we look at the idea proposed and suggested not only by the Bowles-Simpson Commission but by others who have looked at this and who have said we need to get on a level playing field. We are willing to make adjustments even in our own bill, if it is necessary, so we can lower tax rates on American companies and on the American people by getting to a more level playing field.

We have all heard the President say we are doing all of the above or we need to do all of the above in terms of an energy approach, and unblock American resources and put us back in the driver's seat of energy production. The reality is, the administration's policies over the last 3 years have been directed at only subsidizing a certain portion of the ''all of the above.''

Let me give a couple examples. President Obama has reduced the number of new offshore leases in half over the next 5 years. In terms of current exploration and production, 97 percent of offshore areas are out of bounds, cannot drill, cannot explore.

Most recently, the President rejected the Keystone XL Pipeline, a privately—privately, not publicly—funded project that would create 20,000 jobs and deliver more than 800,000 barrels of oil per day from Canada.

Then, just last week, the President says we are going to improve the pipeline from Cushing, Oklahoma down to Port Arthur, Texas but rejected doing anything to bring the pipeline from the source of the oil down to the point in Oklahoma where it would continue on. That is essentially akin to saying: We have goods we need to move. They are essential. They are essential to the running of this country and the economy and we need to ship those from Chicago to New Orleans, but we are only going to build the road from Little Rock to New Orleans, and we will not have any other way of transporting it to get it to that particular point. So it makes no sense whatsoever.

We cannot have it both ways. We cannot tell the American people we support an ''all of the above'' energy plan and then undercut attempts to produce domestic energy sources. We cannot say we want to reduce America's dependence on foreign oil and then block major parts of the Keystone Pipeline or tell political leaders in Brazil we want the United States to be one of their best customers. We cannot tell Americans we are focused on job creation and then impose one unrealistic regulation after another that increase energy costs, jeopardize jobs, and shut down plants across the country. But that is exactly what this administration is doing.

The Obama energy plan is to pay lip service to American energy production at the same time while enacting policies that limit our ability to tap into domestic resources.

Our country faces an energy crisis. We have high unemployment. We have troops putting themselves on the frontline to protect oil in the Middle East. But we can change that. We can unlock American energy resources. We can put Americans back to work in doing so. We can protect our troops and reduce our dependence on Middle East oil. We have the ability, we have the innovation, and we have now, we know, the resources to lead the world in energy production. It is time for the President to support American energy production. That is the real ''all of the above'' energy plan.

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. ROBERTS. 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. ROBERTS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

Mr. ROBERTS. Mr. President, I wish to discuss what everybody else is discussing these days—I say discussing or maybe even cussing—and that is gas prices and, more to the point, some unfortunate finger-pointing that I think is going on in regards to our energy policies and why we see the increase we are seeing at the gas pump and the role of speculation in regards to the futures market and the energy environment we are now living in that is so challenging.

I have the privilege of being the ranking member of the Agriculture Committee, which has jurisdiction over the Commodity Futures Trading Commission, and I feel it is very important to address some of the claims being made by a number of my friends—some across the aisle—this week with regard to speculation in the commodities market.

From the rural farmer to the urban commuter, Americans everywhere are, obviously, deeply impacted by high gas prices. That is the biggest and most often negative sign we see when we drive anywhere: Whoops, we see all of a sudden that the gas price has shot up 10 cents. Unfortunately, I do not think posturing or finger-pointing does anything to minimize the pain felt at the pumps.

Similar to the annual planting and harvesting seasons in Kansas, a yearly occurrence happens in Washington, DC, for certain Members of Congress to blame the commodity markets every time a particular commodity reaches an uncomfortable price level. If we see a big price jump, we, obviously, want to blame the commodity markets. It is easy to do. We saw it in the 1970s when we had gas lines during the Carter administration, the 1980s, the 1990s. It is the same old talking points. We could have the speech in the file. Just pull out the file, cross out the date, and start making these points.

But let me talk about some economic facts, if I might. The populist rhetoric fails to acknowledge that everyone's money is the same color in the futures market. For every buyer, there is a seller and for every seller there is a buyer.

The historical problem for futures markets and the hedgers who use them is, oftentimes, particularly in the deferred month contracts, there is not the liquidity or an adequate number of market participants to take the other side of a trade to allow the hedgers to manage their deferred price risk.

Market participants who actually provide this liquidity provide a valuable tool that allows producers and

consumers of products to lock in their inventories well in advance, which can lead to lower costs to producers and certainly better prices for consumers.

If long speculation and the liquidity it provides is artificially driven from the market, the potential short-term advantage of lower prices could lead to shortages in production, higher demand, and even higher prices for both energy and agricultural commodities.

My point in this dissertation on futures markets 101 is to emphasize that speculation is not manipulation. Speculation is trading to make a profit from anticipated price changes—either higher or lower. Manipulation, on the other hand, is intentionally acting to cause artificial price changes.

As explained by the Commodity Futures Trading Commission, the independent regulatory arbiter of excessive speculation, speculation is excessive when it causes any sudden or unreasonable fluctuations or unwarranted changes in the price of a commodity.

In fact, the CFTC currently has the authority to regulate against price manipulation. So if we want to go to the people who are in charge to make sure there is not any manipulation, we already have the regulatory body and they are doing exactly that and it has had this authority since its creation by Congress in 1974.

Furthermore, we have experts at the clearinghouses, at the National Futures Association, and at the CFTC whose job it is to watch these markets minute by minute, hour by hour, day by day, to assure everybody that the discovery of prices between buyers and sellers is occurring openly and transparently.

Yet when prices just so happen to move above what somebody in this body might think is reasonable or an uncomfortable level, we have a tendency to blame the participants in the market rather than the multitude of factors and economic variables these market participants react to each minute the market is trading.

Let's examine some of these real factors that are affecting our energy prices.

First off, there is tremendous increased demand outside the United States; particularly, in Asia, China. It has caused the price of oil to rise rather dramatically. Even with the increased production in Canada, the United States, and Brazil, declines in the North Sea, Mexico, Sudan, and Libya have impacted the global supply.

Second, our U.S. refining capacity has decreased as a result of stricter environmental regulations, where they get their crude from. Both have lowered the supply of gasoline enough to prop up prices. We see reports in the press every day about one refinery making it big and other refineries are having a lot of difficulty.

Third, restricted domestic energy development on Federal lands has disrupted our futures projections.

Fourth, fear over Iran's nuclear weapons ambitions is leading to increased demand for gasoline, as people try to stock up in anticipation of any supply disruption that would be based on the possibility of a conflict in the Middle East.

Lastly, I would simply point out that blaming speculators ignores the inflationary aspects of the monetary policies of several central banks around the globe. It does not take a speculator to know that when the U.S. Treasury prints more money, it drives down the value of the dollar and drives up the price of raw materials and commodities, such as oil, priced in dollars. Yet despite these facts, we have too many who keep seeking a solution for a problem that simply isn't there.

What have the regulatory bodies found in their investigations as we look for somebody to blame? There have already been studies and investigations into whether excessive speculation is manipulation and they are manipulating prices. Let's take a look at what they found.

Last year, a Federal Trade Commission report on manipulation of gas prices determined that none of the complaints investigated violated any FTC rules.

A similar study by the CFTC stated that its preliminary analysis ''does not support the proposition that speculative activity has systematically driven changes in oil prices.''

Last but not least, the administration's own Financial Fraud Enforcement Task Force set out to investigate illegal speculation in the energy markets. To date, it has found none.

The effects of high gas prices on our economic growth and on each individual business and family are certainly well understood. We should be finding effective solutions to fix a failed Federal energy policy rather than trying to place the blame where it does not exist.

These solutions do not stop at increased domestic oil and gas production. They include implementation of workable environmental regulations. Unfortunately, the multitude of regulations under this administration is anything but workable.

They are like a Katrina flooding virtually every part of the economic sector. That is all I hear about when I go home to Kansas. There are a lot of things that are on people's minds, but regulation is No. 1, and I don't care what sector of the economy we are talking about. There is a very real fear in my State that the new clean air regulations we are hearing about targeting coal-fired powerplants could disrupt our power grid. In a State that relies on coal for 75 percent of our power, this is simply unacceptable.

Yes, let's continue moving toward cleaner forms of energy—certainly we want to do that—but in a way that will not compromise the ability for Kansans or any citizen of any State to access affordable energy. This includes impending Federal regulations on hydraulic fracturing, which will continue to play a huge role in my State's energy economy.

In closing, on a larger topic of domestic energy companies, I think it is unfortunate for elected officials to come to the floor—or for that matter make a speech anywhere—and single out specific industries or private U.S. citizens, for that matter, that employ millions of Americans and blame them for our energy woes. I think we are better than that.

Let's remember that attacking their profits is an easy target. It is not going to hurt the few top-level executives at these companies, but it will hurt middle-income Americans and retirees who make up over 90 percent of the ownership of so-called Big Oil or so-called big anything, and rely on their IRAs, pension funds, and mutual funds for their very livelihood. These are not privately held companies, so let's remember who actually owns the companies. It is our constituents, that is who it is.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. 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. SCHUMER. Mr. President, I ask unanimous consent that the time under the control of the majority be divided as follows: Mr. SCHUMER for 10 minutes, Mr. CARDIN for 10 minutes, Mr. SANDERS for 10 minutes, Mr. LEVIN for 10 minutes, Mr. REED of Rhode Island for 10 minutes, and Mr. MERKLEY for 10 minutes.

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

SURFACE TRANSPORTATION ACT

Mr. SCHUMER. Mr. President, I rise today in support of the legislation authored by my good friend from New Jersey, Senator MENENDEZ. But before I do, I want to call attention to the highway bill and its holdup by our colleagues in the House.

Once again, we are facing the specter of an unnecessary shutdown caused by intransigence in the House Republican caucus, and time is ticking away. Should we reach the March 31 deadline without passing a bill, States' contract authority for construction projects will cease, and 2.9 million jobs will be put at grave risk.

It doesn't have to be this way. Speaker BOEHNER has once again been painted into a corner by the extreme wing of his caucus, which is committed to blocking a responsible highway bill at every turn. It has become clear Speaker BOEHNER has run out of options. He has tried to pass a highly partisan House-drafted highway bill, and that failed. He has tried to pass a 90-day extension on Monday, and that failed. He then tried to pass a 60-day extension on Tuesday, and that failed as well. Now we have learned the House will not

vote on any type of extension today either.

Time is running out. Speaker BOEHNER simply cannot pass a transportation bill of any length without Democratic votes, and it is time he accepts that.

Fortunately, Mr. President, there is an easy way out that already has a stamp of approval from some of the most conservative Republicans in Congress. The House could pass the Senate bill. If Speaker BOEHNER put the Senate bill on the floor, there is virtually no question it would pass by a large majority.

You know, this is beginning to look a bit like a replay of the payroll tax cut episode. Just like then, the Senate passed a bipartisan bill by an overwhelming majority. Just like then, the Speaker originally said he would act based on the Senate compromise, but then went back on what he said. Just like then, with the deadline looming, the Speaker is unable to pass an alternative measure and is resorting to asking the Senate for a conference.

We all know how the payroll tax cut saga ended. Republicans started turning on the Speaker and asking him to pass the Senate bill. Now that is happening here too. Earlier this week, three House Republicans from mainstream Republican districts—Congress Members DOLD, BIGGERT, and BASS—joined the growing calls for Speaker BOEHNER to put the Senate's 2-year highway bill on the floor. These are major cracks in the dam, and we believe it is the start of a trend.

Earlier today my friend from New York, PETE KING, also said he would support the Senate bill if the Speaker put it to a vote. Now, that doesn't come as a surprise, as Congressman KING is a strong fighter of New York's transportation needs, including mass transit, which are protected in the Senate bill.

The Senate bill is about two dozen publicly declared Republicans away from having the votes to pass. We believe we have those two dozen Republicans in the House and more. They may not be publicly declared, but they are there. The Senate's 2-year bill can be a lifeboat for Speaker BOEHNER. He should take it before it is too late.

As we speak about the highway bill over in the House, in the Senate Democrats are hard at work taking on Senator MENENDEZ's fine legislation. He was prescient to focus on this idea years ago, and I am glad this bill has come to the floor. I look forward to a debate on the issue.

In the last election, voters gave those of us who have the privilege of serving in this Chamber two distinct mandates. They told us to do two things at once: First, and perhaps foremost, make the economy grow. Create good-paying jobs. Make sure the American dream burns brightly—the dream that says to the average middle-class family: The odds are pretty good if you work hard you will be doing better 10 years from now than you are doing today, and the odds are very good your kids will do better than you.

For that dream, which has burned so brightly in this country for hundreds of years, the candle began to flicker a little in this decade. Median income actually went down even before the recession, which meant even if people had a job—and we know there are millions out of work despite the fact they look hard for jobs—their income was declining. Buying power was declining for the average person. That is difficult. Even people who do have work have a difficult time when they sit down at that dinner table Friday night after dinner trying to figure out how they are going to pay the bills. The costs and needs keep going up, and even when they have a job the income doesn't seem to keep up.

So we first think of the people we have met who are struggling because they don't have jobs, and then we look at the people lucky enough to have jobs who are still having a difficult time making ends meet. We know this Congress must focus like a laser on jobs, the economy, and the middle class. So this is one obligation voters sent to us, and it is a justified one. Secondly, they said, in no uncertain terms, to rein in that Federal deficit—rein it in. They are right.

So that brings us to today, where we are fighting to grow the economy through projects such as those in the highway bill, which will bring good-paying jobs to communities across the country, and we try to rein in this out-of-control deficit by passing the Big Oil Tax Subsidies Act. It would be hard enough to accomplish one of these goals, but we are trying to do both.

We can do it because this choice is simple. It is obvious that at this time, when there are so many needs, that giving oil companies the kind of tax breaks we do makes no sense at all. Getting rid of these corporate subsidies to Big Oil is a no-brainer. At the time these subsidies were passed decades ago, oil was $17 a barrel and there was a worry there wouldn't be enough production. Maybe it made sense in those days to give oil companies an incentive to explore and produce. But with oil hovering at $100 a barrel, and Big Oil reaping record profits, this outdated subsidy makes no sense. Yet it remains on the books, amazingly enough.

It defies logic for this government to spend billions of dollars in tax giveaways to Big Oil; for taxpayers to give dollars out of their pockets every year when they are struggling and Big Oil is making record profits. Believe me, the free market gives the oil companies enough of an incentive to produce. When oil is $100 a barrel, they do not need an extra subsidy from the government to produce. They are going to produce every bit of oil they can. They make huge profits, so they do not need a financial nudge from Washington. At the same time, middle-class Americans get hit with a double whammy. They are paying $70 or more to fill up their gas tanks and then some of their hard-earned dollars are being used to line Big Oil's pockets.

Economists estimate the typical family will pay almost $1,000 more on gasoline this year than last year. But families in my home State of New York and across the country are still struggling to make ends meet. As the economy slowly recovers, they cannot afford to get gouged at the pump.

With billions of dollars worth of tax subsidies, and gas prices at near record highs, it is no wonder the top five oil companies are on track for another record-breaking year. These companies are not only the most profitable businesses in the United States, they are among the most profitable in the world. In the past decade, they took home $1 trillion—not $1 billion, $1 trillion—in profits.

Now, there is nothing wrong with profits in and of themselves. In America, we celebrate success. We want the private sector to survive and thrive. But at a time when the government is looking to tighten its belt, and we are grappling with painful cuts because we have the dual goal of growing the middle class and also reducing the deficit, it boggles the mind that we would continue to subsidize such a lavish industry.

I have watched my colleagues on the other side of the aisle stand idly by while the type of funding that helps our middle class is threatened. Now they are going to choose these subsidies to Big Oil over money to help kids pay for college, over cancer research, over helping our veterans, over keeping our highways and transit systems reliable. Hardly any American would agree with that. Hardly any American—Democrat, Republican, Liberal, Moderate, Conservative—from the Northeast, South, or West would agree.

Try to wrap your head around that. Big Oil is reporting record profits, gas prices are at an all-time high, and we, the American taxpayers, are still subsidizing the oil industry. We don't need the imagination of Lewis Carroll to come up with a more ridiculous scenario. That is why I strongly support and am proud to cosponsor Senator MENENDEZ's Repeal Big Oil Tax Subsidies Act.

If our Republican colleagues are serious about deficit reduction, the Menendez bill is the chance to show it. There is no good reason not to support this sensible legislation.

In fact, Speaker BOEHNER himself has said as much. Let's not forget, he was in favor of repealing oil subsidies before he was against it.

So the bottom line is this: At a time of sky-high oil prices, it is unfathomable to continue to pad the profits of oil companies with taxpayer-funded subsidies. The time to repeal these giveaways is now.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CARDIN. Mr. President, I want to concur with Senator SCHUMER about his comments on the passage of Senator MENENDEZ's legislation, S. 2204. This legislation is very important for America's energy needs, and I urge my colleagues to allow us to take up this legislation and let's act on it and let's move it to the other body.

There is one commodity just about everyone knows the price of: a gallon of gasoline. People will have a rough idea what a gallon of milk or a dozens eggs or a loaf of bread costs, but they will know to the penny what a gallon of gasoline costs. The price is rising, and people are understandably upset. They are upset because it costs more to fill up at the pump. But they are also upset because crude oil and gasoline price increases affect the price of every other commodity—including milk, eggs, and bread—that has to be transported from where it is produced to where it is consumed. Petroleum is a feedstock used in the production, not just transportation, of so many critical products, including fertilizer.

According to the U.S. Energy Information Administration, EIA, the retail price of a gallon of regular unleaded gasoline was 27 cents higher for the week ending March 5, 2012 than it was a year ago. EIA reports that vehicle fueling costs for the average U.S. household will be about $238 higher in 2012 than 2011.

According to EIA, the price of gasoline has increased dramatically every year—in 2011, higher than 2010, and 2012 is projected to be higher than 2011. This price increase is occurring despite the fact that the United States has stepped up its crude oil production considerably over the past 4 years by 1.3 million barrels per day. Production is at an 8-year high. The United States is the third largest producer of oil, behind the Saudis and Russia, and domestic oil consumption is at a 15-year low. Americans are driving 35 billion fewer miles today than they did in 2010.

If we were producing more and consuming less, then why are prices going up? Supply and demand would tell us that they should be going down. The answer is straightforward: Crude oil and all of the products derived from it, including gasoline, are fungible commodities traded on world markets. Increasing global demand for these commodities is putting a relentless upward pressure on prices.

Growing demand for oil in developing countries has reshaped the global market. Developing nations now consume 47 percent of the world's oil. In 1970, it was 25 percent. The number of cars in the world exceeded 1 billion for the first time in 2010, with one-half of the global growth occurring in China. Beijing adds 1,500 new cars every day.

Another reason for price increases is market uncertainty over crude oil supplies. Much of the world's crude oil is produced in the Middle East and North Africa, regions plagued with turmoil. Right now, the United States accounts for about 9 to 11 percent of the world's crude oil production. This is despite the fact that we have less than 2 percent of the world's total proven oil reserves. We have 2 percent of the world's reserves and we are producing 9 to 11 percent. We are, in fact, drilling here and drilling now, with more oil rigs in operation than the rest of the world combined, according to the Baker-Hughes rig count.

According to economist Steve Baker at the Center for Economic and Policy Research, even if U.S. production could be increased by one-third overnight, that would increase world supply by 3 percent which would lower the price of oil by 7 to 8 percent. As Baker notes:

> This is not trivial, but it is not the difference between $2 a gallon gas and $4 a gallon gas.

T. Boone Pickens said it best:

> I've been an oil man all my life, but this is one emergency we can't drill our way out of.

A recent Associated Press fact check analysis found that there is no correlation between domestic oil production and the price at the pump. I am for reasonable oil production. We need as much as we can get in a reasonable manner. As reported in the Washington Post of March 28:

> A statistical analysis of 36 years of monthly, inflation-adjusted gasoline prices and U.S. domestic oil production by The Associated Press shows no statistical correlation between how much oil comes out of U.S. wells and the price at the pump . . . More oil production in the United States does not mean consistently lower prices at the pump . . . U.S. oil production is back to the same level it was on March 2003, when gas cost $2.10 a gallon when adjusted for inflation. But that's not what prices are now. That's because oil is a global commodity and U.S. production has only a tiny influence on supply . . . Factors far beyond the control of a nation or a president dictate the price of gasoline.

The United States is incapable of having a significant impact on world crude oil and gasoline prices from the supply side of the equation, but domestic oil production does play an important role in bolstering our energy and economic security. We should produce where we can, in a safe and environmentally sensitive manner.

While increasing domestic production and decreasing domestic demand may not be lowering world prices, it does have a significant effect on imports. Our dependence on foreign oil is at its lowest level in 16 years. As a share of total consumption, oil imports declined from nearly 60 percent in 2005 to 45 percent last year, the lowest level since 1995. And nearly one-half of our imports come from the Western Hemisphere nations such as Canada and Mexico, while the Persian Gulf countries account for only 18 percent of our net imports.

The biggest impact the United States could have on oil and gasoline prices is not on the supply side, it is on the demand side. We account for close to 25 percent of the world's petroleum consumption, even though we account for less than 5 percent of the world's population. The best way to continue reducing our demand for crude oil and gasoline would be to: Promote fuel efficiency with higher CAFE standards. We have made progress. We are doing better. We know we can do better than our current standards; Replace conventional fleet fuels with alternative fuels such as propane, natural gas, and biofuels. That will help us consume less oil; Electrify transportation, focusing on hybrid and plug-in electric technologies. Here you get jobs in the United States helping our economy as well as helping our energy security; Boosting transit ridership by increasing funding for the Federal Transit Administration. People don't like to be stuck in traffic jams. Let's have a modern transit system that can help move our people;

Eliminating the tax expenditures that benefit Big Oil could generate over $20 billion over the next 10 years. This is the bill we are talking about, S. 2204, the Menendez bill. It takes the revenues we are giving to the oil industry and uses them to help pay for these green energy measures. This makes a lot of sense. It will hardly be noticed by the big five oil companies—BP, Chevron, ConocoPhillips, ExxonMobil, or Shell. They made record profits in 2011, $137 billion. I talked about $20 billion over 10 years. They made $137 billion in 1 year. That was up 75 percent from 2010. From 2001 through the last year, Big Oil has made more than $1 trillion in profits. Every penny increase in the pump increases their profit by another $200 million. So as we are suffering with prices going up, the big oil companies are making more and we are still giving them the subsidies, where we could be using those subsidies to help America develop alternative energy sources.

Big Oil has been getting big subsidies for 100 years. It is time to use that money for developing alternatives to oil. That is the best and most sustainable way to address the high cost of gasoline at the pump. S. 2204 will help us bring down the cost at the pump. It is good for our economy, good for our environment, and good for our national security.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CARDIN). The Senator from Vermont is recognized for 10 minutes.

Mr. SANDERS. Mr. President, the skyrocketing price of gasoline is clearly causing tremendous hardship to American families all across this country, to small businesses to truckers to airlines and, in fact, to the entire economy. We are trying to claw our way out of this horrendous recession and

the high price of oil and gas is not helping us.

I come from a rural State, and it is a State where people often drive 30, 40, 50 miles to work and back home again. Many of these workers make $10, $12, $14 an hour and when the price of gas goes up to $4 a gallon, this is money that is coming right out of their paychecks and it is money they can ill afford to pay. Many of them have seen stagnation in wages, and these high gas prices are doing their families severe harm.

Further, I think the American people understand that our good friends at the oil companies continue to do phenomenally well in terms of the profits they are making. In the last decade, the major oil companies in this country have earned $1 trillion in profits while gas prices have soared.

The Repeal Big Oil Tax Subsidies Act we are debating today is a step in the right direction. This legislation would repeal more than $20 billion in tax breaks to the big five oil companies, and use roughly half of this money to extend renewable energy tax credits and use the other half for deficit reduction. Over the past decades, our friends at ExxonMobil, among others, have seen more profits in ExxonMobil in a given year than any other corporation in the history of the world. Meanwhile, many of the largest oil companies over the years have paid little or no Federal income taxes. Let me give you an example.

In 2009, ExxonMobil—again, which has made more profit on a given year than any corporation in history. In 2009, ExxonMobil made $19 billion in profits while receiving a $156 million refund check from the IRS. How is that? A pretty good deal? It made $19 billion in profits, did not pay any Federal income taxes, and yet received a $156 million refund check from the IRS. Chevron received a $19 million refund from the IRS after it made $10 billion in profits in 2009. Not a bad deal. In 2009, Valero Energy, the 25th largest company in America, with $68 billion in sales, received a $157 million tax refund from the IRS. ConocoPhillips, the fifth largest oil company in the United States, made $16 billion in profits from 2007 to 2009 but received $451 million in tax breaks through the oil and gas manufacturing deduction.

At a time when the American people are getting ripped off at the gas pump, the last thing we need to be doing is giving big oil companies massive tax breaks which only add to our deficit and national debt crisis.

In my view, we have to do more than simply end these outrageous tax breaks that Big Oil has enjoyed. In my view, we must also end excessive oil speculation on the oil futures market. There has been a major debate over the last several years as to whether spikes in oil prices were caused entirely by the fundamentals of supply and demand or whether excessive speculation in the oil futures market is playing a major role.

That debate is over. That debate should be put to rest. Let's simply look at the facts. When we were in elementary school and in high school we learned what supply and demand is all about. When supply is high and demand is low, prices go down. When demand is high and supply is low, prices go up. The reality is, today the supply of oil and gasoline is higher right now than it was 3 years ago when the national average price for a gallon of gas was just $1.96 a gallon—more supply than 3 years ago when gas was $1.96 a gallon.

In terms of demand, the demand for oil in the United States today is at its lowest level since 1997. Internationally, during the last quarter of 2011, world oil supply exceeded demand by nearly 2 to 1, while at the same time crude oil prices increased by over 12 percent.

Let me recapitulate: Supply is high, demand is low. Yet oil prices are going through the roof. What is happening? There is a growing consensus within the business community, among economists, among people who study this issue, that the reason oil prices are soaring is excessive speculation on the oil futures market. That is the cause.

ExxonMobil, Goldman Sachs, the IMF, the St. Louis Federal Reserve, the Saudi Arabian Government, the American Trucking Association, Delta Airlines, the Petroleum Marketers Association of America, the Consumer Federation of America—all of these groups are involved in one way or another in studying oil prices. That is what they do because many of them are affected by high oil prices. Others of them are consumer groups studying the impact of high oil prices. All of them have agreed that excessive oil speculation significantly increases oil and gas prices. That is the conclusion more and more observers are making.

Interestingly enough, Goldman Sachs, perhaps the largest Wall Street speculator on the oil futures market, recently came out with a report indicating that excessive oil speculation is costing Americans 56 cents a gallon at the pump. This is the conclusion of Goldman Sachs, perhaps the largest speculator on the oil futures market.

I personally believe and many others believe that number is low, but it is important to understand we now have a major speculator telling us what excessive speculation is doing, in terms of gas prices.

Last year the CEO of ExxonMobil—not one of my best friends, not a company I particularly trust—ExxonMobil's President last year testified at a Senate hearing that excessive speculation on the oil futures market contributed as much as 40 percent to the cost of a barrel of oil. In fact, Bloomberg News reported on March 26, 2012, that:

> According to Commodity Futures Trading Commission data, bets on rising gasoline prices advanced for 11 weeks through March 6 to the highest level in records dating back to 2006.

Gary Gensler, the chairman of the CFTC, has stated publicly that oil speculators now control over 80 percent of the energy futures market, a figure that has more than doubled over the last decade. In other words, the vast majority of oil on the oil futures market is not controlled by people who actually use the product. It is not controlled by airlines or trucking companies or fuel dealers—people who actually use the product. But over 80 percent of the oil futures market is controlled by speculators whose only function in life is to make as much profit as they can by buying and selling oil futures.

Let me list a few of the oil speculators and how much oil they were trading on June 30, 2008, when the price of oil was over $140 a barrel and gas prices were over $4 a gallon. On that day, Goldman Sachs bought and sold over 863 million barrels of oil. Morgan Stanley bought and sold over 632 million barrels of oil. Bank of America bought and sold over 100 million barrels of oil. The only reason these companies were on the oil futures market was to make as much profit as possible. They do not use the end product.

We have to make sure the price of oil and gas is based on the fundamentals of supply and demand and not Wall Street greed. To correct this problem I have introduced S. 2222 with Senators BLUMENTHAL, FEINSTEIN, TESTER, MCCASKILL, KLOBUCHAR, LEVIN, FRANKEN, SHERROD BROWN, CARDIN, MIKULSKI, CASEY, BILL NELSON, BEGICH, and PRYOR.

This legislation—which I have also filed as an amendment to this bill—requires the CFTC to use all of its authority, including its emergency powers, to eliminate excessive oil speculation.

I should point out this emergency directive in our bill is identical—I want my Republican colleagues to hear this—is identical to bipartisan legislation that overwhelmingly passed the House of Representatives in 2008 by a vote of 402 to 19, with significant large-scale Republican support.

The Dodd-Frank financial reform bill stipulated very clearly that the CFTC needed to eliminate, prevent, or diminish excessive oil speculation by January 17, 2011, 14 months ago. They have not done it. The CFTC has not obeyed the law, and it is time for Congress to tell them their breaking the law is not acceptable and what they have to do is, in fact, to defend the consumers of this country.

In my view, what this legislation would accomplish is immediately curbing the role of excessive speculation in any contract market within the jurisdiction and control of the Commodities Future Trading Commission on or through which energy futures are trading—that is what this amendment does. It also eliminates excessive speculation, price distortion, sudden or unreasonable fluctuations or unwarranted changes in prices or other unlawful activity that is causing major market disturbances that prevent the market

from accurately reflecting the forces of supply and demand for energy commodities.

The bottom line is Congress has to tell the CFTC to obey the law. They have to use their emergency powers to end excessive oil speculation. When we do that, I believe we will see oil prices go down.

I ask for bipartisan support of my legislation and thank all the cosponsors who are already on the bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first, let me thank Senator SANDERS for his leadership in this area of excessive speculation. I am going to have a word to say about that in a few minutes. Before he leaves the floor, let me say he has taken a major role in trying to get the CFTC to carry out what the law requires that they do, which is to consider excessive speculation and to put a lid on it. They are authorized to do it without any doubt. That was our intention, and they should get about it.

The bill we are considering would end an egregious example of corporate welfare. Hopefully, we are going to be allowed to be on this bill and be able to defeat a filibuster and vote for cloture sometime, I understand, tomorrow.

At a time when some argue the Federal debt is so out of whack that we need to cut funding for programs to provide food to hungry children or health care to our seniors, surely we ought to be able to agree the most profitable corporations in the country no longer need these enormous subsidies, but here we are. Those oil and gas subsidies have not reduced the price of oil or gas; that is obvious.

The price of gas is complex. I have said many times before, and I will say it again now, the huge increase in speculation plays an important role in the price, the high price of gas. The Permanent Subcommittee on Investigations, which I chair, has spent years examining these issues, and the evidence is compelling and overwhelming that financial speculators have played a huge role in driving up gas prices at the same time supply and demand has not significantly changed.

To the extent supply and demand has changed, supply is up and demand is down. So if market forces were really in control, the price of gas would be going down, not up. Some estimate that as much as 50 cents on the price of every gallon of gas is the result of excessive speculation, and another huge portion of the price is simply the wide profit margin for the oil and gas companies.

I agree with my colleagues that we must do what we can to ensure that gas prices do not swing wildly and that they do not pull precious resources out of the all-too-tight budgets of American families. But I think we have to focus on some of the true causes for the rapid rise and the swings in gas prices and not hide behind unfounded assertions that taking away corporate welfare from an already incredibly profitable handful of companies will somehow or other drive up gas prices.

Study after study and expert after expert have told us that removing these subsidies will have no impact on those prices. For instance, Severin Borenstein, codirector of the University of California Berkeley's Center for the Study of Energy Markets, has said ''the incremental change in production that might result from changing oil subsidies will have no impact on . . . gasoline prices.''

The nonpartisan Congressional Research Service has concluded that removing these subsidies would not impact gas prices because ''prices are well in excess of costs and a small increase in taxes would be unlikely to reduce oil output.''

No, ending these subsidies is not going to impact the price of gas, but maintaining these subsidies does impact taxpayers. These subsidies take money from the vast majority of taxpayers to simply add to the already astronomical corporate profits of oil and gas companies. Just five companies last year reported a profit of $137 billion. Over the past 10 years, the profits of just these five companies have totaled nearly $1 trillion. That is trillion with a ''t.'' These astronomical numbers can only be thought of in connection with the only other number of that size, which is similar, and that is the Federal budget. Congress will soon enact deficit reduction of at least $1.2 trillion or our Nation and our economy will be facing sequestration, facing the slashing of programs that impact nearly every American. That $1.2 trillion in deficit reduction over the next decade is about the same amount as the expected profits for just five oil and gas companies. These companies, which are reporting record profits while paying record-low rates of taxes, should be paying their fair share to help get and keep our economy strong.

While some complain that the United States has such an egregiously high corporate tax rate that companies fail to invest here, the facts show just the opposite. Just a short time ago, the Congressional Budget Office released a report that corporations paid an effective tax rate of just 12.1 percent last year, which was the lowest percentage in decades. Corporations pay extremely low taxes in the United States, and those rates have been steadily declining. Corporate taxes now make up a record-low percentage of all Federal revenues.

The oil and gas subsidies should be cut, and the savings should be used to pay for our Nation's other priorities. That is why I introduced an amendment last year that would have cut just one of these oil and gas subsidies. By eliminating these unnecessary oil and gas incentives and adopting the bill before us, we would be able to preserve or reauthorize a series of other energy tax incentives and grant programs, some of which have expired and others are in danger of expiring, all of which would help promote American energy efficiency and self-sufficiency. Extending these provisions will help lower energy costs for businesses and families, would help diversify our energy strategy beyond oil, and would reduce the dependence on imported oil that undermines our economy and threatens our national security.

Among these important tax provisions is section 45, the production tax credit for electricity produced by wind and other renewable sources; the section 1603 program to encourage the installation of energy equipment; the section 48C advanced energy manufacturing credit that promotes American production of the items used in renewable energy production, such as wind turbines and advanced batteries; the cellulosic ethanol credit to encourage production of fuel through renewable feedstocks; and the tax credit for refueling infrastructure that helps to encourage installation of alternative-fuel infrastructure and electric charging stations in homes and in businesses.

These and other energy provisions, which are in our bill, are vital tools in our battle to reduce our dependence on foreign oil, to substitute alternatives for fossil fuel, and to promote and sustain domestic manufacturing. Energy is a huge cost for businesses in nearly every field. If we can improve energy efficiency, we can lower costs and increase competitiveness. Rest assured that our competitors around the globe are doing that, and we need to do the same or risk falling behind.

Energy efficiency is also vital to national security since our dependence on foreign oil from volatile regions of the globe is an enormous complication to our foreign policy. It leaves our economy vulnerable to actions by unfriendly nations such as Iran. The more we can loosen the grip imported fossil fuels have on our economy, the more prosperous and secure we will be.

Rarely is the choice as stark as it is before us. We can continue corporate welfare for the oil and gas industry, which does nothing but add to those companies' corporate profits and the Nation's deficit, or we can end these subsidies and push for the priorities that will help ensure our energy future and reduce our deficits.

I thank the Presiding Officer.

I yield the floor.

Mr. REED. Mr. President, I rise to join many of my colleagues in support of the efforts to stop wasting taxpayer money subsidizing oil executives' huge profits. We need to end these wasteful handouts, reduce the deficit, and develop clean energy solutions.

While the oil industry is thriving, making $137 billion—that is billion with a ''b''—in profits last year, Rhode Islanders are paying nearly $3.90 per gallon at the pump. Working families are being are forced to cut back because of high gas prices. In turn, big oil companies should have their wasteful

tax subsidies eliminated. We should be working to fuel the U.S. economy, not the oil cartels and big oil companies. That is why I am a proud cosponsor of the Repeal Big Oil Tax Subsidies Act, which would put a stop to these wasteful tax breaks and use the savings to invest in clean energy technologies that will create jobs, save money for middle-class families, and increase America's competitiveness in the global clean energy economy.

Addressing gas prices and reducing our dependence on oil requires a smart, balanced, and responsible national energy policy. There are no silver bullets, but there are both short-term and long-term steps we should take.

In the near term, we have to be ready to respond to geopolitical events by making it clear that we are prepared to release oil from the Strategic Petroleum Reserve if such a measure is necessary because of geopolitical developments.

We need to continue efforts to prevent excessive speculation and speculators from manipulating the market and needlessly inflating energy prices. And I have asked the Commodity Futures Trading Commission—effectively our cop on the beat—to do that and have sought to provide them with the tools and funding to achieve this objective.

We also need to continue investments in smart growth policies to promote mass transit in next-generation vehicles and alternative energy. That is why I have fought for things such as better fuel mileage for cars and smart investments in mass transit. Improved energy efficiency and developing clean energy technologies will help cut our oil addiction.

Working with President Obama, we successfully persuaded automakers to double the fuel efficiency of cars and light trucks. After staying the same for over 20 years, under the Obama administration the average fuel economy of vehicles will be 35.5 miles per gallon by 2016. And the administration has proposed to further increase the standards to 54.5 miles per gallon by 2025. Combined, by the year 2025, these standards would save 2.2 million barrels of oil a day and save consumers at the pump an estimated $8,000 over the lifetime of a vehicle. These new standards will reduce the impact of future price hikes by weaning us off oil.

In addition to protecting their unnecessary subsidies, the oil industry continues to push increased drilling as a solution to reducing gas prices. I support safe and responsible oil production, and the administration's efforts to decrease our reliance on foreign oil. U.S. domestic oil production has reached its highest level since 2003. The number of oil rigs in the United States has more than quadrupled in the last 3 years, and U.S. dependence on foreign oil is at its lowest level in 16 years. Indeed, net imports as a share of total consumption declined from nearly 60 percent in 2005 to 45 percent in 2011.

When oil companies tap into resources on Federal property, the taxpayers must be fairly compensated and assured it is done safely and responsibly. Therefore, the oil companies should pay their fair share of drilling royalties and inspection fees to make sure what they do is done right. As chairman of the Interior and Environment Subcommittee of the Appropriations Committee, I worked to secure an increase in the inspection fees for offshore drilling last year, and will push for the same for onshore drilling this year.

For all the sloganeering about domestic drilling, we know we can't drill our way out of this problem. Even the oil companies admit that the biggest factor in the price of gasoline is the cost of crude oil, which is set in the world market. It is not pegged to U.S. production. In fact, an Associated Press analysis of 36 years of Energy Information Administration data shows ''no statistical correlation''—their words—between domestic oil production and gas prices.

Again, we need a balanced, well-thought-out national energy policy, one that will help reduce our dependence on oil and the amount paid at the pump. What we should not be doing is continuing to give away billions in corporate welfare to Big Oil while middle-class families see their gas prices rise. It simply is not fair. The oil companies that soak up these subsidies are effectively charging taxpayers twice for the same gallon of gasoline.

Mr. President, middle-class families are struggling. Oil companies are not.

I urge my colleagues to repeal these oil subsidies, make clean energy investments in America, and take commonsense steps to get our fiscal house in order. I urge passage of this very important piece of legislation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Mr. President, I ask unanimous consent to speak for about 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MERKLEY. Mr. President, this is a tough time for Americans. We all know families are sitting around at their kitchen tables struggling to figure out how to make ends meet, but those tough times have not extended to the boardrooms of the five big oil companies.

In 2011 alone, those companies saw more than $100 billion in profits—a sum that is difficult to get your hands around. It is difficult to understand what $1 billion is, let alone $100 billion, not in revenue but in profits. Exxon is sitting on $8 billion that it has not reinvested. Shell is sitting on $13 billion cash in hand. The five largest companies together—BP, Exxon, Chevron, ConocoPhillips, and Shell—have cash resources of $59 billion and have made nearly $1 trillion in profits over the last decade.

Meanwhile, the American taxpayers are not only being forced to hand over larger and larger portions of their paychecks at the pump, they are also being asked to have a share of their taxes go to additional subsidies to these large companies. Let me restate that. When you go to the pump and pay $4 or more, the oil companies make a tremendous profit. There is nothing wrong with making a profit in America, but what seems wrong is that these same companies are then coming to these hallowed Halls and saying: We want a handout from the general fund.

Those companies know there are many other pressing needs in America. Indeed, there are many folks who are hungry across our Nation. There are many families who are hoping but cannot save enough money to send their kids to college. Many families who are pressed by the loss of our manufacturing jobs, our middle-class, living-wage jobs, who are providing for their families on service jobs are having a tough time meeting the mortgage.

Families are struggling, and certainly they would like to see this body say that we understand the challenges so many face. We understand that the cost of tuition for their children is way outpacing inflation, and they are worried about the possibility of their children not having the full opportunities that should be available within our society. They are worried about keeping their homes. They are worried about finding that next job if their current job goes away. But they are wondering why we aren't helping with those problems with these funds instead of giving these funds away to the oil companies. The only explanation they can come up with is that the oil companies are very powerful; they can come here and talk to this Chamber and say: You know, we just want more. It is more important for us to add to the billions we have in the bank than it is to have basic nutrition programs expanded in this country. It is more important for taxpayers to give us money to add to the money we have in the bank than to address the desperate infrastructure funds that are needed around our Nation. It is more important that they give us a handout rather than give a hand up to struggling families in this Nation.

Well, I disagree. I think it is more important to help our families. I think it is more important to help our children. I think it is more important to build our fiscal infrastructure for the economy and for the future. I think it is more important to build the infrastructure through education, the intellectual infrastructure of our Nation that provides both opportunities to individuals and opportunities and strength to our economy as a whole.

There are some who say these giveaways reduce the price of oil at the pump and reduce the price of gasoline. Nothing could be further from the truth. We all know what is driving the price of gasoline. Demand is down because people don't have enough to

spend, supply is up, so it is certainly not supply and demand. But what we do have is a big increase in speculators. Speculators are going to the Commodity Futures Trading Commission, and they are making bets that because of the crisis in the Middle East, because of the issues with Iran, because of the concern about oil flowing out through the Strait of Hormuz, that others will also buy oil futures, so they will buy them, too, and they will make money on the way up, and the result is, for all of us, a higher price at the pump. So if we want to do something about oil prices, we take on the speculators. That is why in Dodd-Frank we gave the CFTC the ability to exclude speculators from that marketplace, to say they have to have positions, they have to have an end use for oil. But they haven't used that power. Maybe we need to pass a stronger bill to suppress the speculation, since the CFTC is not doing its job.

What we know for certain is that giving powerful oil companies the people's money to add to the money they are keeping in the bank, the billions they are sitting on, will not do one thing to drop the price of oil. Let's help American families and not the most powerful who have no need for these funds.

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

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

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. WICKER. 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. WICKER. Mr. President, we continue to watch fuel costs skyrocket—shockingly so in the last 3 months—as the average price of a gallon of gasoline breaks records again and again for this time of year. Today, the national average, when I last checked, was $3.91 per gallon.

When President Obama took office, Americans paid $1.85 for a gallon of regular gasoline. Now they are paying more than twice that price, with analysts projecting even higher spikes on the horizon. Some are speculating gasoline prices could top $5 per gallon by summer. Now Senate Democrats propose raising taxes on gasoline production.

We hear a lot about an all-of-the-above energy approach, and that needs to be put into practice. This should include expanding access to America's critical resources. Instead, the President insists on flawed energy strategies such as using taxpayer money for high-risk projects such as Solyndra, while delaying drilling in the gulf.

The President has slowed the permitting process, he has blocked leases, and he has supported higher energy taxes and more regulations. His actions have come at the expense of valuable opportunities for greater domestic energy. The gains our energy producers have made are in spite of the President's policies, not because of them.

The de facto moratorium on drilling in the Gulf of Mexico made it clear that strengthening the country's energy security was not a White House priority. The plan the President proposed for offshore oil and gas leasing for the next 5 years would open less than 3 percent of offshore areas for production.

Then there was the rejection by the President of the Keystone XL Pipeline—the subject of an extensive environmental vetting process and a project which would guarantee nearby available oil from our largest trading partner. The President may talk about the need for oil and gas pipelines and even try to take credit for the lower part of the pipeline that did not need his approval, but there is no denying his administration is responsible for roadblocks standing in the way of a better national energy policy.

The 830,000 barrels per day the Keystone Pipeline would transport offers a 7-percent increase to current imports. Vetoing it keeps Americans vulnerable to spiking gas prices and the dangerous whims of energy providers from volatile regions of the world.

High fuel prices can have far-reaching economic effects. According to the Oil Price Information Service, Americans spent more on gasoline in 2011 than in any other year in the past three decades—some $481 billion. For the average household, about 8.4 percent of the family budget or $4,155 went toward filling up at the pump last year. Of course, it is more this year. This means consumers have less money to spend and invest in their local communities, ultimately hurting the economic growth we desperately need.

In 2008, then-Senator Obama said he would have preferred a gradual adjustment of gas prices. That same year, Energy Secretary-to-be Steven Chu told the Wall Street Journal: ''Somehow we have to figure out how to boost the price of gasoline to the levels of Europe.'' This is the President's choice for Energy Secretary, someone who wants our gasoline prices to be at the $8-per-gallon level they are experiencing in Europe. This mentality has not changed since 2008. Earlier this month, President Obama said the only solution was to start using less. That lowers the demand and prices come down, according to the President. He later asserted that ''how much oil we produce at home'' is ''not going to set the price of gas worldwide.'' Somehow, using less will lower the prices, according to the President, but producing more will not lower the prices. In other words, the President believes in only half the principle of supply and demand.

Indeed, basic economics tells us otherwise. It tells us that alleviating demand can lower prices but having a greater supply does that too. The argument the President is trying to make that domestic production is inconsequential does not add up. Not expanding production forces American wealth to go overseas because we have to buy our oil from overseas. As Charles Krauthammer recently wrote in the Washington Post:

> Drill here and you stanch the hemorrhage. You keep those dollars within the United States economy.

That is exactly what we need to do in these troubling times.

According to the Institute for Energy Research, we have enough oil within our borders to supply our own fuel needs for 250 years. That is not Senator WICKER talking; that is not a Presidential candidate talking; that is the Institute for Energy Research—250 years we have in the United States. Yet they are being kept off-limits by the administration.

Now the administration wants an $85 billion energy tax hike. This new tax will not translate into cheaper gasoline, a fact my Democratic colleagues have, in fact, acknowledged. It will make it more expensive to produce, drive up imports, and hamper economic investment.

According to a study by the Congressional Research Service, higher energy taxes will increase gas prices and likely increase foreign dependence—exactly what we don't want to do. This would ultimately hurt average Americans who depend on affordable gas prices to get to work every day and businesses—small businesses—that need fuel to transport their goods and services. We have seen how the administration likes to use taxpayer money on high-risk bets such as Solyndra and algae. Instead of gambling on unproven ideas, we should be ensuring economic growth with policies that strengthen our energy capacity. We are blessed to live in a country with plentiful resources and we are far from maximizing America's energy potential.

I have filed amendment No. 1966 to this bill. The amendment would establish a production goal for the Obama administration's 5-year offshore oil and gas leasing plan. It calls for 3 million barrels of oil per day and 10 billion cubic feet of natural gas per day by the year 2027. Compared to today's levels, this increase in production would triple America's current offshore production and reduce foreign imports by nearly one-third. By setting these benchmarks for the output of oil and natural gas, we can make measurable progress toward energy independence.

So I would propound this parliamentary inquiry, Mr. President: If we were on the bill at this point, would it be in order for me to offer such an amendment, No. 1966, at this time?

The PRESIDING OFFICER. If the pending question was S. 2204, it would take unanimous consent to offer an amendment to that measure because there is not an available amendment slot at this time.

Mr. WICKER. I regret that. I hope we can negotiate on both sides of the aisle

so amendments such as this can be offered.

To set benchmarks, we could use an additional 3 million barrels of oil per day and 10 billion additional cubic feet of natural gas per day to help us attack this very serious energy problem.

I would simply conclude by saying today's high gasoline prices confirm the urgency of pursuing better energy strategies as demand for oil continues to increase across the globe. Taking steps now is essential to meeting future needs and bringing relief at the pump.

Seeing no one who is seeking to speak—does the Senator seek to speak? If so, I yield the floor.

Mr. HOEVEN. I do.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. HOEVEN. Mr. President, I request an opportunity to speak for up to 10 minutes on the pending energy legislation.

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

KEYSTONE XL PIPELINE

Mr. HOEVEN. Mr. President, I am here to offer a substitute amendment to the Menendez act, which is currently under consideration on the Senate floor. That is S. 2204. The substitute amendment I would like to offer is legislation I have authored along with Senator LUGAR and also Senator VITTER. It is legislation that would approve construction of the Keystone XL Pipeline and authorize that that construction proceed. That authority is provided to Congress under the commerce clause of the Constitution. With gas prices now close to $4—and going higher—Congress needs to act.

President Obama has turned down the pipeline. He continues to block the Keystone XL Pipeline, and it is time for Congress to act on behalf of the American consumer. Every single American, every hard-working American, is feeling this pain at the pump.

The Keystone XL Pipeline would help us produce more energy supply for our country to help reduce the price of gasoline at the pump. It will help us create more jobs in this country. Close to 13 million Americans are now unemployed. It would help put more of those Americans back to work. Of course, it would help reduce our reliance on oil from the Middle East.

The first chart I have in the Chamber shows what is happening with gasoline prices in the United States. This is over the last 3-year period. This shows the price of gasoline was about $1.87 a gallon when President Obama took office 3 years ago. Today, the national average, I believe stated by AAA, is on the order of $3.91. So the price of gasoline during the Obama administration's tenure has more than doubled. It has more than doubled.

I think there is something like 8 or 9 States now where the average price of a gallon of gasoline is over $4. In places such as Chicago—the President's hometown—I believe the average price is on the order of $4.68. If we go right down to the corner here, right near the Capitol, I filled my car the other day. It cost me more than $100 to fill the tank, and I think the price was $4.39 a gallon.

So what is the solution offered in the Menendez legislation? What is the solution proposed by the Obama administration? What is the solution proposed in this bill we are considering right now on the Senate floor?

What that bill would do is raise taxes on energy companies. It would raise taxes on energy companies. Let's think about this. We are going to raise taxes on these energy companies, so we are going to increase their costs. When we add taxes, that means it not only raises their costs, which will create even higher costs at the pump for American consumers, but it also tends to restrict supply. If we want less of something, and if we want it to cost more, what do we do? We tax it. So this legislation does exactly the opposite of what will help the American consumers with the price of gasoline at the pump.

Instead, we need to increase supply. By providing more supply, we help create downward pressure on gasoline prices. That helps our hard-working Americans not only today but tomorrow as well. Let's talk about that.

Why are gas prices high? It is supply and demand. This is economics. This is about supply and demand. If we increase supply, we put downward pressure on prices. If we increase demand, we put upward pressure on prices. Global demand for oil is growing. We know that. Global demand is growing. So we need to increase the supply; otherwise, that growing demand continues to push gasoline prices higher.

As shown on this chart, here is the amount of crude oil we produce in the United States, along with our good friends in Canada today. That is shown in the first bar on this chart. We can see, it is just below 10 million barrels a day. That is where we are now. With the current policies the administration has in place, we will actually produce less supply in the future—less supply in the future.

Think about that. If gasoline prices are a function of supply and demand, it is not only the supply and demand of today, it is what people anticipate the supply and demand will be in the future. If we have growing global demand—which we know we have—and we have an administration that is constricting supply, then not only do we have an issue in terms of present supply and demand, but we have people going: Look, there is going to be less supply. We know there is going to be growing demand. That puts upward pressure on prices.

So the actions of the administration have a direct impact, a direct correlation with the price of gasoline at the pump. As I showed on the previous chart, under this administration, gas prices have more than doubled. So what we need to do is, we need to produce ''all of the above.'' We need to produce ''all of the above.''

Note that I said ''produce'' it. I do not mean talk about it. I do not mean block it when it comes to building needed infrastructure such as the Keystone XL Pipeline or preventing us from drilling offshore or preventing us from drilling onshore or having the redtape that prevents us from getting permits and the regulatory burden that prevents us from producing more energy. I mean actually doing it—not blocking it, doing it.

This third bar on the chart shows that if we just worked to produce more oil and gas in the United States and Canada, we can produce more than we consume within 15 years. That is just oil and gas. That is not even ''all of the above.'' That does not count producing all the natural gas we have in this country and in Canada or biofuels or other sources. That is just oil and gas if we start working to produce it rather than have the administration continue to block it.

Of course, that is what I am talking about with the Keystone XL Pipeline. The President has studied the Keystone Pipeline, the administration has studied it, the State Department has studied it, the EPA has studied it for 3½ years. Now the Department of Energy has come out and said—they did a study in June of last year—in their study, they said: We need the crude in the United States. We will use the crude in the United States, and it will lower gas prices on the east coast, on the gulf coast, and in the Midwest. That is Secretary Chu, the Secretary of Energy—his Department of Energy produced the report, and that is what it said.

After 3½ years, the President says: That is not long enough. We need more time. The administration needs more time to make a decision. After his own State Department said they would have a decision done before the end of the year—before the end of the year—the President says: No, we need more time, maybe sometime after the election—maybe. We need more time to make the decision.

So Congress said: OK. We will help out. You have expressed concern about the routing of the pipeline through Nebraska. We will pass legislation to kind of give you support and encouragement that says they can go ahead and build the pipeline, and we will give them whatever time they need to reroute Nebraska so there is no issue because that is what you have identified as the problem.

We passed that legislation as part of the payroll tax cut extension. The President denied it, turned it down, blocked it, and he continues to block the Keystone XL Pipeline today.

A couple weeks ago, bipartisan legislation—the very same legislation I am offering in this substitute amendment—was brought to the Senate floor. Bipartisan legislation. We had 11 Democrats who voted with us. Fifty-six

votes, well over a majority—56 votes. The reason we did not get 60 votes on the legislation is because that day the President was calling Members of this body, this Senate body, to get them to vote no. So we got 56 votes instead of the 60 we needed.

The very next week—after calling Members of the Senate to get them to vote down this legislation that would authorize moving forward so we could actually bring oil in from Canada, bring more oil from my home State of North Dakota to refineries to help out Americans at the pump—the very next week, after blocking the pipeline, after calling Members of the Senate to get them to vote against it, the President goes to Cushing, OK, and takes credit for this small portion, the southern leg of the pipeline project, saying that somehow he is expediting it.

Interestingly enough, that is the only portion of the pipeline that does not require his approval. But after blocking it, he goes down and takes credit for somehow expediting the portion that was going to be built anyway, while he continues to block the two-thirds that actually brings us more oil.

So go back to what I said just a minute ago. We need more supply. If the policy of this country is to say all of the above, but then go about blocking our ability to produce more supply, guess what happens. Prices go up. Because what counts are the actions.

So the market takes that into account and says: Look, if supply is going to be constrained, then we anticipate higher prices in the future with growing global demand. That is what we see: prices rising at the pump.

Look, we can have energy security in this country. We need to increase our oil production in this country and work with our neighbor to the north, Canada, rather than have them send their oil to China, which is what will happen if we cannot build these pipelines. We need to increase our use of natural gas. We need to do ''all of the above,'' increase renewable fuels, with a market-based approach—a market-based approach—and we need to use technology to drive energy production in this country, and working with Canada, with better environmental stewardship.

What I mean by that, in Canada, oil is produced in the oil sands with in situ, which is the new technique. It is similar to drilling, rather than the old methods—more energy, better environmental stewardship.

Look, we can create a more secure energy future for our country, we can create jobs in America, and we can reduce the price of gasoline at the pump for hard-working Americans. But we need to take commonsense steps, and we need to take them now to produce more oil and gas, to produce more energy of all kinds in this country. We are asking for the President to work with us to do just that.

Mr. President, at this point, I have a parliamentary inquiry: When the Senate resumes consideration of the pending energy tax bill, would it be in order for me to offer my amendment, a substitute amendment, which would approve the Keystone XL Pipeline to help Americans at the pump with the price of gasoline?

The PRESIDING OFFICER. If the pending question was S. 2204, it would take unanimous consent to offer an amendment to that measure because there is not an available amendment slot at this time.

Mr. HOEVEN. So no amendments will be allowed?

Mr. President, I think that is unfortunate. It is time, it is well past time, to take action on behalf of the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I follow my friend and colleague from North Dakota who has been a real leader in these Chambers trying to educate not only those in these Chambers but people across the country as to the value and importance of the Keystone XL Pipeline and what it means to this country, not only in terms of a resource we need but also in terms of jobs and not only construction jobs but what it means to fill a pipeline and provide for a product that goes down to our refineries.

Again, when we are talking about an economic boom, where better to look than to our neighbors to the north, and I thank Senator HOEVEN for his leadership on this issue.

I too wish to talk about our opportunity as a nation to do more when it comes to increasing supply within our own country. As has been mentioned on this floor numerous times today, numerous times yesterday, we are in a position as a nation to be doing more to access our own resources, to make us less dependent on countries that do not like us, to make us more energy secure, less energy vulnerable. At a time when the geopolitical scene is so shaky, every step we can take to make us more secure from a national security perspective and an energy security perspective is clearly important.

I have a substitute amendment that I have filed, which I think is important to this debate. I think it is important when we are talking about our access to supply.

What I will discuss in my 10 minutes is not new. Members have heard me talk over and over about the prolific oil resources that reside in Alaska. According to the Energy Department, we have over 40 billion barrels of oil that could be produced up North, providing not only the energy but the energy security, the jobs, and new revenues. We have a pipeline that is built already. We don't need to deal with the permitting issues there. It is there waiting to carry oil. We have overwhelming support from Alaskans.

What we don't have is what is perhaps most important, which is permission from the Federal Government to actually develop our huge oilfields. The biggest on the continent is in the northwest corner of ANWR. For years, we have sought to develop a total of 2,000 acres in what is known as the 1002 area, which Congress set aside back in 1980 to access for energy exploration. They knew then that this area had great potential. The 1002 area is projected to contain more than 10 billion barrels of oil. If you were to put it into context this way, it would be 1 billion barrels a day coming down that pipeline to us from ANWR. That is enough to replace Venezuela or Saudi imports for about 30 years. To think that we could get off of Venezuela and we would not need to go to Saudi Arabia with tin cup in hand because we are producing ourselves here—think about what that means to us. For those who bring about the speculation and argument of what that does to prices, think how this would mess up speculators if you add a million barrels a day online. Instead of embracing this as an opportunity, every excuse in the book has been thrown at us against development. You hear that the environment will be degraded, wildlife will be disturbed, and that despite a better environmental record than just about anywhere else in the world at Prudhoe Bay, we cannot do it. They don't trust us to do it. But for 20 years we have been hearing: Don't go toward ANWR; don't develop ANWR because it will take you 10 years to get that online; therefore, it is not even worth considering.

Even the late-night TV shows talk about it. Jay Leno joked about that and said, ''Democrats said it would take 10 years 10 years ago.'' If you don't get started, it is never going to happen. We are going to keep that money in the ground indefinitely if we don't get moving on it. I don't accept the arguments that have been tossed out, but they have not accepted the facts that we have presented.

I have an amendment that has changed a little bit. It is designed to address this debate. It would prohibit surface development entirely. Yet, it still allows for a very substantial portion of the oil to be accessed from our State lands, with drills reaching beneath the Coastal Plain. We do this by allowing only subsurface occupancy. We use extended horizontal drilling production. Right now, it can reach about 8 miles underground in all directions. As the technology advances, more and more of that refuge's oil could be tapped. Again, we are not going to be occupying the surface. There is no surface occupancy in this legislation. All land-based structures would be located on adjacent State lands. You would not see permanent roads, wells, buildings, and pipelines constructed on the surface of the refuge.

If you were to put together a slide show of development, the surface would be unchanged before, during, and after

production. This is a photo of ANWR, and this is probably in the spring because you have tufts of grass coming up through the melting snow. This is what it would look like before, during, and after because we are underneath through the technology.

The amendment I am offering gives the Senate a chance to put reason ahead of rhetoric, policy above politics, when it comes to oil production in this State. It is a chance to end this decades-old dispute about whether development can proceed safely.

We have not just met the opposition halfway here on ANWR; we have met them 90 percent of the way. We have written into the amendment more stringent environmental safeguards than on any other Federal lands. We sacrifice 90 percent of the revenues, which Alaska is entitled to under our statehood agreement. We proposed a 50–50 Federal split. It seems that we are now begging to access a small fraction of the reserves from miles away.

It defies logic to think that, again, an idea, a concept like this would be kept off the table. I realize many are dug in on this issue. I have attempted to change the debate, change the conversation. I would ask the Senate to take a moment to consider how far we have compromised on this amendment and understand why it is different. I hope we can get a vote on it.

I ask, as a point of parliamentary inquiry, when the Senate resumes consideration of the pending energy tax bill, would it be in order for me to offer my amendment No. 1976 at that time?

The PRESIDING OFFICER. If the pending question were asked regarding S. 2204, it would take unanimous consent to offer an amendment to that measure because there is no available amendment slot at this time.

Ms. MURKOWSKI. The Chair is saying that the amendment slots have been filled by the majority leader, is that right?

The PRESIDING OFFICER. That is correct.

Ms. MURKOWSKI. Mr. President, I have another issue I wish to bring up today in the remainder of my time. I have two other amendments I would like the body to consider. I understand what the Chair has just said.

One of the things that I think we recognize is much of our country's production can lag due to an accumulation of redtape due to permitting issues. We know the Federal Government cannot necessarily set global commodity prices, but it can create a situation where capital that might be invested in American mineral production is stranded for long periods of time. That is what we see happening, and it is unacceptable.

What we should not do, particularly in the case of energy and minerals development, is subject a project to an unnecessarily long permitting process. I have an amendment that would begin to remedy this situation, and it would do so by using the very language the President used last week with his executive order, which he signed March 22. My amendment incorporates provisions that had pretty broad bipartisan support on the highway bill considered by this body. These provisions will work. According to the September 2010 report by the Federal Highway Administration, these reforms have cut the time required to complete environmental reviews and have mitigated the delays caused by last-minute legal challenges. What they do, more specifically, is take the President's executive order and put some teeth to it, if you will.

The President simply asked the agencies to consider making certain improvements. What I have done through my legislation is ask for a process for States to nominate items that might be subject to NEPA, allow for a shortening of review periods, and the designation of a single lead Federal agency. It is a situation that I do think rests on a good premise. The President has suggested that this is an approach that needs to be considered when, again, making such improvements.

I suggest that if it is good enough for the President and for our transportation needs, as we have seen demonstrated in the highway bill, then it is good enough for energy, mineral, and infrastructure needs as well.

I ask unanimous consent to call up amendment No. 1985, which includes all of the provisions I have described.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object, we have the bill before us relative to the tax subsidies given to major oil companies—it gives $4 billion a year to companies that registered $137 billion in profit last year. It is such a popular measure that moving to it attracted a 92-to-4 vote in the Senate. We are trying to bring that to closure and get a vote on it. I know the Senator has an amendment she feels is valuable. I don't know the merits of it. I wasn't on the floor to hear the entire explanation. We have just gone through a transportation bill on which for more than a week we entertained an amendment on contraception on that side of the aisle.

We wish to, if we can, limit amendments to relevant issues, and limit them in number and try to actually pass a bill in the Senate, which would be almost historic. I hope we can do it in a bipartisan way. I invite the Senator from Alaska to join us in a conversation about that. Until we can reach agreement on that, I am afraid I have to object.

The PRESIDING OFFICER. Objection is heard.

Ms. MURKOWSKI. Mr. President, I am disappointed we won't have an opportunity to offer the amendments. Several of my colleagues will be coming down to offer their amendments. We have been told that the tree has been filled. The amendment I am proposing—I actually have two. One, as I have described, is probably broader in scope, but I have a second amendment that literally takes the President's executive order and provides instructions to the agencies to do a rulemaking to implement them within 1 year. This is not something that the Senator from Alaska has designed; this is the President's executive order. I think it is designed to get us to an expedited permitting process so we don't have the lag times, whether it is on transportation infrastructure or energy issues.

I think it is a good measure, and I ask my colleague from Illinois, in the effort to work together, which I appreciate, to take a look at this amendment. I apparently will not be able to introduce or call up amendment No. 1986. But again, what that bill would do is pretty simple. It is to codify portions of the President's executive order. The title is ''Improving Performance of Federal Permitting.'' He suggested it, and I thought it made sense. Now we are urging the agencies to provide for an implementation.

Again, I think this debate we are having on the floor this week is an important one. We are focused on the issues that people in this country are talking about. Folks back home are very concerned. I just met with a group of students. One young man is a high schooler from Yakutat, probably driving his first car, and they are paying in excess of $5.50 a gallon at the pump. When you are a 16- or 17-year-old boy, that is pretty high. Even when you are a person our age, that is high. He wanted to know what we are doing as a Congress to help address these issues.

I cannot overstate my disappointment, as we are dealing with these difficult issues in what we all know to be a great deliberative body, that we cannot move to a process where we can allow for fair and germane amendments that I think would help address some of the energy challenges we face, recognizing where we are today.

I see my colleague from Louisiana has joined us on the floor. My time has expired.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. VITTER. Mr. President, I come to the floor to offer amendments to this bill. Let me assure our colleague from Illinois that they are not amendments about contraception or any other unrelated issue. They are energy amendments, which go directly to one of the greatest challenges all of our constituents, fellow citizens, face, which is the ever-rising price at the pump.

I am glad we are on this Menendez bill, because at least it puts us on that major challenge that faces Louisiana's lower to middle-class families, and those families in Illinois, and all around the country. I bring amendments that are directly relevant to that.

The first amendment has to do with supply. First of all, let me say why I oppose the Menendez bill. It is because

when we tax something at a higher level, when we increase the tax on it, we get less of it. So it will produce less energy, in particular less U.S. domestic energy. When we lower supply, we increase the price. It is not only not going to have a positive impact on the price at the pump, it will increase the price and have a negative impact.

I take the opposite approach. We need to increase supply, starting with activity and supply right here at home in the United States. So my amendment, offered along with Senator MURKOWSKI of Alaska, No. 1965, would do that. It would replace President Obama's current 5-year plan for Outer Continental Shelf leasing with basically the plan that existed previously, which is double President Obama's plan.

So President Obama's plan, which he put in place after coming into office, is about half of the previous plan. It backs us up and turns us around, moving us in the wrong direction. Amendment No. 1965 would turn us back, move us in the right direction, and adopt pretty much that previous plan—to expand our access to our own U.S. energy resources offshore.

UNANIMOUS REQUESTS—S. 2204

So, Mr. President, with that said, I ask unanimous consent that when the Senate returns to consideration of S. 2204, the pending energy tax bill, it be in order for me to offer amendment No. 1965, which I have authored along with Senator MURKOWSKI.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. The Senator from Louisiana and I can get into a debate about whether taking $4 billion in subsidies away from five oil companies that reported $137 billion in profit last year is going to change the production of oil, but we will save that for another day.

This amendment, like others, needs to go through the Senator's leader, and with some understanding as to whether we are going to stay in the energy field or go far afield, as we have in previous bills. I am afraid I am constrained, until that conversation takes place between the leaders, to object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Louisiana.

Mr. VITTER. Mr. President, that is unfortunate. It is particularly unfortunate because everyone knows our leader and everyone on our side has absolutely agreed to offer energy amendments and give the other side an equal number of energy amendments. We are perfectly agreeable to that, and everybody knows that.

It is in that context that I bring up another energy amendment, our amendment No. 1997. This has to do with another huge opportunity we have in the United States right here at home; that is, enormous oil resources we can get from western shale. Quoting the Institute for Energy Research:

> USGS estimates that unconventional U.S. oil shale resources hold 2.6 trillion barrels of oil, with about 1 trillion barrels that are considered recoverable under current economic and technological conditions. These 1 trillion barrels are nearly four times the amount of oil reserves as Saudi Arabia's proven oil reserves.

That is the potential we have right here in this country—enormous reserves, available now, recoverable now. So what is the problem? Well, one big problem is the Obama administration has canceled all leases to access this oil shale. There was movement to properly, responsibly access that 1 trillion barrels, but that has been canceled under the Obama administration.

My amendment, No. 1997—again, obviously, an energy amendment that can affect prices at the pump—would expedite movement toward that important resource and would get us moving again in the right direction, accessing that U.S. energy resource.

With that said, Mr. President, I ask unanimous consent that when the Senate returns to consideration of S. 2204, the pending energy tax bill, it be in order for me to offer that amendment No. 1997.

The PRESIDING OFFICER. Is there objection?

The Senator from Illinois.

Mr. DURBIN. For the reasons stated earlier, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. VITTER. Mr. President, if I can wrap up, again, I think this is unfortunate. Everybody knows Republicans are perfectly willing to limit ourselves to relevant energy amendments. That is what we are doing. That is what we are bringing to the floor. Leader MCCONNELL has offered that. He has offered to have a like number of energy amendments from the Democratic side. What is happening is we are being completely shut down and shut out.

The main issue is not that I am aggrieved, the main issue is the American people are being shut out. The folks I represent—the folks all of us represent—are being shut out from offering good, sensible ideas to at least debate and vote on which would access more American energy, more U.S. energy, to help solve the pressing problem of the price at the pump in that way. Let's control our own destiny in that way.

This is a sensible solution. It is a major solution. It will move us in the right direction.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I am glad to see the Senator from Illinois on the Senator floor to object to my next proposal.

Mr. President, throughout our history, from time to time we have passed legislation that long after it has served its purpose, if it ever did, still remains on the books. I think one of the great and outstanding examples of that is a law called the Jones Act.

The Jones Act, I am sure, may have had some rationale behind it back in 1920 when it was enacted. I am also sure there is perhaps only 1 American in 1,000 who has ever heard of the Jones Act. But the Jones Act has a direct impact on oil supplies, on the cost of oil, and the cost of other products.

The Jones Act says, incredibly, any product shipped between two U.S. ports—whether it is Honolulu, HI, and San Francisco or one of the gulf coast ports to the northeast or anyplace between two U.S. ports—can only be transported by U.S.-owned, U.S.-built, and U.S.-crewed vessels. Talk about protectionism. There is probably no greater example than this.

The Jones Act, enacted in 1920, has cost consumers—especially in places such as Hawaii where the transportation of goods is long distance—enormous amounts of money. In other words, citing the February 2012 Energy Information Administration Report, there are only 56 tankers that meet the Jones Act requirements, which accounts for less than 1 percent of both the total number and the total deadweight tonnages of tankers in the world. So less than 1 percent of the tankers in the world are able, by law, to operate between two U.S. ports.

So what does this do? Obviously, when we are talking about supply and capacity, it drives up the cost of petroleum. In fact, sometimes it is two or three times the rate of a foreign flagship—again, according to the Energy Information Administration. Not only that, the Jones Act tankers—those 56—aren't always readily available, so the costs can be even higher than we are talking about.

Let me give another example of the harm the Jones Act does to American consumers. In 1999, the U.S. International Trade Commission—not a Republican or Democrat or Liberal or Conservative organization—said a repeal of the Jones Act would lower shipping costs by approximately 22 percent. A 2002 economic study from that same commission found repealing the Jones Act would have an annual positive welfare effect of $665 million on the overall U.S. economy. Given the price of oil, that is probably now close to $1 billion.

The Jones Act adds real direct costs to consumers, as I mentioned, particularly to Hawaii and Alaska. I notice the Senator from Alaska is on the Senate floor. A 1988 GAO report found the Jones Act was costing Alaskan families between $1,921 and $4,820 annually for increased prices paid on goods that were shipped from the mainland. In 1997, a Hawaii Government official asserted that ''Hawaii residents pay an additional $1 billion per year in higher prices because of the Jones Act. This amounts to approximately $3,000 for every household in Hawaii.'' Again, those figures are from 1988 to 1997. Obviously, they are higher today.

Everybody says there is nothing that can be done immediately about the price of oil. My friends, if we repeal the Jones Act, we would have an immediate effect on the price of oil because when we are transporting oil from the gulf coast to the Northeast, and it costs two or three times more if that supply is restricted to being transported only by these 56 tankers, then, obviously—according to figures that are accurate that it costs two to three times more than if we allowed other foreign-flagged ships to move these goods and services, but particularly oil tankers—we could cut the cost of oil, of gasoline, immediately.

So the next time you hear the President of the United States or my friends on the other side of the aisle say there is nothing that can be done now about reducing the price of a gallon of gasoline, understand that we can do so by repealing the Jones Act immediately.

If there was ever a law that has long ago outlived its utility or usefulness, if it ever had any, it is this law passed in 1920. Only American built? We can't even buy another one—a tanker or a ship—that is built in another country and not have it fall under the Jones Act, even if it is American owned and with an American crew. Amazing.

What I am leading to, obviously, is that we should repeal the Jones Act. If not repeal it, then waive the Jones Act. If not fully waive it, then waive it just for the transport of oil, for oil and gas tankers. If that is not enough, let's just waive it for 6 months. Couldn't we just do that for 6 months?

I know what the response of the Senator from Illinois is going to be. That is his duty on the Senate floor, and I respect that. But, my friends, the price of a gallon of gasoline is now, this March, according to media reports, the highest it has been in history. Depending on what happens in a lot of different areas of the world—particularly the Middle East and what happens in Iran and other things that are going on in this very dangerous world we are living in today—it could go considerably higher.

So why don't we take a commonsense approach and at least for 6 months waive the requirements of the Jones Act for only oil and gasoline tankers—for just 6 months. It seems to me that would make a great deal of sense.

I know all four of my unanimous consent requests on these amendments are going to be denied. But, first of all, I think the Jones Act should be repealed completely. If it isn't to be repealed, couldn't we at least waive the Jones Act restrictions on coastwise trade for oil and gas tankers? If we can't waive it permanently for that, can't we waive those restrictions for 6 months? We are discussing energy and the price of oil. Can't we waive the Jones Act restrictions on coastwise trade for oil and gasoline for 6 months.

So with the indulgence of my friend from Illinois, I ask unanimous consent that when the Senate returns to consideration of S. 2204, the pending energy tax bill, it be in order for me to offer—I want to offer them all—my amendment No. 1948, which is, as I described, an amendment that would waive the Jones Act restrictions. In other words, it would allow a foreign-flagged tanker to move oil and gas—a waiver for 6 months to move just oil and gas—so that we can immediately reduce the cost of transportation, which would then translate itself at the pump at every gas station in America.

The PRESIDING OFFICER. Is there an objection? The Senator from Illinois.

Mr. DURBIN. Mr. President, reserving the right to object, I believe the shipbuilding industry in Arizona is about the same size as it is in Illinois, so I don't come to this issue with any particular hometown or home State view, and I am open to the Senator's suggestion. But I would say at this moment we are clearly focused on doing one thing; that is, eliminating the $4 billion annual subsidy to the five big oil companies that registered $137 billion in profits last year. Moving to this measure was voted favorably by 92 Senators, and we are trying to move this to a vote. Perhaps we can move to another issue—the ones the Senator is proposing—at another time, but at this point, I have no other alternative but to object.

The PRESIDING OFFICER. Objection is heard.

Mr. MCCAIN. Mr. President, I always enjoy a little dialog between myself and the Senator from Illinois. I hope he would have the same passion concerning all subsidies, including the outrageous and disgraceful subsidies that—and there is a lot of solar in the State of Arizona—a lot of solar. I will stop here, but if we are going to repeal the gas and oil subsidies, let's repeal them all. Let's repeal them all.

I am not sure—again, the logic that says that if we are able to immediately reduce the cost of oil by repealing the Jones Act, which then would reduce the cost of transportation, would then reduce the cost of gasoline—why should we out of hand reject such a motion or an effort to do so?

But I understand what the position of the majority and the distinguished Democratic leader is, and I know others are waiting, so I thank the Senator and I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. No time remains.

Mr. BARRASSO. I ask unanimous consent to speak for up to 5 minutes.

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

Mr. BARRASSO. Mr. President, President Obama often boasts about oil production he really had nothing to do with. My amendments I am bringing forth today would allow him to be proud of his own record instead of his predecessors, and that is why I ask unanimous consent that when the Senate returns to consideration of S. 2204, the pending energy tax bill, that it be in order for me to offer amendments Nos. 1956 and 1957. Amendment No. 1956 would accelerate permitting of oil and gas exploration on our Federal public lands, and amendment No. 1957 would require Federal agencies to use existing environmental review documents for oil and gas permitting.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Mr. President, I object.

The PRESIDING OFFICER. The Senator from Illinois. Objection is heard.

Mr. BARRASSO. Mr. President, the reason I come to the floor today is to speak on behalf of these two amendments I have filed to S. 2204.

A few weeks ago, we learned that oil and gas production on Federal public lands and waters is down. Specifically, we learned there was a 14-percent decrease in oil production on Federal public lands and waters from 2010 to 2011 and an 11-percent decrease in gas production from 2010 to 2011.

On March 14, Bob Abbey, the Director of the Bureau of Land Management, testified about this before the Appropriations Committee. He explained that there had been ''a shift [in the oil and gas production] to private lands to the east and to the south where there is a lesser amount of Federal mineral estate.''

That is why amendment No. 1956 would accelerate permitting for oil and gas exploration on our Federal public lands, and that is why I just offered that. I took a look at the amendments and the discussion on the bill on the floor, and that is why specifically I offered an amendment that would rescind the administration's rules requiring what are called master leasing and development plans. These regulations were put into place over 2 years ago by the Secretary of the Interior. It is unclear why the Secretary issued these regulations. They add more redtape, they cause more bureaucratic delay, and they slow down American energy production. This amendment would also require the administration to set goals for oil and gas production on Federal public lands. It would ensure that the United States maintains or increases onshore oil and gas production.

I have also filed a second amendment, No. 1957, which would require Federal agencies to use existing environmental review documents for oil and gas permitting. When we take a look at this amendment, this would expedite the time it takes to prepare environmental analyses under the National Environmental Policy Act, often known as NEPA. Too often, NEPA delays onshore and offshore exploration. My amendment provides a commonsense solution. It requires agencies to use, in whole or in part, an existing environmental review document if the existing document was completed for a

permit that is substantially the same as the permit under consideration. This amendment doesn't exempt agencies from complying with NEPA, and it does not provide for categorical exclusions. It simply requires agencies to use their previous work so they don't have to reinvent the wheel.

I am disappointed that the majority continues to prevent the Senate from doing its job and that we heard an objection to these amendments. High gasoline prices are causing hardships for American families and American businesses.

My Republican colleagues and I filed a number of amendments to S. 2204. We would like to have votes on these amendments. We would like to take steps to increase American oil production. Instead, as we just saw, the majority says no. ''No'' to more American energy, they say; ''no,'' they say to jobs; and ''no,'' they say to strengthening our energy security. We can do better, and it is my hope that we will.

Madam President, I yield the floor.

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Alaska is recognized.

Ms. MURKOWSKI. Madam President, I ask unanimous consent to speak for no more than 5 minutes.

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

Ms. MURKOWSKI. Madam President, I wish to thank my colleagues who have come down to the floor this afternoon for their efforts to offer what I believe are very substantive, very meaningful amendments to the legislation that is before us. I think we can condense the message you have heard here this afternoon pretty easily.

The fact is that the bill before us is highly misleading, and I don't believe it will work. The legislation that has been introduced, S. 2204, is not going to put an end to Federal subsidies for oil and gas producers because there are none. There are no subsidies here. The oil and gas industry actually sends money to the Federal Government to the tune of tens of billions of dollars each year, and it is not the other way around. Basic tax deductions that allow businesses to retain more of their earned dollars is not the equivalent of handing them a check. So I think that is the first thing we need to get out on the table and make very clear.

The second point I want to reinforce is that S. 2204 is simply not going to work. By definition, increasing costs will not lower prices. There is nothing I can think of that, if we tax it more, it will make it more affordable and more abundant. It just doesn't work that way. And judging from both history and some recent international examples, it is virtually certain that S. 2204 would have damaging effects on this country.

Back in 1980 the Carter administration imposed a windfall profits tax. We remember that. This was a tax that was imposed on domestic crude oil. According to the Congressional Research Service, that tax reduced domestic oil production, it increased our dependence on foreign nations, and it collected far less in revenue than was expected.

The example that is more current on the international scene is one I spoke to yesterday, and that is the example in Great Britain. A year after raising its oil tax rates, production declines in Great Britain have increased from 6 percent per year to 18 percent per year. As a result, Great Britain is reversing that course. They are now planning to offer new incentives to encourage producers to return to the North Sea.

So all we need to do is look at a real-time example of what one country did in an effort to deal with high gas prices. They increase the taxes, and investment and production goes overseas. Now they are turning the corner on this, and they are working to reduce their taxes.

I think there is clearly a better way. The other side of the aisle has refused to even consider amendments that will increase Federal oil and gas production, create good jobs in this country, generate billions of dollars of Federal revenues at a time that we desperately need them, restrain if not reduce gasoline prices, and increase our domestic energy security.

We believe very strongly that the solution to these many problems should be a reasonable combination of increased domestic production, for which we have huge world-class untapped resources that are still locked up by our Federal Government—America could be the world's largest oil producer, and we could be independent of OPEC. That is real. That is achievable. But we have to set our mind to it, we have to make that happen, and we have to have the Federal Government get out of the way or help us with the right incentives to do so.

The hundreds of billions of dollars in Federal revenues from increased production could, and should, help support the research and the development of our renewable resources, our alternative energy, as well as efficiency and conservation. We know that building out the energy of the future—renewables, alternatives—is expensive. How are we going to fund it? Well, many of us believe that resources that come from expanded production could help us with that. Yet what we are presented with today is a bill that does nothing more than raise taxes—raise taxes on an industry that has created good jobs, is providing us with the resource that we need, and we are not even allowed to offer a single amendment to produce one additional drop of American oil. I think that is unfortunate. I wish it were otherwise.

But I do think the debate, the discussion we have had on this floor in the past couple of days has been good and helpful in helping to educate the American public in terms of what we truly have as a nation in terms of our capacity and our capability to produce if given the opportunity.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. What is the parliamentary situation at this time?

The PRESIDING OFFICER. The majority retains 16 minutes in time.

Mrs. BOXER. I am confused a little bit because didn't the minority get extra time? Did they not get extra time?

The PRESIDING OFFICER. The Senator asked consent and no one objected.

Mrs. BOXER. Well, I would ask consent that I have an additional 5 minutes on the 16.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mrs. BOXER. So, Madam President, I think it is very important that we understand what we are trying to do here.

The Senator from Alaska said it has been a good debate. Yes, it has been a good debate, but let me tell you what is not good. What is not good is that Big Oil is getting corporate welfare. Big Oil is ripping us off at the pump. They never had greater profits. We are being asked to sacrifice and pay more at the pump because of instability in the world, because of problems with the refineries, even though we have never drilled as much as we are drilling now. Big Oil exports our oil now. We have never had as many exports as we have now.

Big Oil gets billions of dollars of subsidies, so big that I would tell you, $2 billion a year in U.S. tax breaks. Let me tell you, to explain how that compares to something we do that is very near and dear to my heart and to every mother and father, grandma, grandpa, or aunt and uncle, we put about $1 billion a year into afterschool programs, and we have millions of children waiting—$1 billion a year on afterschool programs while we give away $2 billion a year to the most, shall we say, successful companies in America.

I want to show you what I am talking about because I don't want people to think this is rhetoric. These are the facts. When my Republican colleagues come on the floor and defend these profits, let's talk about what they are.

Now, remember, we have been in a deep recession for several years now. Remember that President Obama and we had to confront the loss of 800,000 jobs a month. Now, thank goodness, he has turned it around—we have turned it around. It is still not good enough but we were in the worst situation. During that time, small businesses went out of business. People lost their homes. If it were not for the leadership of the President, we would have lost the auto industry in America. Thank you, Mr. President, for saving the auto industry in America. Thank you for that. I was proud to vote for that even though I had a lot of problems with the auto industry not moving quickly enough to fuel efficient cars. Now they are doing a great job with it.

During that time when Americans were suffering, we were bleeding all these jobs and even now, just getting back on our feet, what has happened to Big Oil while they have raised our prices at the pump? In 2009, all the five oil companies made $64 billion. In 2010, Big Oil made $76 billion, and in 2011 they made a whopping $137 billion. So they went from $64 billion in 2009 to $137 billion in 2011, and my Republican colleagues are crying bitter tears for them. Oh, let's keep giving them that $2 billion a year.

Why would we do that when we are sacrificing and our constituents are paying more at the pump and Big Oil is profiting from it? There is no reason for this kind of increase at the pump. There is no reason for it. Look at what is going on here. If they made the normal profits, we could have some relief at the pump. But, oh, no. So now the Republicans are going to reward them by allowing them to keep these subsidies.

That started a long time ago. That started in the 1980s, most of it, because we wanted to help them get moving. How much more do they have to earn before we say they can get off corporate welfare? You talk about welfare queens, here it is. And my Republican friends defend giving these people, who have ripped us off at the pump, billions of dollars of subsidies.

They are exporting the oil they recover here. They will not keep it in the country. We had a proposal for the XL Pipeline to keep the oil in the country. My friends on the other side of the aisle voted against it. They don't care, they just want these companies to have their way, to do with it what they want.

If they want to send our oil to China, fine, that is what they want. But they also want to keep their subsidies. It is not right. I want to see these subsidies done with and I want to see us invest in alternatives to these big oil companies that hold us by the throat. I want to have alternatives.

I have been all over this country looking at the alternatives we are developing now. We know, for example, in Brazil they use sugar cane to create their gasoline and they are completely free from imported oil. That is the kind of thing we need to do. I am fortunate that I drive a hybrid vehicle and I get 50 miles to the gallon, so I don't go in for gas that often. But when you go in there, it is a shock. We want to have cars—let them be big cars. If people need that for their families, I understand it. I have grandkids. I know what it is to put your grandkids in a small car. It is hard. We need to have larger cars. They need to be fuel efficient. We are going to get there. We are getting there already.

Isn't it better to take that money away from people who are ripping us off at the pump, away from the corporate welfare queens here, and put it into alternatives so our people are no longer victims to their prices? That is the fight we are having. That is the debate we are having.

On the other side they say drill, baby, drill. You know what, I am for drilling where it makes sense. Do you know how many acres the oil companies are holding now that they have not drilled upon? It is pretty amazing. My friends say open the Arctic to drilling—a precious environment, Godgiven, placed in a refuge by I believe it was Dwight Eisenhower. They want to go in there and ravage it. Why don't they drill on their nonproducing acres? It looks like 75 million nonproducing acres, onshore and offshore, on which they hold leases.

Oh, no, that is not good enough for them. They are only drilling on 25 percent of the leases they hold, of the acreage they hold in those leases. How about ''use it or lose it,'' instead of ''drill, baby, drill''? Drill, baby, drill in here. Don't go into the coast of California where they want to go, or Washington, or Oregon, where we have fishing, tourism, recreation.

There are so many people here to whom I listen who make the arguments for the oil companies. I am so tired of it. How about speaking up for the American people who are getting brutalized at the pump? How about speaking up for the people who make their living off of a beautiful, pristine environment?

Oh, by the way, many jobs in my State, over 400,000 jobs, are related to a pristine coastline, and they don't care about that on the other side. They want to open it, push these people out of the way and create a few jobs—because there are far fewer jobs created from drilling. As President Obama has said many times, and the other side gets rankled: We only have 2 percent of the world's proven oil reserves and we use about 20 percent of the energy. You do the math, as the President said. You could drill in your grandmother's bathtub, you could drill in the Great Lakes, you could drill anywhere you want—you are not going to find enough oil.

So let's get off foreign oil, let's tell the oil companies to drill, baby, drill where they have the acres and let's look at these prices and let's understand—we will look at it again—the profits of Big Oil. They are crying all the way to the bank, as my dad used to say.

Look at this. In the height of the recession they are making record profits and crying to keep their subsidies and my Republican friends are crying right along: Oh, here, have a tissue. We are so sorry for you, even though we have to turn away millions of children from afterschool programs because we do not have more than $1 billion to spend on it. They are giving away $2 billion a year. That is just one example.

I hope we vote for the Menendez bill. I hope we vote tomorrow on that, to stop the filibuster, to vote it up or down. What a message of hope it will send to the American people, that we are willing to stand up to the biggest powers that be, that we are willing to fight for the average American, that we are not in the pockets of Big Oil. You don't need to give American taxpayer dollars to Big Oil. It is absolutely ridiculous. We don't have to allow them to drill in pristine areas when they will not even drill in areas that they have had under lease for years. And let's stop them from exporting the oil. We need it. Let's keep it here.

By the way, if they keep on ripping us off like this and getting rewarded for it from my Republican friends, let's release oil from the Strategic Petroleum Reserve, and let's increase the supply and let's see prices go down.

Let's look at the CEOs of Big Oil for a minute, these poor guys who are fighting for the subsidies. Let's look at them. CEOs for the big five made more than $14.5 million in total compensation in 2010. This is it, average compensation. That is 307 times the average salary of a firefighter; that is 273 times the average salary of a teacher; that is 263 times the average salary of a policeman; that is 218 times the average salary of a nurse. But they need subsidies for their companies and they need to rip us off at the pump so they can make a little more money—$14.5 million isn't enough for a poor oil company executive. Give me a break. And stop giving them a break because they don't need this break.

We have an opportunity to stand for what is right and I hope we take it. Right now we want alternatives to Big Oil. We want competition for Big Oil. We want to be able to become energy independent. So let's stop these taxpayer handouts. The oil companies do not need them. Let's start investing in America's energy future which, by the way, that kind of investment creates many jobs at a time that we need to do that.

HEALTH CARE

I want to switch topics here for the remainder of my time and talk a minute about health care and then close with a little bit about the highway bill over in the House and the struggle over there to get their work done.

I ask how many minutes I have left.

The PRESIDING OFFICER. The Senator has 6½ minutes remaining.

Mrs. BOXER. Will the Chair advise me when I have 2 minutes remaining.

The PRESIDING OFFICER. The Chair will so advise the Senator.

Mrs. BOXER. Madam President, we all are watching what the Supreme Court is going to do in terms of the health care bill they have before them. What I want to do today is completely stay away from that argument and talk about what the health care bill is doing now, right now as we speak, because people tend to get involved in mandates, and if it is constitutional, and how does it work and so on. I want to talk about what the Obama health care plan is doing for my people at home, your people back home, and the people of this country right now.

As we stand here today, over 5 million seniors have saved more than $3 billion on their prescription drugs. The way it worked before this bill was passed, you would use up a certain amount of money and then you would fall into this coverage gap that they call a doughnut hole, and just when you are at your sickest point, you get no help. A lot of our seniors were not taking their medicines at that critical point because they could not afford the full cost; they were cutting the pills in half and praying. It was a sad situation. Because of health care reform, we have these seniors being able to keep their medications flowing. Last year in my State, 300,000 seniors were able to save $171 million in their costs.

Let's look at that again. As a result of Obama health care, which I proudly supported, already 5 million senior citizens are able to afford their prescription drugs—your mother, your father, your grandma, your grandpa. That is important. What is going to happen to these people if this whole thing gets overturned? They will get sick and they will not have those medications.

In addition, what else is happening—2.5 million young Americans are now covered because they can stay on their parents' health plan until they turn 26. Without this law, when you graduated from college you were out of luck, and you had to find your own health care. The Obama plan said you should be able to stay on your parents' health plan until you turn 26. I cannot tell you how many people have written to me to thank me for that.

So over there in the Supreme Court they are talking about legalese, and I appreciate that. They are talking about severability, and they are talking about a lot of interesting things. One thing I want to talk about is what is going to happen to 5 million senior citizens who are able to stay on their medication as a result of the Obama health plan.

What is going to happen to the 2.5 million Americans who are young who can stay on their parents' plan until they are 26 if something happens over there across the street in terms of this legal case? In California 335,000 Californians have benefited from that young person being able to stay on their parents' insurance provision.

What is going to happen to 54 million Americans who now have access to free preventive care, such as screenings for colon cancer, mammograms, and flu shots? This is new, folks. Before we didn't get free prevention. We had to pay a copayment. I have to tell you, as I lived my life and I have seen the tragedy of cancer, I have learned very clearly that if you take care of yourself and have mammograms and colon cancer screenings, your life can be saved.

What is going to happen to 54 million Americans who have that preventive care now if the Supreme Court strikes it down? Out of that 54 million, 6 million Californians have gotten these screenings and vaccinations. I will close with health care on this story.

I don't know how many people realize this, but before the Obama health care plan there were caps on insurance policies. Maybe they were a million-dollar cap or a half-million-dollar cap. Before I had different insurance, I had a cap on my husband's policy. What happened at that time is, if you used up enough health care, you were finished at a certain point.

I want to tell you the story of Julie Walters of Nevato, CA. She wrote to me last year about her 3-year-old daughter Violet who suffers from a severe form of epilepsy. She wrote that Violet could hit her lifetime limit in 5 years. So here is a little baby who is reaching her lifetime limit, and her mom wrote:

> A lifetime limit on insurance is a limit on Violet's lifetime, and that is immoral.

Because of health care reform, there is no longer a lifetime limit. So I wanted to point this out and so many other things that are totally essential to our people that are at stake across the street.

SURFACE TRANSPORTATION ACT

In closing, before we reach our full time, I want to call on the House to take up and pass the Senate Transportation bill. There are 3 million jobs at risk. They cannot get their act together. Allow a vote on the bipartisan Transportation bill and then leave for your vacation. But don't just give us these extensions which are, frankly, death by 1,000 cuts. We already know of six or seven States—including those in the Northeast—that are laying people off because they don't have certainty with the Transportation bill.

So I thank you very much. I thank the chairman of the Judiciary Committee for allowing me to finish.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF MIRANDA DU TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA

SUSIE MORGAN TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The legislative clerk read the nominations of Miranda Du, of Nevada, to be United States District Judge for the District of Nevada, and Susie Morgan, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes of debate equally divided and controlled in the usual form.

Mr. LEAHY. Madam President, I would ask unanimous consent that the time be divided equally but am I correct if we did the full 60 minutes, we would start the first vote at 5:35 p.m.?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. Madam President, I ask unanimous consent that we divide the time equally between now and 5:30 and the vote be at 5:30.

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

Mr. LEAHY. Madam President, today the Senate will finally vote on the nominations of Miranda Du to fill a judicial emergency vacancy in the U.S. District Court for the District of Nevada and Susie Morgan to fill a judicial vacancy in the U.S. District Court for the Eastern District of Louisiana. Both nominations have the bipartisan support of their home state Senators, and were reported by the Judiciary Committee over 4 months ago. The Senate is still only considering judicial nominations that could and should have been confirmed last year. The judicial vacancy rate remains nearly twice what it was at this point in the first term of President George W. Bush.

Last week, I noted an article about the ''crushing caseload'' that the Federal courts in Arizona currently face. In that article, the Chief Judge of Arizona's Federal trial court noted that they are in ''dire circumstances'' and that they are ''under water'' from all the cases on their docket. Like the district court in Arizona, the one in Nevada is also in desperate need of judges, as evidenced by its designation as a judicial emergency. As that same article noted, an insufficiency of judges ''lessens the quality of justice for all parties involved.'' This is why it is so crucial that we confirm these nominees as soon as possible.

Delay is harmful for everyone. An editorial from the Tuscaloosa News last week stated that ''[D]elays are objectionable in themselves: They deprive the courts of needed personnel, slow the administration of justice and deter well-qualified candidates from agreeing to be considered for the bench.'' I ask unanimous consent to include a copy of the article, entitled ''Congress needs to stop judicial partisan games,'' in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. LEAHY. The needless 4-month delay in the consideration of these nominations is another example of the delays that have been caused by Senate Republicans' unwillingness to agree to schedule these nominations for votes last year. As the editorial from the Tuscaloosa News noted: ''[T]he determination of Senate Republicans to delay President Barack Obama's judicial nominees—even those who have won bipartisan support from the Judiciary Committee—is emblematic of the

polarization that also has sabotaged efforts of the two parties to work together on numerous other fronts.'' The editorial concludes by urging that there be ''no more partisan games.''

A recent memorandum from the Congressional Research Service confirms what we have long known: The delay and obstruction from Senate Republicans have resulted in President Obama's judicial nominees waiting much longer for a floor vote than judicial nominees under the past four Presidents. These tactics, of course, have resulted in a much lower number and percentage of confirmed judicial nominees under President Obama—despite the fact that President Obama's judicial nominees have by and large been consensus nominees.

The consequences of these months of delays are borne by the more than 150 million Americans who live in districts and circuits with vacancies that could be filled as soon as Senate Republicans agree to up or down votes on the 17 judicial nominations currently before the Senate. Our courts need qualified Federal judges, not vacancies, if they are to reduce the excessive wait times that burden litigants seeking their day in court. It is unacceptable for hard-working Americans who turn to their courts for justice to suffer unnecessary delays. When an injured plaintiff sues to help cover the cost of his or her medical expenses, that plaintiff should not have to wait 3 years before a judge hears the case. When two small business owners disagree over a contract, they should not have to wait years for a court to resolve their dispute.

Today, we can finally end the needless delays on these two qualified nominees. Miranda Du was born in Vietnam. She left the country with her family by boat in 1978 and immigrated to the United States after spending a year in refugee camps in Malaysia. If confirmed, she will become the first Asian Pacific American appointed to the Federal bench in Nevada. Both of Nevada's Senators, the Majority Leader and Republican Senator DEAN HELLER, support Ms. Du's nomination. Senator HELLER has said that Ms. Du will ''make an outstanding district court judge.'' She also has the support of the Republican Governor of Nevada, Brian Sandoval; the Republican Lieutenant Governor of Nevada, Brian Krolicki; and the Republican Mayor of Reno, Robert Cashell; each of whom has personally worked with Ms. Du. I ask unanimous consent to have printed in the RECORD a copy of the letters of support from these individuals at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. LEAHY. Governor Sandoval fully supports Ms. Du's nomination. In his recommendation letter, he wrote that when Ms. Du appeared before him when he was a judge, she ''was always well prepared and represented her clients with integrity and distinction.'' He further stated that she had his ''full support'' for confirmation as a Federal district judge. Ironically, he was the judge in the one case on which Republicans rely to criticize the nominee. As the judge, he had overlooked the jurisdictional argument when initially deciding against dismissing the case. The Magistrate Judge on the case issued sanctions, but Governor Sandoval ultimately struck the motion for sanctions as moot when Ms. Du and her legal team resolved the dispute with the third-party. In addition, Ms. Du testified candidly about the incident during her Committee hearing and in her response to the Questions for the Record, acknowledged that she had ''learned a great deal from this experience.'' Incidents like this have never held up a nomination before in the past, and it should certainly not hold up Ms. Du's nomination. President Obama's nominees should not be held to a different or new standard.

She has spent her 17-year legal career in private practice as a partner at a law firm in Reno, Nevada. She currently serves as chair of the firm's Employment & Labor Law Group. Ms. Du's story is compelling. She was selected by Super Lawyers as a 2009 ''Mountain States Rising Star'' and was named as one of the ''Top 20 Under 40'' Young Professionals in the Reno-Tahoe Area in 2008. That she is being opposed because she and her legal team filed a third-party complaint on behalf of a client in one case is to hold her to a new standard than Senate Republicans have utilized with other nominees and other Presidents in the past.

The other nominee we consider today is Susie Morgan. She has worked in private practice for 30 years. Her nomination has the bipartisan support of Louisiana's Senators, Democratic Senator MARY LANDRIEU and Republican Senator DAVID VITTER. Following her law school graduation, Ms. Morgan clerked for Chief Judge Henry A. Politz of the U.S. Court of Appeals for the Fifth Circuit. She was unanimously rated as qualified by the American Bar Association's Standing Committee on the Federal Judiciary to serve as a Federal judge in the Eastern District of Louisiana. Her nomination was approved unanimously by the Judiciary Committee last November.

The Senate needs to make real progress, which means going beyond the nominations included in the agreement between Senate leaders to include the 17 judicial nominations currently before the Senate for a final vote and the eight judicial nominees who have had hearings and are working their way through the Committee process. There are another 11 nominations on which the Committee should be holding additional hearings during the next several weeks.

EXHIBIT 1

[From Tuscaloosanews.com, Mar. 22, 2012]

EDITORIAL: CONGRESS NEEDS TO STOP JUDICIAL PARTISAN GAMES

Delays in the confirmation of federal judges aren't uppermost in Americans' minds when they complain about partisan dysfunction in Congress. But the determination of Senate Republicans to delay President Barack Obama's judicial nominees—even those who have won bipartisan support from the Judiciary Committee—is emblematic of the polarization that also has sabotaged efforts of the two parties to work together on numerous other fronts. And the delays are objectionable in themselves: They deprive the courts of needed personnel, slow the administration of justice and deter well-qualified candidates from agreeing to be considered for the bench.

So it's a hopeful sign that Republicans have agreed to vote on 14 judicial nominations by May 7. It would be heartening to report that the Republicans agreed to the votes because they repented of the obstructionism of some of their members, but in fact their agreement followed a power play by Senate Majority Leader Harry Reid, D–Nev., who filed cloture motions to try to force votes on 17 nominations.

Rather irrelevantly, Republicans had complained that Reid hadn't made judicial confirmations a priority. Now he has. Republicans also have faulted the Obama administration for being slow to fill vacancies on district and appeals courts. That is a fair criticism. There are 81 vacancies but only 39 pending nominees (including two for future vacancies). But it is Republicans who have withheld the unanimous consent necessary for nominations already approved by the Judiciary Committee to move forward expeditiously and without prolonged debate. The latest pretext for delay was the desire to protest Obama's recess appointments to federal agencies, but Republicans have been reluctant to allow Democrats to score a political point by promptly confirming Obama's judicial nominees.

When Reid first proposed swift action on the nominations, Senate Minority Leader Mitch McConnell, R–Ky., complained: ''This is just a very transparent attempt to try to slam dunk the minority and make them look like they are obstructing things they aren't obstructing.'' But then McConnell added that ''this is going to, of course, be greeted with resistance.'' In other words, if you accuse us of being obstructionist, we'll make you pay by being obstructionist. This is partisanship at its pettiest.

The White House complains that the Senate has taken four to five times as long to confirm Obama's nominees as it did to approve George W. Bush's. Nevertheless, several of Bush's nominations were delayed or derailed by Senate Democrats, including eminently qualified appeals court nominees whom they feared might be potential Republican appointees to the Supreme Court.

Controversial or not, every judicial nominee deserves serious consideration by the Senate and an expeditious up-or-down vote—and no more partisan games.

EXHIBIT 2

OFFICE OF THE GOVERNOR,
Las Vegas, NV, August 22, 2011.

Re Recommendation of Miranda Du

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: It is with great pleasure that I recommend Miranda Du for the United States District Court Judge, District of Nevada.

As long as I have known Miranda, she has exhibited great character and is well respected in the legal community. During my tenure as a U.S. District Judge, each time Miranda appeared before me, she was always well prepared and represented her clients with integrity and distinction.

Miranda Du will make a fine U.S. District Judge and therefore has my full support. Please feel free to contact me if you have any questions. Thank you for your consideration.

Sincere regards,

BRIAN SANDOVAL,
Governor.

OFFICE OF THE LIEUTENANT GOVERNOR,
Carson City, NV, August 23, 2011.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: I am writing in enthusiastic support of Miranda Du's nomination to the United States District Court for the District of Nevada.

As Nevada's Lieutenant Governor, I have the privilege of serving as Chairman of the Nevada Commission on Economic Development (NCED), whose mission is to promote a robust diversified and prosperous economy for Nevada. In this capacity, I have served with Ms. Du since she was appointed to the Commission in July 2008.

As a NCED commissioner, Ms. Du has demonstrated many qualities that will make her an ideal Federal District Court Judge. She is intelligent, inquisitive, reliable and dedicated. She is an active and involved commission, always prepared and informed, and she is not afraid to ask tough questions. She conducts herself in a professional and dignified manner. I think that both Nevada and the United States will benefit from Ms. Du's appointment to the Federal Bench and I strongly encourage the Senate to confirm Ms. Du.

Best regards,

BRIAN K. KROLICKI,
Nevada Lieutenant Governor.

CITY OF RENO,
Reno, NV, August 12, 2011.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Hon. CHUCK GRASSLEY,
Ranking Member, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS LEAHY AND GRASSLEY: I am writing in support of the nomination of Nevada Attorney Miranda Du to the United States District Court for the District of Nevada.

I have known Ms. Du for quite some time. For the last eight years, I have had the opportunity to observe her legal skills and temperament primarily in my role as a member of the Board of Directors of the Truckee Meadows Water Authority (''TMWA''), which is partly owned by the City of Reno. Ms. Du has represented TMWA on several matters, and she has been both effective and professional in that representation. Ms. Du is intelligent, articulate and even-tempered. She is direct and always seems prepared in responding to questions from the TMWA Board. I believe she will be a great addition to our federal bench. I strongly recommend her for confirmation.

Sincerely,

ROBERT A. CASHELL, Sr.,
Mayor.

Mr. LEAHY. Madam President, continuing the time that has been allotted to me, I ask unanimous consent that the following statement appear as though in morning business, but I will utilize the time now allotted to me.

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

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

Mr. LEAHY. Madam President, I suggest the absence of a quorum, with the time to be equally divided.

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

The clerk will call the roll.

The 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 (Mr. WHITEHOUSE). Without objection, it is so ordered.

Mr. GRASSLEY. I want to ask, Mr. President, if it is appropriate for me to speak on the judges who will be up for a vote?

The PRESIDING OFFICER. It is.

Mr. GRASSLEY. Mr. President, again, we are moving forward under the regular order and procedures of the Senate. This year, we have been in session for about 35 days, including today. During that time we will have confirmed 14 judges. That is an average of better than one confirmation for every 3 days. With the confirmations today, the Senate will have confirmed nearly 75 percent of President Obama's article III judicial nominations.

Despite the progress we are making, we still hear complaints about the judicial vacancy rate. We are filling those vacancies. But again, I would remind my colleagues that of the 81 current vacancies, 47 have no nominee. That is 58 percent of vacancies with no nominee.

So I am growing a bit weary of the vacancy rate being blamed on Senate Republicans.

I have spoken on numerous occasions about the seriousness with which I undertake the advice and consent function of the Senate, as I know we all do. Our inquiry of the qualifications of nominees must be more than intelligence, a pleasant personality, an inspirational life story, or a prestigious clerkship.

When I became ranking member on the Senate Judiciary Committee, I articulated my standards for judicial nominees. I want to ensure that the men and women who are appointed to a lifetime position in the Federal judiciary are qualified to serve. Factors I consider important include intellectual ability, respect for the Constitution, fidelity to the law, personal integrity, appropriate judicial temperament, and professional competence.

In applying these standards, I have demonstrated good faith in ensuring fair consideration of judicial nominees. I have worked with the majority to confirm consensus nominees.

In fact, of the 138 judges confirmed so far, I have voted in favor of over 90 percent of President Obama's judicial nominees. This includes supporting 100 of the 108 district judges we have confirmed during President Obama's term of office.

However, today on the agenda is a nominee that in my judgment does not measure up to the criteria I have outlined. Ms. Miranda Du was nominated to be a U.S. district judge for the District of Nevada on August 2, 2011.

We have heard Ms. Du's life story—leaving Vietnam following the war; living in refugee camps with her family; coming to America at a young age; obtaining an education and establishing herself in a respectable career. She has risen above disadvantages that most of us can't imagine. This is a great success story, and we congratulate her for these notable accomplishments.

However, this is not sufficient for confirmation to a lifetime appointment as a Federal judge. We all can think of similar success stories. Miguel Estrada immigrated to America at a young age, graduated from Harvard, clerked at the Supreme Court, and had a prestigious legal career. His confirmation to the Federal court was defeated by a Democratic filibuster.

Justice Thomas grew up in humble circumstances, rose above his disadvantaged background to graduate from Yale Law School, faced discrimination in legal hiring, but went on to an illustrious public service career. He was barely confirmed to the Supreme Court.

Janice Rogers Brown, an African-American female, was the daughter of sharecroppers. Overcoming these circumstances, she graduated from UCLA School of Law working her own way through while being a single mother. She served in California State government and on the California Supreme Court. Her Federal judicial nomination faced a Democratic filibuster before she was finally confirmed by a vote of 56 to 43.

I bring up these examples to point out that many individuals we consider for judicial positions have overcome difficult circumstances in life. Most are examples of the American dream. Some are confirmed, others are not. But in each case, the gender or race of the individual, or the particular life story was not part of the consideration of whether or not to confirm to a lifetime appointment. So while I think Ms. Du's accomplishments are admirable, they are not the basis for evaluating her qualifications to serve as a Federal district judge.

The relevant factors for me are her ability and professional competence. In those areas, she does not meet the standards I would consider necessary for a Federal judge.

I would note that the ABA has rated Ms. Du with a partial ''not qualified'' rating. She states she was ''involved in'' four jury trials and has limited criminal law experience. As I have stated before, this is no place for on-the-job training.

A mere 16 legislative days after her nomination, Ms. Du appeared at her nominations hearing. At that hearing, she was asked about a case in which she was lead counsel. Ms. Du was the

partner in charge of handling the case of Woods v. Truckee Meadows Water Authority.

In that case, she filed a motion to dismiss the original complaint. But she failed to raise the lack of subject matter jurisdiction as a reason to dismiss the case. The court, therefore, denied her motion. Ms. Du then filed a third-party complaint against the local union. But the union's counsel recognized that there was no subject matter jurisdiction. Therefore, they advised Ms. Du, in a six-page letter, that the court lacked subject matter jurisdiction. The union, therefore, warned Ms. Du that they would seek sanctions if Ms. Du did not withdraw her complaint. Rather than recognizing her mistake and filing a second motion to dismiss, Ms. Du went forward with the third-party complaint. In response, the union proceeded exactly as they said they would: They filed a motion to dismiss and filed for sanctions.

The district court agreed there was no subject matter jurisdiction and dismissed the action. In addressing the sanctions issue, the court stated:

> Having reviewed the record and considered arguments of counsel at the hearing on this motion, the court finds that . . . TMWA's counsel acted recklessly. . . .

Let me remind you, TMWA's counsel was the nominee, Ms. Du. The court said she acted recklessly. The court went on to state that TMWA—referring to Ms. Du's client—''has not advanced a legitimate, good faith reason for bringing the Union into this litigation.'' Accordingly, the court concluded sanctions were warranted.

At her hearing, Senator LEE asked her if she agreed with the court's assessment that her conduct was reckless. She stated that she did not believe that she was reckless.

In written follow-up questions, I asked her again about the court finding her reckless, and she responded that she disagreed with the magistrate judge's finding. Let me be clear: The finding of reckless action on her part was not a mere observation of the court, but a legal finding. That finding allowed the court to award sanctions pursuant to 28 U.S.C. 1927.

I was troubled that she would fail to acknowledge the finding of the court that she was reckless. I think this demonstrates a lack of humility, which is an essential element of being a Federal judge. I understand attorneys may make mistakes or have differing views on litigation strategy. However, this is not the case in this situation. Ms. Du was put on notice of her flawed motion, was warned of the consequences of proceeding, but went forward anyway. That is why the court found her to be ''reckless.'' Her subsequent attempt to downplay this serious matter goes against the standards for judicial nominees which I previously discussed.

There is another substantive legal element that concerns me as well. That is her apparent lack of knowledge or disregard for the law regarding subject matter jurisdiction. Senator LEE's questions at the hearing on this issue I think demonstrate a lack of ability or professional competence.

Her written responses to questions for the record failed to adequately explain her legal reasoning or to clarify the issues raised at her hearing.

Accordingly, Senate Republicans on the Senate Judiciary Committee unanimously opposed reporting her nomination to the Senate.

I would note that more than 2 months after her hearing, and more than one month after she was listed on the Executive Calendar, Ms. Du sent a letter addressed to me and Senator LEE. In that letter, she apologized for her earlier unclear explanations and for her misstatements. While I appreciated her response to me, the doubts I have about her ability and competence remain. Therefore, I cannot support this nomination and urge a ''no'' vote on this nominee.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I know Senator INHOFE was on the floor, and if I could ask unanimous consent that after I speak, he would be next to speak, and then the good Senator, Mr. LEE, from Utah.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Ms. LANDRIEU. Thank you, Mr. President.

It is my distinct privilege to come to the floor this afternoon to voice my full support for Susie Morgan's confirmation as an article III judge on the U.S. Eastern District Court of Louisiana.

I have known Susie for many years. She is a good friend and, more importantly, she is an excellent and outstanding attorney.

Ms. Morgan comes to this position equipped with decades of litigation experience in Federal court as an advocate for both plaintiffs and defendants. She brings a thorough understanding of Federal law and an unquestionably fair and evenhanded temperament.

It is unfortunate that such a talented individual such as Susie Morgan has been waiting nearly a year since President Obama nominated her in July of 2011, and almost 5 months since she was voted out of committee unanimously.

Despite what the good Senator from Iowa—my good friend and wonderful partner in so many important issues here—has said, the fact is there are 17 judicial nominees on this calendar. There are 19 judicial nominees in committee. The facts are that the nominees for President Obama have taken nearly five times longer to receive a vote on this floor.

We know there are some vacancies that have not yet received nominations. But there is no reason to deny these 17 who are still on the calendar their day on this floor. Ms. Morgan has waited more than her turn, and I apologize for that. She understands this has been caught up in bigger politics. It has nothing to do with her nomination specifically or her outstanding qualifications. But I do think we have to be honest about these delays and see what we can do to move people who are qualified, such as this nominee, so much more quickly because the courts need their help.

Ms. Morgan earned an advanced degree from the University of Louisiana at Monroe. She graduated from there, earning both her undergraduate and master's degrees. Then she earned a law degree on top of that, graduating in the top 5 percent of her class at Louisiana State University's Paul Hebert Law Center.

Immediately after earning her JD, Susie served as a law clerk for one of Louisiana's most respected legal minds, Judge Henry Politz of the U.S. Fifth Circuit Court of Appeals.

At the conclusion of that Federal clerkship, she began practicing in Shreveport, LA, for one of our most respected firms, Wiener, Weiss & Madison.

For the next 25 years, she honed her skills. She was one of the most capable civil defense attorneys in both Federal and State court.

After years of successful practice in Shreveport, Susie was recruited by one of the most prestigious law firms in Louisiana, Phelps Dunbar, and has since served as a partner for the firm where she specializes in commercial litigation.

She served in a variety of posts, as many of our wonderful nominees have—serving without much fanfare but with great impact on many committees of the Louisiana bar, the Federal bar, et cetera. One of the most important that I want to mention here is that for 14 years she chaired a rules committee. It is not the sexiest kind of committee, not something known to the public, but it is so important to the practice of law for the thousands of attorneys who practice in Louisiana. She spent years behind the scenes improving Louisiana's State court proceedings. For almost 14 years, as I said, she chaired the rules committee and Louisiana Bar Association. Thanks to her leadership, the Louisiana Supreme Court agreed to replace an old and antiquated system where each judicial district in Louisiana adhered to its own set of idiosyncratic set rules, and now we have a uniform set of rules for the entire State. I think that is a special tribute to her tenacity, to her willingness to serve and do the hard work behind the scenes without a lot of public credit.

I am also impressed with the legal protection services she has offered to the homeless at St. Joseph's, the Harry Thompson Center in New Orleans, and the multiple community works she has done pre- and post-Katrina in our community. She has had a career that has demonstrated her willingness to work hard and to stay at the job, get the job

done, to be fair, curious, and respectful and, of course, she is most knowledgeable of the law, which she has so well served. I am so proud to support her nomination. I am proud that President Obama accepted my suggestion and nominated her. I am very pleased. She should receive a full and strong vote in the Senate. She has the support of myself and the other Senator, my partner from Louisiana, Senator VITTER. I am very pleased to speak on her behalf today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Mr. President, I rise to express serious concerns that I have with the nomination of Miranda Du to serve as a judge on the U.S. District Court for the District of Nevada.

In 2007, the very same court to which Ms. Du has been nominated imposed sanctions on Ms. Du for ''multiplying the proceedings . . . unreasonably and vexatiously.'' (28 U.S.C. section 1927.) The basis of this sanctions order was Ms. Du's prior refusal to dismiss a complaint she had filed on behalf of her client, even after the party her client was suing informed her—and she did not dispute—that the Federal District Court lacked subject matter jurisdiction. In imposing these sanctions on Ms. Du, the district court stated that she ''acted recklessly in failing to consider seriously the basic issue of lack of subject matter jurisdiction when the [opposing party] brought it to [her] attention.''

Ms. Du's errors were egregious, particularly because they involved Federal subject matter jurisdiction—the very basis of the limited jurisdictional reach of the Federal court system for which she has been nominated to be a judge. Ms. Du has not provided a satisfactory explanation for her conduct, but instead has repeatedly attempted to minimize the significance of her errors.

When asked at her Judiciary Committee hearing why, in addition to dismissing her complaint against the third-party defendant, she did not have the case against her client dismissed for lack of subject matter jurisdiction, Ms. Du responded that she did ''not realize this was a matter [she] could raise,'' and that she in fact did raise subject matter jurisdiction but on other grounds ''that the district court disagreed with.'' However, as pointed out in a letter members of the Judiciary Committee sent to Ms. Du following her hearing, court filings show that she did not raise the issue of subject matter jurisdiction.

In response to that letter, Ms. Du stated that she ''misspoke'' at her Judiciary Committee hearing and that she in fact had not raised the basic issue of subject matter jurisdiction. Troublingly, Ms. Du's belated candor was marred by an additional misleading attempt to minimize these same errors.

In her letter, Ms. Du stated that the ''motion for sanctions was later dismissed as moot and no sanctions were ultimately imposed.'' By going out of her way to make this misrepresentation, Ms. Du attempted to suggest that her sanctions were somehow not upheld or not imposed. To the contrary, after the court was burdened with a number of additional filings and motions regarding how much Ms. Du should pay in sanctions for her reckless conduct, the parties settled the issue out of court. The only matter that was mooted was the dispute over how much Ms. Du should pay, not whether she should pay. It is misleading for Ms. Du to affirmatively assert to members of the Judiciary Committee that ''no sanctions were imposed'' when the district court found that her behavior was reckless and plainly required and imposed such sanctions.

In light of the gravity of Ms. Du's errors and the importance to our Federal judiciary of the issue of subject matter jurisdiction, as well as Ms. Du's repeated attempts to minimize her errors, I must express serious concerns with her nomination and encourage my colleagues to vote against her nomination.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 for the yeas and nays on the nomination.

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

The question is, Will the Senate advise and consent to the nomination of Miranda Du, of Nevada, to be United States District Judge for the District of Nevada?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. HATCH) and the Senator from Illinois (Mr. KIRK).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted: ''nay.''

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

The result was announced—yeas 59, nays 39, as follows:

[Rollcall Vote No. 61 Ex.]

YEAS—59

Akaka	Casey	Inouye
Alexander	Collins	Johnson (SD)
Baucus	Conrad	Kerry
Begich	Coons	Klobuchar
Bennet	Durbin	Kohl
Bingaman	Feinstein	Landrieu
Blumenthal	Franken	Lautenberg
Boxer	Gillibrand	Leahy
Brown (OH)	Graham	Levin
Cantwell	Hagan	Lieberman
Cardin	Harkin	Manchin
Carper	Heller	McCain
McCaskill	Pryor	Tester
Menendez	Reed	Udall (CO)
Merkley	Reid	Udall (NM)
Mikulski	Rockefeller	Warner
Murkowski	Sanders	Webb
Murray	Schumer	Whitehouse
Nelson (NE)	Shaheen	Wyden
Nelson (FL)	Stabenow	

NAYS—39

Ayotte	DeMint	Moran
Barrasso	Enzi	Paul
Blunt	Grassley	Portman
Boozman	Hoeven	Risch
Brown (MA)	Hutchison	Roberts
Burr	Inhofe	Rubio
Chambliss	Isakson	Sessions
Coats	Johanns	Shelby
Coburn	Johnson (WI)	Snowe
Cochran	Kyl	Thune
Corker	Lee	Toomey
Cornyn	Lugar	Vitter
Crapo	McConnell	Wicker

NOT VOTING—2

Hatch	Kirk

The nomination was confirmed.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Susie Morgan, of Louisiana, to be United States District Judge for the Eastern District of Louisiana?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. HATCH), the Senator from Illinois (Mr. KIRK), and the Senator from Utah (Mr. LEE).

Further, if present and voting, the Senator from Utah (Mr. HATCH) would have voted: ''yea.''

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

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 62 Ex.]

YEAS—96

Akaka	Franken	Moran
Alexander	Gillibrand	Murkowski
Ayotte	Graham	Murray
Barrasso	Grassley	Nelson (NE)
Baucus	Hagan	Nelson (FL)
Begich	Harkin	Paul
Bennet	Heller	Portman
Bingaman	Hoeven	Pryor
Blumenthal	Hutchison	Reed
Blunt	Inhofe	Reid
Boozman	Inouye	Risch
Boxer	Isakson	Roberts
Brown (MA)	Johanns	Rockefeller
Brown (OH)	Johnson (SD)	Rubio
Burr	Johnson (WI)	Sanders
Cantwell	Kerry	Schumer
Cardin	Klobuchar	Sessions
Carper	Kohl	Shaheen
Casey	Kyl	Shelby
Chambliss	Landrieu	Snowe
Coats	Lautenberg	Stabenow
Coburn	Leahy	Tester
Cochran	Levin	Thune
Collins	Lieberman	Toomey
Conrad	Lugar	Udall (CO)
Coons	Manchin	Udall (NM)
Corker	McCain	Vitter
Cornyn	McCaskill	Warner
Crapo	McConnell	Webb
Durbin	Menendez	Whitehouse
Enzi	Merkley	Wicker
Feinstein	Mikulski	Wyden

NAYS—1

DeMint

NOT VOTING—3

Hatch Kirk Lee

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table, any related statements will be printed in the RECORD, 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.

Mr. COBURN. Mr. President, I ask unanimous consent I be allowed to speak for 30 minutes and following that the Senator from Rhode Island be recognized.

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

UTILIZING U.S. RESOURCES

Mr. COBURN. Mr. President, there have been a lot of comments made about energy, and I have to admit I come from an energy State. One-third of our economy is connected to energy in one way or another. I think the political games we are playing are just that.

I have a vision that I can see 50 years of prosperity for America on the basis of one thing; that is, actually using the wonderful resources that are in our country for our citizens and extend an opportunity for our kids, in spite of our budget deficits, in spite of our debt, that would enable them to have the same kind of opportunities we have had. The way we do that is to utilize the resources.

If we look around the world and we look at the most stable countries, we look at Canada, what is happening? Canada is living within their means. They have fairly low tax rates. They are utilizing their resources. They have trade surpluses.

If we look at Australia, they have a stable currency. Their currency has markedly appreciated compared to the dollar. The Canadian currency has markedly appreciated compared to the dollar. They are utilizing their resources to advance their country and their wealth and their opportunity. We hear all of these statements made by lots of people, but most of them are half truths. Let me explain what I mean.

There is nobody who disagrees that it is going to take us at least 25 to 30 years to wean ourselves from carbon fuels, if in fact we should do that. But let's say we should. What is the difference between burning a carbon atom that is coming from the Middle East or Venezuela versus a carbon atom that we produce here? We are going to do that. Right now 30 percent of our oil comes from either the Middle East or Venezuela, not necessarily areas of the world that are akin to being kind to us as a nation.

Here is the difference: If we burn our carbon atoms, we add between 2 million and 4 million jobs over the next 10 years. Maybe even more than that. If we burn our carbon atoms—which we are going to burn carbon for at least 25 years—we decrease our trade deficit by at least $200 billion a year. That is $200 billion of wealth that does not leave our Nation, and actually it is more than that because if we get $200 billion worth of American oil and American energy, that creates another $50 billion to $60 billion worth of economic multipliers.

We are the only Nation in the world where we have the natural resources to make ourselves energy independent, and yet our government will not allow us to have access to that energy. So my challenge to my colleagues, given the fact that we will burn carbon—we don't even have to have a discussion about global warming or climate change because even the best estimate is it is going to take us 25 years to 30 years to get off carbon. So during that 25 to 30 years, should we not utilize and should we not create a way in which we actually consume our own resources rather than send money and wealth out of this country to be able to utilize the resources of someone else?

I am for conservation. I am for increased mileage. I am for doing everything we can to wean ourselves from a dependency on a foreign source for our energy.

Other than our debt, the greatest risk this country faces is our dependency and reliance on somebody else for our energy needs. If we take our friends in Mexico and Canada and we take what we are producing, we are able to attain 70 percent. That is a tremendous change over the last few years, and that doesn't have anything to do with the present administration.

As a matter of fact, oil production, natural gas production, both onshore and offshore, is down in double digits under this administration. Permitting—not new lands that have been opened—existing lands that are open has dropped to 40 percent in terms of the permitting process. In our Nation we have over 1.2 trillion barrels of oil equivalent that we can access if, in fact, we would. That is more than any other nation in the world.

So what is it that the big political fight is about? Do we want to send wealth out of this country? Do we not want to take advantage of what is available to us simply because of our location as a nation that will actually create tremendous opportunities for our children, that will create a new vision of America that is energy independent as we transition off of carbon-based fuel?

Why would we not want to do that when there is no difference in burning an imported carbon atom versus burning a carbon atom produced here? The benefits are obvious.

We have a bill we are considering that, to me, is mindless. It is about the politics of division, and it is not about any truth. The fact is the major oil companies that reside in our country pay the highest tax rate of anybody in the world. They pay over 41.5 percent of every dollar of revenue they make straight to the Federal Government. There are not any other businesses that compare to that. Google doesn't compare to that; Facebook doesn't compare to that; Apple doesn't compare to it. They are all half that rate.

So we are already taxing the oil companies to the tune of almost $36 billion, which went to the Treasury from the major oil companies in this country. The bill we have on the floor will not improve the revenue $1, and that is a fact. There will not be an increase of $1 over a 10-year period that will come to the Federal Government if we pass this bill.

Why is that? Most people don't know but my background is as an accountant. That was my first training, my first field. Accelerated depreciation just delays the time at which the Federal Government gets the tax dollars it is going to collect. It doesn't change the total amount of tax dollars, it just delays it so we match revenues with expenses, which is one of the things you are trained to do in accounting and in business.

By the way, oil depletion allowance is not allowed for the large oil companies. It is not allowed for them. It has been gone for over 20 years. So we set up accelerated depreciation on what is called intangible drilling costs. It would not have any major effect on the big companies, but it will literally kill the smaller capitalized companies because their capital needs are recaptured over a long period of time if we eliminate intangible drilling costs. So what does that mean? That means we will have less exploration in our country. We will actually harm the exploration for the middle and small oil companies.

Some will say: Well, we don't want to do that for them. We don't want to affect the small oil companies. We just want to affect the big oil companies.

The big oil companies will pay no increase change in their net taxes over a period of 10 years. So the only thing we can actually claim with this bill is the time value of money over that period of time, and the time value of money right now is less than 2 percent a year.

So what are we talking about? We are talking about a political game, and we are not talking about energy security. We are not talking about creating 2 million to 4 million jobs. We are not talking about substance. We are talking about politics, and the shame is that nobody out there is talking about a vision where America doesn't send $200 billion of its wealth out of the country. There is no reason for us to do that, and we have had every excuse except a legitimate one for why we should not burn our own oil and our own natural gas liquids.

What we have seen in this country in the last 5 to 7 years on private lands—that doesn't have anything to do with the Federal Government—is a renaissance in energy independence, moving us from importing over 55 percent to 60 percent of our oil from both the Middle East and Venezuela to 30 percent. That is a big change. Why is it that North Dakota, Montana, Oklahoma, Kansas, Texas, Louisiana, areas of Pennsylvania, and now West Virginia, are seeing declines in their unemployment rate? It is all because they are producing energy that we are going to burn no matter where it comes from, and we should be burning our own assets.

The other thing that we don't think about is the fact that these energy companies have made a marked difference in the cost of everyday goods for every American in this country. Go into the kitchen and look at all the products in the kitchen. Go into the bathroom and look at all the products in the bathroom. The fact is, natural gas at $2.13—1 million Btus today—has enabled us to now become competitive worldwide in fertilizer, polyethylene, all of the raw materials for packaging for synthetic goods from clothing to vinyls to housing materials.

What has happened is a renewal in manufacturing in this country on the basis of this large expansion of available natural gas. If we do that with oil as well, what we are going to do is set up our country to beat everybody in the world in terms of petrochemical byproducts. Why would we not want to do that? Why would we put anything as a roadblock to that?

We have heard all the debate. The best part I know that seems the oddest to me is to think that doing this is not going to have an impact on prices. We all talk about the fact that oil is a global commodity, and at the same time we are saying American speculation on oil is why the price is higher.

Well, there is not just American speculation on oil, we can trade all over the world today in the commodities. Why is there a $15 to $20 premium right now? Because of the situation in the Middle East with Iran. Would the prices come down if that political situation were gone? Yes. Would the prices come down if we eliminated every American's ability to speculate or hedge a bet against the price of oil? Absolutely not. Because the price of oil is set on the world market, not on the American market, and it is traded by everybody around the world.

So the best way to lower the price of oil is to solve the problems in the Middle East but produce more. Prices go down when production goes up.

So the fact is, we have an administration that has taken credit for something they obviously are not responsible for, which is exploration on private lands, and has denied the fact that they have limited the ability of those people who actually have leases but no permits on public lands to explore for oil.

One of the answers we hear from the Secretary of the Interior is, nobody wants to permit new natural gas. No, they don't, not at $2.13. But they all want to permit in the areas where there is oil or natural gas liquids except the permitting has been slowed down. The new plan is to cut the permits in half on lands that have already been opened for exploration.

I would invite all of the critics to come to Oklahoma to see where we drilled for oil. More oil rigs are run in this country by Oklahoma companies than anybody else in the country combined. They do it well. They do it in an environmentally sound way. They do it with the smallest footprint we can imagine, and they are held to accountability by every corporation commission throughout the country.

I know in the Presiding Officer's State their corporation commission is right on top of it. We have 60 years of experience in Oklahoma with fracking. We have never had one contamination of any water zone in 60 years in the State—second to Texas and Louisiana—that has drilled more holes in the ground than any other State in the country. So what we hear is all the reasons why we shouldn't create an opportunity through our natural resources for our kids rather than why we should, and it is time we should.

There is one other thing affecting the price of oil that people don't talk about very often, and that happens to be the value of the dollar. When the dollar declines in value, when we have deficit spending and big debt, the price of oil goes up. Why is that? Because the price of oil is traded in dollars. So when the world sees us not addressing our deficit issue, our debt issue, the value of the dollar declines. Ten years ago the value of the euro versus the dollar was 96 cents. It is $1.32 today. So we can buy only two-thirds as much as we could 10 years ago in terms of products from Europe. That has an impact on the price of oil. If the dollar were strong, if we managed our budget well, if we didn't have deficits, oil would go down.

So the next time we are angry about paying $4-plus for a gallon of gas, the only place we have to look is the U.S. Congress because if we weren't running deficits, if we were making the tough decisions, the value of the dollar would be much stronger, the purchasing power of that dollar would be stronger, and the value of oil would be less. People don't talk about that. They just assume it is just the world market. It is not. It is that what we do here matters. The fact is, we don't address in any significant way the problems in front of us from a fiscal standpoint, which has created a lack of confidence in the value of the dollar. It has declined; therefore, the price of oil has gone up.

So we have a way. This is one of the easy problems for America to solve. It is one of the ways to create a great opportunity for our kids and our grandkids; that is, utilizing the resources we have. We can do that in an environmentally clean way that will not change our goal to become clean in terms of our energy utilization.

As we look at it, we subsidize solar to the tune of $692 a megawatt hour. We subsidize—if we call it subsidization—natural gas at 64 cents per megawatt hour. Oil is at 69 cents, and coal is somewhere slightly above that. For wind, it is over $100 per megawatt hour. So the money we are paying in taxes we are sending out to inefficiently compete with what is known to be there because the technology isn't there yet. That is why it is going to take us 25 to 30 years to ever develop the technology to wean ourselves from carbon-based fuels.

One more thought. There is new technology in terms of thorium nuclear reactors. A lot of people are worried about nuclear reactors, and they are concerned. We are very safe in this country in terms of how we have operated them, and we have a very good Nuclear Regulatory Commission that oversees that. The new technology eliminates nuclear waste and eliminates any threat of a meltdown. So think about it. Here we have a new technology in nuclear that significantly eliminates 99 percent of the waste. There is absolutely no threat of a nuclear explosion or nuclear meltdown. How many dollars did the Department of Energy put into that research last year? Zero dollars.

We have the President talking about algae. ExxonMobil has already spent almost $1 billion on algae. Why should we take your taxpayer dollars to invest in something in which the biggest oil company in the world is already investing? Can we do it better? Probably not. Is more money the answer? No. Technology and scientific breakthrough is the answer, and that takes time.

As we hear the debate on raising the taxes on oil companies, just remember that we are not really going to raise any taxes because the amount of revenue that actually comes to the Federal Government isn't going to change. It sounds good. It is good for politics. It is good for the election cycle. It is good to make somebody angry about the price of oil. But the problem with the price of oil has nothing to do with that. It has to do with supply, it has to do with the decreased value of the dollar, and it has to do with factors that are outside the control of this country in terms of market price for oil based on significant geopolitical considerations. So I hope my colleagues will think a little bit longer term rather than the next election about our energy needs.

The one thing we have never done and the one thing I have already heard on the floor this week is that it will take us 10 years to become energy independent. I was in this body 7½ years ago. I heard the same thing: Had we started 7½ years ago, we wouldn't be importing one drop of oil from the Middle East today—not one—and the price of our gasoline wouldn't be above $4. So

we can't use that as a reason not to do it. The fact is, we can do it better, we can do it smarter, we can markedly increase the revenues of the Federal Government by increased resource utilization, and we are going to be burning carbon for at least 25 more years. I want us to burn our carbon, not somebody else's carbon. With that comes the future for our children.

Thank you, Mr. President. I yield the floor.

ENERGY PRICES

Ms. COLLINS. Mr. President, high energy prices are hurting individuals and families and businesses, particularly during these difficult economic times. While I support the measure before the Senate this week that would eliminate certain subsidies for the largest integrated oil companies and extend several clean energy tax incentives, the fact that we are not debating a bill to establish a long overdue national energy policy is a missed opportunity.

To better protect American consumers against fluctuating and escalating prices, we need a thoughtful and comprehensive energy policy for the 21st century that promotes greater efficiency, the development of viable alternative fuels, and the production of domestic energy sources, including oil and natural gas, wind, solar, biomass and others.

The rising costs of energy are burdensome to Maine families, truck drivers, farmers, fishermen, schools, small businesses, mills, and factories. Nearly 80 percent of the homes in our State rely on heating oil, leaving Maine families extremely vulnerable to rising crude oil prices. It is clear that we need a dramatic change in our energy policy to protect ourselves from rapid increases in oil prices without sacrificing our environment. We must rally around a national effort to achieve energy independence for our economic, environmental, and national security.

In the nearly 40 years since the 1973 oil embargo, numerous approaches aimed at lowering energy prices have been discussed, such as expediting the review of offshore drilling permits, opening new areas to oil and gas leasing, releasing oil from the Strategic Petroleum Reserve, and promoting the development of domestic energy alternatives. The serious will to tackle a comprehensive policy, however, has been lacking.

If the United States is to become less susceptible to volatile global market situations that drive up the cost of heating and transportation fuel, we must decrease our dependence on foreign oil. To accomplish this goal, we must promote energy efficiency and develop viable and affordable domestic energy sources. I have worked to advance these goals by supporting legislation that would promote clean energy initiatives, such as accelerating research of plug-in hybrid technologies for heavy duty trucks, providing incentives for producing alternative fuels from biomass, improving the energy efficiency of cars and appliances, the deployment of deepwater offshore wind power, and expanding domestic production of oil and natural gas in areas approved for exploration.

We must seize every opportunity to use oil more efficiently. For example, the provisions I was able to include in the last Transportation Funding Bill to allow heavy trucks to use Maine's interstate highways instead of being forced on secondary roads and downtown streets will shorten travel distances significantly. The owner-operator of a logging business in Penobscot County told me this change will save him at least 118 gallons of fuel each week. At today's diesel prices, that's more than $500.

The current political turmoil in the Middle East and our reliance on oil from countries with which we have strained relations, such as Venezuela, remind us that decreasing our dependence on foreign oil and relying on domestic energy sources must be the cornerstone of our Nation's energy policy. For this reason, I have supported efforts to increase the responsible domestic production of oil and gas.

Our efforts to increase American production should first be focused on regions that are already open to gas and oil production. The many lessons learned from last year's oil spill disaster in the Gulf will help to ensure stricter safety regulations. I continue to believe, however, that we must also continue to avoid our most sensitive coastal areas and areas that are essential to our fishing industry, such as Georges Bank. Pursuing domestic oil and gas leasing and transport is an important component in reaching this goal, and I remain disappointed in the President's decision to deny the permit for the proposed Keystone XL pipeline. Canada is our Nation's largest trading partner, and construction of the pipeline would create thousands of jobs in our two nations and reduce our reliance on oil from overseas.

Finally, we must also continue to support important safety net programs, including providing adequate resources for the Low Income Home Energy Assistance Program to help low-income Mainers and senior citizens afford to heat their home. The Weatherization Assistance Program, which helps Mainers improve the efficiency of their homes and substantially reduce heating bills for the long-term, is another very important program.

I remain committed to working with my Senate colleagues to advance effective and commonsense energy legislation that increases America's supply of energy and decreases our demand for foreign oil. This will help us to achieve energy independence and stabilize gas and oil prices.

Mr. LEAHY. Mr. President, it is long past time to close the wasteful tax loopholes for Big Oil. Over the past 10 years, the five biggest private sector oil companies—BP, ExxonMobil, Chevron, Shell, and ConocoPhillips—have amassed combined profits of almost $1 trillion. Last year was no different. Due to skyrocketing prices for oil, these same five corporations raked in a record-breaking $137 billion in profits. Despite this massive windfall, Big Oil continued to receive billions of dollars in taxpayer subsidies subsidies that are unnecessary and, in my opinion, unconscionable. The Repeal Big Oil Tax Subsidies Act will eliminate these harmful subsidies and level the playing field for all Americans.

Big Oil does not need these big tax breaks, and the prices they set for consumers at the pump suggest that they don't appreciate them. As of March 22, the national average price of regular gasoline is over $3.88 per gallon—up almost $0.34 from a year ago. I need look no further than the prices at the pump in Vermont, where the average price for a gallon of gasoline is $3.85—up approximately $0.30 from the average price in March 2011. This price increase is especially burdensome in rural states such as Vermont, where people must often rely on cars to get around, and heating fuel is a life-or-death necessity in the winter. For every penny the price of gasoline increases, big oil companies make an additional $200 million per quarter.

In spite of their ever-increasing profits and unneeded subsidies, the five major oil companies have done absolutely nothing to bring down prices for average consumers. Instead, they have padded their own pockets, using the vast majority of their net profits to pay exorbitant dividends, repurchase stock, lobby government officials, and buy radio and newspaper advertising to fight this bill. These actions benefit elite oil company executives and the companies' largest stockholders but do nothing whatsoever to ease the pain of hardworking Americans who trying to commute to their jobs every day or heat their homes during the long winter months.

This bill will halt the transfer of money from hard-working middle class families to oil company fat cats by ending more than $2 billion in annual tax breaks. It is a watershed moment for both energy policy and deficit reduction, and I support it wholeheartedly. Eliminating these wasteful tax breaks that benefit a few undeserving companies will allow us to reinvest in clean energy technologies that will benefit everyone. These investments will improve our national security by making the U.S. less dependent on foreign oil. They will also strengthen our economy and create new green jobs for the large number of Americans who are currently out of work and facing hard times.

Specifically, the Repeal Big Oil Tax Subsidies Act would renew incentives for clean energy technologies and put America on the path to energy independence. In order to break free from

our unhealthy addiction to oil, we must choose the President's all-of-the-above energy strategy which will grow clean energy industries, including alternative fuel vehicles, advanced manufacturing, biofuels, and solar, to name just a few. Savings from repealing these tax subsidies for Big Oil will help continue important incentives for alternatives to oil and usher in a bright new future of energy independence.

In addition to the benefits we will receive from investing in clean energy technology, the remaining savings from this bill will be dedicated to reducing the national deficit, a goal shared by both Democrats and, supposedly, Republicans. Time and again we have heard seemingly impassioned rhetoric from Republicans about the need to balance the budget and rein in spending. And yet, when given the chance to end more than $2 billion per year in unnecessary tax breaks, Republicans have stood with Big Oil. Instead of standing with Big Oil, we need to stand up to Big Oil.

For years, Republicans have opposed efforts to end taxpayer subsidies to the major oil companies. However, lavishing these giant corporations with incentives they do not need merely deepens our deficit and takes money out of the pockets of hard-working families, money which could be spent growing the economy and hastening our recovery. The Repeal Big Oil Tax Subsidies Act is precisely the action we should take to ensure that oil companies pay their fair share to help lower the deficit, just as working class taxpayers do.

It is important to note that cutting these subsidies will not result in less oil production or an increase in prices. Expert analysis has revealed that it costs the big five oil companies only about $11.00 to produce a single barrel of oil. This amount is dwarfed by the current price of a barrel of oil, which has consistently hovered around $110 per barrel. At today's prices, oil companies regularly earn $100 in pure profit from each barrel of oil that they sell. In fact, the former chief executive officer of Shell Oil Company, John Hofmeister, has admitted that, in his point of view, high oil prices made subsidies unnecessary. Therefore, it is highly improbable that a small change in tax subsidies would reduce their output. Furthermore, because oil is a global commodity, any incremental change in production that might result from changing oil subsidies in the United States will likely have no impact on world oil prices and, therefore, no impact on the price of oil.

The Senate should also go one step further and once again pass the No Oil Producing and Exporting Cartels Act (NOPEC), which I have filed as an amendment to today's bill, along with Senator KOHL and others. We must do everything we can to ensure that oil prices are not artificially inflated, driving up gas prices at the pump. Our NOPEC amendment will hold accountable those who engage in collusive behavior that artificially reduces supply and increases the price of fuel by allowing the Justice Department to crack down on illegal price manipulation by oil cartels. This illegal manipulation affects us all. As long as OPEC's actions remain sheltered from antitrust enforcement, OPEC's member-governments will continue to have the ability to wreak havoc on the American economy and their destructive power will remain unchecked.

The benefits of the Repeal Big Oil Tax Subsidies Act should be obvious to all Senators. An overwhelming majority of the Americans, 66 percent, have said that repealing tax subsidies for Big Oil is an acceptable way to help reduce the deficit. I would go further. Not only is this an acceptable way to reduce the deficit, but in these lean times when so many are struggling to make ends meet, it is an essential way to bring the budget back in line. It is time to end Big Oil's free ride at the expense of taxpayers.

Going forward, our focus should be on 21st Century clean energy that powers a jobs boom and fuels our economy. If these tax breaks were ever justified, that day has long passed. The Repeal Big Oil Tax Subsidies Act will end the unjustified Federal subsidies for the biggest oil companies that are enjoying record profits at the expense of working families. It will propel us into the future by investing the savings in clean energy technologies and reducing the Federal deficit.

Senators must make a choice: stand with the American people and stand up to Big Oil or continue business as usual. I think the choice is clear, and strongly support this bill.

SURFACE TRANSPORTATION ACT

Mr. WHITEHOUSE. Mr. President, I come to the floor of the Senate this evening to urge Speaker BOEHNER and the House of Representatives to pass the bipartisan Senate highway jobs bill now. This is an important bill that would save or create nearly 3 million jobs with really a stroke of the President's pen.

From Washington in the Northwest, 33,700 jobs, to Rhode Island in the Northeast, 9,000 jobs in our small State, to Florida in the South, 81,700 jobs, this is the jobs bill on which we need to act.

Rhode Island would receive $227 million a year for highways, roads, and bridges from this bill, and that would hold us steady at funding this year's funding levels.

Rhode Island would also receive an additional $30.5 million each year for transit projects, which would be a 10-percent increase over this year's Federal aid.

Importantly, this bipartisan Senate bill that will be so good for jobs across this country includes language authorizing the Projects of National and Regional Significance Program. That will help fund critical infrastructure projects such as the Providence Viaduct. Where I–95, the main northeast highway corridor, comes through Rhode Island, it goes through our capital city, Providence, next to the Providence Place Mall, and it proceeds through Providence as a bridge. It is a big, long land bridge. Its condition is so poor that when you go underneath it, as you do to drive down and enter the back parking entrance of the mall, and you look up, you see that between the I-beams that support the highway have been laid planks. The planks are there to keep the highway that is falling in from landing on the cars that pass underneath the highway below.

If you look just to the side where Amtrak, the main rail corridor for the Northeast passes under the Viaduct, you see the same thing: Planks across the I-beams so the road that is falling in does not land on the trains as they pass or block the tracks.

It takes a program like the Projects of National and Regional Significance Program to address repairs of this magnitude, particularly in a small State like mine, which simply does not have the resources to repair a facility like that built in 1964.

The Senate bill would send significant funds to States to build badly needed projects like these. All of those projects not only repair crumbling, broken, and deteriorating infrastructure, but they put Americans back to work at a time when we still urgently need these jobs.

So we passed this bill in the Senate. We passed it with 74 votes, and another Senator making it 75, expressing that had he not been required to be at a funeral in his home State, he would have voted for it. So we have 75 votes on a bipartisan bill that spent, if I remember correctly, 5 weeks on the floor of this body getting amendments, bipartisan amendments, amendments of all kinds being worked on and improved to the point where it could pass out of this body with that kind of a majority—even in the contentious and partisan atmosphere that often prevails in Washington.

It is a good bill, it is a bipartisan bill, it is a highway bill, it is a jobs bill, and the House should move on it.

What have they done instead?

Well, the House Republicans initially proposed funding transportation programs with a 30-percent cut in existing transportation funding. That, obviously, would have been a disaster. It would have resulted in the loss of an estimated 600,000 jobs across the country. So, of course, it was overwhelmingly opposed by transportation advocates and by business groups.

The House Republicans then tried to introduce something called the American Energy and Infrastructure Jobs Act back at the end of January. This bill was so extreme and so flawed that it was even opposed by many House Republicans. It removed dedicated funding for transit programs and went after things like offshore drilling.

Transportation Secretary LaHood was a Republican Member of the House

of Representatives himself for many years. He said about that House bill that it was ''the worst transportation bill I have ever seen'' and that it would ''take us back to the horse and buggy era.''

So with bipartisan opposition to this extreme, the worst bill that Secretary LaHood had ever seen, Speaker BOEHNER was forced to pull it, and that was that for that effort.

Then they spent months going after budget proposals that would reduce spending on our highways and on our bridges. Ultimately, they have thrown in the towel. They have no transportation bill in the House. They cannot get one up for a vote. So they have fallen back on trying to pass short-term extensions.

Well, first of all, that is not a great outcome for jobs and for the economy. According to the Rhode Island Department of Transportation, short-term extensions have had significant detrimental effects. These include delaying $80 million worth of projects, which equates to the loss of 1,000 job-years of work; delaying planning for needed safety and structural improvements of a $300 million to $400 million interchange that is in deplorable condition; delaying the advertising and awarding of the entire 2012 formula-funded construction program, which may cause the State to miss an entire construction season, putting the entire road construction industry out of work for that season; making long-range planning and the development of a sound State Transportation Improvement Program nearly impossible; and, last, jeopardizing the State's plans to design and construct the replacement of the Providence Viaduct I spoke about.

So the idea that an extension just carries on the status quo, it is more or less OK, it will not create harm, and it will not cost jobs is just plain dead wrong. There is job loss and there is economic loss associated with these extensions.

So how have they done on the extensions? Well, they have not even managed to pull themselves together to deal with the extensions. The House leadership has proposed 60-day extensions and 90-day extensions to the Federal transportation programs. Twice they have placed these proposals over on their calendar, but both times they have had to pull the proposals down because they do not have the votes.

So what do they have over there? They have no bill they can vote for. The bill they did put up was called one of the worst and most extreme transportation bills in history by a former Republican Congressman. They cannot get their act together to pass an extension. Even assuming it is not a bad idea to pass an extension for our economy, they still cannot do it, even as bad of an idea as that is. So they have nothing, and we are coming up on a deadline. On March 31, the authority to draw funds from the Highway Trust Fund runs out. So we are up against a pretty serious time constraint. As we whittle away to those last days, and as they get ready to leave the House and head home without having done their work on transportation, it is becoming more and more urgent that they take some action. If they cannot do a bill of their own, if they cannot pass a 90-day extension, if they cannot pass a 60-day extension, there is one obvious solution that is standing there as big as the proverbial rhinoceros in the living room; that is, pass the Senate highway transportation bill.

It is right there. It is ready to go. It could be on the President's desk in just days. It is bipartisan, with 75 votes in the Senate. It preserves these important programs and saves or creates nearly 3 million jobs in this country. The people of America understand that our highways, our roads, and bridges are important. They want us to go forward on this bill. This is not controversial. This should be easy.

So the House needs to take a look at where they are and make a hard decision.

They should not go home without addressing this problem and let us hit the deadline wall—particularly not with a good, solid, bipartisan Senate highway bill waiting to be taken up, waiting to be voted on, and waiting to be signed. All of the indications are that if the Senate highway bill were taken up by the House, it would pass overwhelmingly. Who would vote against a bill that creates 2.9 million jobs? Who would vote against a bill that maintains our highways, our roads, and our bridges? Who doesn't get it that in this country, our highway, bridge, and road infrastructure is in terrible shape? We understand this. The Nation's civil engineers have given our infrastructure near-failing grades in these areas. Other countries spend 5, 6, 7, 8, 9 percent of their gross domestic product on infrastructure, keeping it right, knowing it helps grow their economy. We are down below that.

It is very unfortunate that the House at this point cannot sort itself out to come up with its own transportation bill, cannot sort itself out to pass an extension—they cannot even do that. A deadline is coming at them that is nonnegotiable. Ideology, partisanship, rhetoric—all of those things don't matter against the hard deadline they are driving this country toward. I hope and urge that they take up the Senate Transportation bill, put it to a vote, let's get going, let's put 2.9 million people to work rebuilding our roads and highways, and let's get America moving and working again.

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

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

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

TRIBUTE TO MR. BILL SWOPE

Mr. MCCONNELL. Mr. President, today I rise to commemorate my very dear friend, Mr. Bill Swope of Elizabethtown, KY, for his many successes in business and in life. Mr. Swope has made many contributions to philanthropy and his local community, and has affirmed a commitment to public service on behalf of the Commonwealth while setting an example for his family and others of what it means to be a distinguished citizen.

I have been very closely acquainted with Bill Swope, his brother Sam, and the rest of their family for quite some time. Bill was born in 1922 in Cleveland, Ohio. He graduated from Miami University in Oxford, OH, with a degree in business administration. Bill served in the U.S. Army during World War II as a sergeant specializing in artillery. He recently received the French Legion of Honor in 2009, and is now considered a knight of the French Republic.

His wife Betty was a lieutenant, junior grade, in the Navy WAVES before she married Bill on July 26, 1945. According to Bill, the couple's long-lasting relationship is because Bill has always remembered who holds the higher rank—and it isn't him.

The first business venture of Mr. Swope was established in 1952 in Winchester, KY; it was called Swope Motor Company Plymouth-Dodge. There were many doubts about the future of the young company in its beginnings, but the Swope family business survived and thrives. This year marks the 60th year of the family business. Bill is now retired has left the running of the business to his three sons Carl, Bob, and Dick.

The first generation of Swopes laid the foundation of the business. The second generation is now in charge and makes sure the business runs smoothly. One thing both generations can agree on is that the company needs to remain a local, family-run enterprise. Bill is excited about the next 60 years in the automotive industry, and he is the first to tell you how proud he is of the three generations of Swopes' leadership.

Mr. Swope has been involved in a tremendous amount of volunteer activities, charities, and leadership roles throughout the years. He has been an active member of the Lion's Club since 1952, a deacon, elder and trustee of First Presbyterian Church in Elizabethtown, KY, and the past president

of the Fort Knox Chapter, Association of the United States Army in Fort Knox, KY. As a former member of the Elizabethtown City Council, he holds his community very dear to his heart. He has made sure to give back to the place he calls home in just about every way possible.

If you ever have the chance to sit down and talk with Bill Swope, you would quickly learn his passion for cars. Starting a company that has sold over 500,000 automobiles is just the beginning of his immersion in the industry. Bill likes to collect and restore antique and classic cars. Over the years he has become so good at this that in 1999, he opened Swope's Cars of Yesteryear Museum in Elizabethtown, KY. The museum is open Monday through Saturday, and admission is free. The attraction houses every type of classic car you could imagine, and people from around the world have made a trip to the Commonwealth just to take a look.

Bill is very proud of his accomplishments in the business world, not because of the success he himself acquired, but for the opportunities he has helped to provide for so many other Kentuckians. Bill is a sensitive and thoughtful individual, and a natural-born leader. And he is first and foremost a loyal family man, a husband, father, foster-father, grandfather, and great-grandfather.

Bill is a joy to be around, he has a great sense of humor, and he always knows how to make you smile. He is an instrumental part of the economy of Hardin County, he is a vital part of the success of the State of Kentucky, and I am proud to say he is my good friend. I extend to him my heartiest congratulations on his lifetime of accomplishments, and I look forward to his future endeavors, wherever they may lie.

I would like to ask my U.S. Senate colleagues to join me in paying tribute to all Bill Swope has achieved for the Commonwealth of Kentucky.

An article was recently published in Hardin County's local newspaper, the News-Enterprise, which highlights the life of Mr. Bill Swope, and also follows Bill as he looks back on over 60 years of success in the private sector. Mr. President, I ask unanimous consent that said article be printed in the RECORD.

There being no objection, the article was ordered to appear in the RECORD as follows:

[From the News-Enterprise, Jan. 29, 2012]

SWOPES CELEBRATE 60 YEARS IN BUSINESS

(By Sarah Bennet)

Nearly 60 years ago in March of 1952, Swope Dodge-Plymouth was celebrating its grand opening at the corner of College and Mulberry streets. The dealership already had been open for a couple months, but people crammed into the one-car showroom for the event.

As Bill Swope remembers, two competitors, Buick and Pontiac dealers, were there that day and were overheard to make the following exchange: ''I'll give them six months,'' one dealer said about Bill Swope and his brother Sam.

The other replied, ''I think you're being pretty generous.''

This year marks 60 years in business for Elizabethtown's Swope Family of Dealerships and Louisville's Sam Swope Auto Group.

Combined, the two Swope businesses have sold more than 500,000 automobiles, Bill said.

''We're kind of proud of that,'' the 89-year-old said during a phone interview.

''We think the 60 years have given us pretty good practice, and we're pretty well set for the next 60 years,'' he said.

Today, Bill is retired and his sons are managing the family business. Bob, 64, is president of Bob Swope Ford, while Carl, 54, is president and CEO of Swope Family of Dealerships. Their brother, Dick, is CEO of Sam Swope Auto Group.

As the second generation closes out the family's first 60 years, Carl said the ''dynamic third generation'' is getting involved with the business, which will continue to be a local, family-owned company.

''As the successive generations get involved, there's more of them,'' Carl Swope said. ''There's certainly an increased capacity to do things. We're very excited about the next 60 years and think that the growth of the family business will be even more fantastic than what we've seen.''

''I think that's very important,'' Bill added about keeping the Swope Family of Dealerships both local and family-owned. ''We're very proud of our family. Our family seems to be well-adapted to the automobile industry. We're very proud of the products that we're selling and certainly of the people that we have, our associates, that help make our business successful.''

But as the Swope men point out, the 60 years in business hasn't been a cake walk. The automobile industry has had its ups and downs throughout the years, and in January 1966, the Swope's second location at the corner of St. John Road and U.S. 31W burned down.

The building was a total loss, and the Elizabethtown Swope dealership was without a home for nearly 12 months.

''We ran an ad in the paper at the time—a picture of the building totally destroyed,'' Bill said. ''Here it is, winter time. I'm standing in the rubble of the building and there's still smoke billowing up from the ashes. We ran a full-page ad and the headline of that ad was, Low overhead? We have no overhead.'''

But, somehow, with help from some competitors and their hard-working employees, the Swope family stayed in business, he said, and they began building where the Swope Chrysler-Dodge-Jeep-Ram building is today.

''January to December 1966, we were kind of operating out of the backseat of our cars and out of briefcases and various stalls that were loaned to our technicians,'' Bill said. ''We moved out to what was then out in the country, and we dubbed that part of Dixie 'The Miracle Mile.' It wasn't much of a miracle at the time, but we thought it would be. Certainly it has turned out that way.''

Asked about the recent downturn in the automobile industry, the Swopes stay optimistic.

Americans love their automobiles and will always need a way to travel from Point A to Point B, they say. That fact always will remain true regardless of how cars evolve in the future.

''Over that 60 years, we've seen a number of ups and downs in our industry,'' Bob Swope said, ''and we certainly learned to make adjustments that were necessary for getting through those slow periods. It seems like each time we've experienced slow periods, the industry then comes back very robust.''

The recent downturn was difficult for the entire industry, Carl said, but the Swope family made it through without making any layoffs.

''I would give a lot of credit to our associates for how they responded to (the downturn),'' he said. ''Our people rose to the occasion. They became more efficient and effective in what they do.''

Bob said over the years the Swope Family of Dealerships has developed a culture in its stores that values its associates and makes them part of the family, a business practice that has contributed to the company's longevity.

''One of the things that we learned very early on was to make sure our associates were also very happy with their working experience,'' he said. ''So we work very hard to try to make sure that they feel like they're just an extended part of the family.''

In 2011, the Swopes were up 20 percent compared to the previous year, Carl said, partially because of activity at Fort Knox. The Hardin County locations sold 4,538 retail vehicles, which was ''a pretty steady mix'' of both used and new cars.

Combined, the Elizabethtown and Louisville locations sold more than 22,000 vehicles in 2011, he said.

As they celebrate 60 years in business, the Swope family is expanding. Later this year, the business will hold grand openings for a new Nissan dealership as well as the expansion of its museum, which is one of Bill's projects.

Bill referred to it as a tribute to the Hardin County community and the customers who have supported the Swope family over the years. Open each Monday through Saturday, admission is free.

Reminiscing about the early years in the business, Bill recalled one of the first business deals he and Sam made in January 1952, not long after they opened the Swope Dodge-Plymouth doors for the first time. An Elizabethtown cab company, Dixie Cab, wanted to increase its fleet.

''So one of the first orders we got was a big order,'' he said. ''They increased their fleet from two cabs to three, which is 50 percent. That was one of our first sales, and it was a Plymouth Cranbrook for Dixie Cab.''

Bill recently located a 1952 Plymouth Cranbrook with some 15,000 miles on it which he plans to detail.

''You don't see many of those anymore,'' he said. ''You will see that car parked out in front of the museum when it is completed.''

TRIBUTE TO FRANCE CÓRDOVA

Mr. LUGAR. Mr. President, today I wish to recognize Dr. France A. Córdova, Purdue University's 11th president and the first woman to head that institution.

Dr. Córdova became president of Purdue on July 16, 2007, and has overseen a strategic plan that emphasizes student success, research deliverables and global engagement. During her presidency, she has led Purdue to record levels of research funding, reputational rankings, and student retention rates; championed diversity among students, staff and university leadership; and promoted student success, faculty excellence, education affordability and programmatic innovation. Under her leadership, Purdue has expanded its role as a top research institution on the global stage and raised more than $1 billion through private philanthropy.

President Córdova will retire from Purdue at the end of her 5-year term,

July 2012. She leaves a legacy of excellence at Purdue and in the field of higher education. Among the numerous national boards she serves, she is currently the chair of the Smithsonian Board of Regents, a three-year term which began in January 2012.

That Purdue is the cradle of astronauts—with 23 astronaut alumni—is significant to Dr. Córdova, who first dreamed of exploring space as she watched Neil Armstrong take the first human footsteps on the moon in 1969. She has served Purdue University honorably and with a great commitment to students, research innovation and global outreach.

It is my honor to recognize Dr. France A. Córdova as an outstanding scientist, educator and administrator, who has given so much to Purdue University and the State of Indiana, and I wish her every continuing success in her future endeavors.

AFFORDABLE CARE ACT

Mr. LEAHY. Mr. President, earlier today, the Supreme Court concluded three days of oral arguments about the affordable care act, the law Congress passed 2 years ago to provide millions of Americans with access to affordable health care while bringing the spiraling costs in this area under control.

I was fortunate to be able to attend yesterday's argument about the constitutionality of the provision requiring individuals to take personal responsibility for paying for their health care, and to watch in person and in real time. Hundreds of thousands of Vermonters and millions of Americans across the country who benefit from the affordable care act did not have that access. The Supreme Court's decision in this landmark case will affect every American. I think every American should have had a chance to see it and the Supreme Court should open its proceedings to television and radio.

Americans are already beginning to see some of the benefits of insurance reform. Seniors on Medicare who have high-cost prescriptions are starting to receive help when trapped within a coverage gap known as the ''doughnut hole.'' The affordable care act completely closes the coverage gap by 2020, and the new law makes it easier for seniors to afford prescription drugs in the meantime. In 2010, more than 7,000 Vermonters received a $250 rebate to help cover the cost of their prescription drugs when they hit the doughnut hole. Last year, nearly 6,800 Vermonters with Medicare received a 50-percent discount on their covered brandname prescriptions, resulting in an average savings of $714 per person. Since the affordable care act was signed into law, more than 4,000 young adults in Vermont have gained health insurance coverage under these reforms, which allow young adults to stay on their parents' plans until their 26th birthdays. The improvements we are seeing in Vermont go on and on: 81,649 Vermonters on Medicare and more than 100,000 Vermonters with private insurance gained access to and received preventative screening coverage with no deductible or copay. These are just a few of the dozens of consumer protections included in the law that are benefiting Vermonters and all Americans every day.

Now that the law is in effect, many of the essential antidiscrimination and consumer protections of the affordable care act are being implemented, allowing consumers to take control of their own health care decisions. Going forward, insurance plans can no longer deny children coverage because of a preexisting health condition; insurance plans are barred from dropping beneficiaries from coverage simply because of an illness; dozens of preventative care services must be covered at no cost and with no copay; and Americans will have access to an easier appeals process for private medical claims that are denied.

I attended Tuesday's argument with Senator GRASSLEY, the ranking member of the Judiciary Committee. He and I disagreed about the affordable care act when we debated it extensively in the Senate and passed it 2 years ago. But we both respect the important role the Court plays in our constitutional system. I hope that as the Supreme Court considers its decision in the coming weeks, it respects the important role of Congress, the elected representatives of the American people.

For years, we have heard Republican and Democratic Senators rightfully say that judges should not make law from the bench. For the sake of the health and security of our nation, the Supreme Court should not cast aside this landmark law and Congress' time-honored ability to protect the American people.

After watching the arguments and following the debate closely, it is as clear to me now as it was when Congress debated and passed the law more than 2 years ago. The Supreme Court should uphold the affordable care act. Looking at Article I of the Constitution and a long line of Supreme Court precedents dating back to the Nation's earliest days, there is no question Congress acted well within its time-honored ability to protect the American people.

Every Member of Congress takes an oath of office to ''support and defend the Constitution of the United States.'' We take this oath seriously. As Justice Scalia said at a Judiciary Committee hearing last year, we take the same oath that the Justices take.

During the course of Congress' extensive consideration of the affordable care act, we considered untold numbers of amendments in committees and before the Senate. That is what Congress is supposed to do. We consider legislation, debate it, vote on it, and act in our best judgment to promote the general welfare. Some Senators agreed and some disagreed, but this was a matter decided by the democratically elected Congress.

Among the arguments expressly considered and rejected by Congress before passing the affordable care act were arguments that the law was not constitutional. We considered and rejected arguments that the part of the law now being challenged in the Court—the individual mandate—is not constitutional. In fact, those arguments were considered on the Senate floor when Senator HATCH raised and the Senate formally rejected a constitutional point of order claiming that the individual responsibility requirement was unconstitutional. During the Senate debate on the affordable care act, I responded, publicly and on the record, to arguments about the constitutionality of this requirement. No Justice could say Congress did not consider the constitutionality of the affordable care act.

The individual mandate is about personal responsibility. Throwing out this requirement that Americans be responsible for their necessary health care costs will result in tossing aside the provision that bans insurance companies from denying Americans coverage based on pre-existing conditions. The personal responsibility requirement is necessary to ensure that Americans who do have health insurance are not stuck with paying the $43 billion in health care costs incurred by millions of Americans who do not buy health insurance, instead relying on expensive emergency health care when inevitably faced with medical problems. Congress concluded this after extensive study and debate.

I joined with congressional leaders in filing an amicus brief defending the affordable care act in the case now being considered by the Court because I am convinced that Congress acted well within the limits of the Constitution in acting to secure affordable health care for all Americans. I believe we must defend the enumerated powers given to Congress by the Constitution so that our ability to help protect hardworking American workers, families and consumers is not wrongly curtailed by the courts.

Partisan opponents of the affordable care act want judges to override these legislative decisions properly made by Congress, the elected representatives of the American people. They want to challenge the wisdom understood by generations of Supreme Court justices from the great Chief Justice John Marshall in upholding the constitutionality of the national bank nearly 200 years ago to Justice Cardozo in finding Social Security constitutional early in the last century.

The difference between the role of Congress and of the courts is not a partisan one or a controversial one. In his opinion upholding the affordable care act, Jeffrey Sutton, a conservative, President George W. Bush's appointee to the Sixth Circuit, understood the importance of courts not substituting

their policy preferences for those of Congress. He wrote: ''Time assuredly will bring to light the policy strengths and weaknesses of using the individual mandate as part of this national legislation, allowing the peoples' political representatives, rather than their judges, to have the primary say over its utility.''

Professor Charles Fried, who was Solicitor General under President Reagan, testified at a Senate Judiciary Committee hearing a year ago on the constitutionality of the affordable care act. When Senator GRASSLEY asked him if there needs to be changes to the part of the law requiring that individuals purchase health insurance to make it constitutional, Professor Fried answered: ''I see no need for it because it seems so clearly constitutional.'' I agree with him and I do not think it is a close call.

The provisions of the affordable care act are firmly rooted in what previous Congresses enacted over the last century to protect hard-working Americans. Working Americans have long been required to pay for Social Security and Medicare by the deduction of taxes reflected on their paychecks every month. It is not novel for Congress to pass laws affecting a health care market that makes up one-sixth of the U.S. economy, the key to satisfying the test for constitutionality under the Commerce Clause.

What is telling about the partisan nature of these challenges is that many of those who now claim that the requirement that Americans have health insurance or face a tax penalty is unconstitutional are the very ones who proposed it. Republican Senators such as ORRIN HATCH, the former chairman of the Judiciary Committee, and JOHN MCCAIN proposed and supported a health insurance requirement when President Clinton was trying to increase access to health care. They proposed the individual mandate as an alternative when they opposed President Clinton's plan. This requirement was also a part of health care reform in Massachusetts supported by former Governor Mitt Romney and by SCOTT BROWN, now a Republican Senator from Massachusetts.

All of these opponents were for ensuring personal responsibility with an individual mandate until President Obama was for it, and now they are against it. Their views may have changed, but the Constitution has not.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a March 24 column in The Washington Post by Ezra Klein, ''Why Ryancare and Obamacare look so similar,'' questioning Republican opposition to the individual mandate they once championed.

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

(See exhibit 1.)

Mr. LEAHY. When I hear partisan critics attacking the affordable care act, I wonder what law they are looking at. The affordable care act will protect some of our most vulnerable citizens. The law eliminates discriminatory practices by health insurers, ensuring that a patient's gender is no longer a pre-existing condition, reduces the cost of prescription drugs for our Nation's senior citizens, and helps parents continue to cover their kids on their health insurance until they are 26. The law also provides necessary resources to help law enforcement recover millions of taxpayer dollars lost to fraud and abuse in the health care system.

If the Supreme Court overturns the affordable care act now, it will be devastating to kids, families, and senior citizens. I hope the Court does not undo the progress we have made. Doing so depends on legal theories so extreme they would turn back the clock even farther to the hardships of the Great Depression and strike down principles that have helped us build the social safety net over the last century with Social Security, Medicare, and Medicaid.

The affordable care act builds on some of the cornerstones of American economic security built over the last century. I believed when it passed, and still believe today, that Congress acted within its constitutional authority to enact laws to help protect all Americans, I hope the Court does not overstep the judiciary's role by substituting its own policy preferences and denying a century of progress.

EXHIBIT 1

[From the Washington Post, Mar. 24, 2012]

WHY RYANCARE AND OBAMACARE LOOK SO SIMILAR

(By Ezra Klein)

Let's play a game. I'll describe a healthcare bill to you. Then you tell me if I'm describing President Obama's Affordable Care Act or the budget released this week by Rep. Paul Ryan (R–Wis.).

The bill works like this: The federal government subsidizes Americans to participate in health insurance markets known as ''exchanges.'' Inside these exchanges, insurers can't discriminate based on pre-existing conditions. Individuals can choose to go without insurance, but if they do so, they pay a penalty. To keep premium costs down, the government ties the size of the subsidy to the second-least-expensive plan in the market—a process known as ''competitive bidding,'' which encourages consumers to choose cheaper plans.

This is, of course, a trick question. That paragraph describes both the Affordable Care Act and Ryan's proposed Medicare reforms. The insurance markets in both plans are essentially identical. And for good reason.

The Affordable Care Act was based on two decades of Republican thinking about health care. The basic structure was first proposed by the conservative Heritage Foundation in 1989, first written into a bill by Senate Republicans in 1993, and first passed into law by a Republican governor by the name of Mitt Romney in 2005.

About 2008, Democrats decided they could live with a system based on private health insurers, federal subsidies and an individual mandate as long as it produced universal coverage. A year later, Republicans decided they couldn't live with such a system, at least not if a Democratic president was proposing it.

The problem for the Republicans, however, is that they don't have a better—or even alternative—idea. Since the passage of the Affordable Care Act, ''repeal and replace'' has been a reliable applause line at tea party rallies and an oft-uttered incantation on the floor of the House of Representatives. But while Republicans have united around ''repeal'' of health-care reform, they haven't managed to come up with a policy for ''replace.''

Instead, they've opted to apply their old policy framework—the one the Democrats stole—to Medicare. That has left the two parties in a somewhat odd position: Democrats support the Republicans' old idea for the under-65 set but oppose it for the over-65 set. Republicans support the Democrats' new idea for the over-65 set but oppose it for the under-65 set.

This isn't quite as incoherent as it seems. Democrats say they would prefer Medicare-for-All for the under-65 set, but they'll take whatever steps toward universal health insurance they can get. Republicans say they would prefer a more free-market approach for the over-65 set but that a seniors' version of ''Obamacare'' is nevertheless a step in the right direction. For both parties, it's the direction of the policy, rather than the policy itself, that matters.

There's an added complication for Republicans. They have assumed huge savings from applying the exchange-and-subsidies model to Medicare. But they don't assume—in fact they vehemently deny—that those same savings would result from the identical policy mechanism in the Affordable Care Act. The Democrats haven't assumed significant savings from the exchange-and-subsidies model in either case.

If the concept works as well as Ryan says it will, then the Affordable Care Act will cost far, far less than is currently projected. There's no compelling reason to believe competitive bidding will cuts costs for seniors but fail among younger, healthier consumers who, if anything, are in a better position to change plans every few years and therefore pressure insurers to cut costs.

The discrepancy highlights another difference between Republicans and Democrats right now. Republicans have put all their eggs in the competitive-bidding basket. If that doesn't work to control costs—and versions of it have failed in the past—they're sunk.

Democrats, on the other hand, are promoting a slew of delivery-system reforms in the Affordable Care Act. They're hoping competitive bidding works, but they're also trying comparative-effectiveness review, pay-for-quality, accountable-care organizations, electronic health records, penalties for excessive readmissions and medical errors, and a host of other experiments to determine which treatments and processes actually work and how to reward the doctors and hospitals that adopt them.

It's unlikely that the model in the Republican budget will prove sustainable. That legislation would repeal the Affordable Care Act, cut Medicaid by a third and adopt competitive bidding for Medicare. The likely result? The nation's uninsured population would soar. In the long run, and quite possibly in the short run, that will increase the pressure for a universal system. Because Republicans don't really have an idea for creating one, Democrats will step into the void.

As a result, Republicans' long-term interests are probably best served by Democratic success. If the Affordable Care Act is repealed by the next president or rejected by the Supreme Court, Democrats will probably retrench, pursuing a strategy to expand Medicare and Medicaid on the way toward a single-payer system. That approach has, for

them, two advantages that will loom quite large after the experience of the Affordable Care Act: It can be passed with 51 votes in the Senate through the budget reconciliation process, and it's indisputably constitutional.

Conversely, if the Affordable Care Act not only survives but also succeeds, then Republicans have a good chance of exporting its private-insurers-and-exchanges model to Medicare and Medicaid, which would entrench the private health-insurance system in America.

That's not the strategy Republicans are pursuing. Instead, they're stuck fighting a war against a plan that they helped to conceive and, on a philosophical level, still believe in. No one has been more confounded by this turn of events than Alice Rivlin, the former White House budget director who supports the Affordable Care Act and helped Ryan design an early version of his Medicare premium-support proposal.

''I could never understand why Ryan didn't support the exchanges in the Affordable Care Act,'' Rivlin says. ''In fact, I think he does, and he just doesn't want to say so.''

GOVERNMENT INTRUSION

Mr. ROBERTS. Mr. President, last Friday was the second anniversary of the new health care law. This week we have been reminding the American public to take a hard look at what is in it, and, more importantly, why I don't want to observe this anniversary again.

Examples such as the Medicare reimbursement formula that allows Massachusetts to set Statewide hospital reimbursement rates for providers equal to the cushy wages paid to providers at a 15-bed hospital on the island of Nantucket that caters to the East coast elite.

This robs 19 other States of money for their reimbursements because it all comes from the same pot. In short, there aren't enough clams at this bake to go around, certainly not to Kansas after Massachusetts is finished.

Or the Health and Human Services' rule that required qualified health plans to offer contraception benefits. As my colleagues know, religious institutions that hold moral objections to specific services expressed widespread concern with the rule.

In response, Senator BLUNT offered, and I cosponsored, S. 1467, the Respect for Rights of Conscience Act. This act would allow a health plan to decline coverage of specific items and services that are contrary to the religious beliefs of the sponsor, issuer, or other entity offering the plan without penalty and remain in compliance with the requirements under the new Health Care Law.

And what about the regulations that have caused insurance plans in 39 States to stop offering child-only plans, and parents in at least 17 States that are no longer able to purchase ANY child-only plans? Keep in mind, there are no private insurance alternatives for these families until the new health care law is fully implemented in 2014.

There is also the prohibition on what can be reimbursed from a Health Savings Account or HSA. I joined Congresswoman LYNN JENKINS in introducing a bipartisan bill to repeal this provision to restore the choice and flexibility people had in managing their health care expenses by buying over-the-counter medications.

Even more alarming is the act of granting waivers to more than 1,700 labor unions and others from participating in the new law. At issue are the mandates involving annual coverage forcing many employers not to offer coverage at all. So instead labor unions and others are getting waivers. Where is your waiver? Why can't all Kansans get a waiver??

At the time, Speaker PELOSI famously said we had to pass the bill to find out what is in it. Well, we have read it, and my concerns which I voiced throughout the very limited debate remain the same: the health care reform law is bad for Americans.

The health care reform law. Regulates every Americans' health coverage, by penalizing anyone without a Government-approved health plan.

The law penalizes American businesses that do not provide Government-approved health plans.

It forces more Americans into Medicaid—a broken, bankrupt Government entitlement program.

It puts the Federal Government in charge of your health insurance.

By one count, the law creates over 159 new boards, offices, and panels in the Federal Government to make decisions about your health care.

The law gives the Obama administration Secretary of Health and Human Services more than 1,700 new or expanded powers—to exert control over the lives and personal health care decisions of Americans; creates an unworkable new long-term insurance program that will go broke, leading to skyrocketing premiums or a taxpayer bailout; levies more than $550 billion dollars of taxes, fees, and penalties related to health care on American families and employers; and spends tens of billions of taxpayer dollars just to implement the massive new law.

The law micromanages how patients can spend their own tax-free health care dollars.

As of March 12, 2012, the total number of pages of regulations the administration has released related to the health spending law is 12,307, which is an increase of over 4,700 pages in the last year.

In addition to the formal regulations, the administration is also issuing hundreds of pages of subregulatory guidance in the form of ''bulletins'' to avoid having to describe how much these regulations will cost.

A significant portion of the regulations issued thus far have been interim final rules, which give the regulations the force of law prior to any public comment.

I have listed a number of these regulations in a letter I sent to President Obama. I did get a reply from Secretary Sebelius a few months later, but it never did address the concerns I had tried to bring to their attention. She did, however, note that they listen to all stakeholders before implementing new rules. Unfortunately, that isn't what I've been hearing.

While I travel around Kansas I try to talk to as many of our Kansas patients, providers and advocates as possible. Without fail, regulations and their effect on our health care system, how they affect health care costs, and the result they have on job loss come up.

I held a stakeholder roundtable in Topeka to get feedback from patients and providers on their thoughts related to health care reform. I was not surprised to hear that every representative at that meeting had a concern with regulations, but the sheer volume was truly extraordinary.

I was surprised to hear every representative at this stakeholder meeting discuss the impacts of health care reform and, more importantly, their concerns with regulations, some of which are buried in the volumes of regulations being put out every day and many that defy comprehension.

When discussing the health care reform and regulations with my constituents and those representing the patient and provider community, the No. 1 concern that I heard was a fear of what else is coming down the road? What will the impact of future regulations be?

The current burden of regulations pales in comparison to the uncertainty of future regulations. Future regulations from implementing the Patient Protection and Affordable Care Act, PPACA, will have an even greater impact on jobs and the economy. This is like the second health care reform earthquake. If you are a health care provider, hang on.

Additionally, the combination of the regulations being issued to implement the PPACA statute has resulted in an increase in premiums for individuals and businesses, which, as you know, results in increased costs and tough choices.

Providers feel that the significant costs associated with implementing the health reform law are either inaccurate or not taken into consideration. In fact, I often hear that patients and providers feel that they do not have a voice in the regulatory process.

More specifically, a number of regulations are currently being issued through a shortened process. This shortened process allows limited or no input from those most affected by the regulations, prior to their implementation, and result in an even greater confusion. And from confusion we get higher costs.

It is my understanding that 20 of the 51 rules issued to implement the health reform law have been issued as interim final rules and therefore with limited input. While there may have been instances in which a shortened process was necessary or appropriate, this lengthy list is absurd.

In my letter to the President, I listed some 34 regulations that my Kansas constituents noted had the most significant impact. I encouraged the administration to limit the use of this regulatory process and take every available opportunity to get feedback from those who would be most affected by these regulations and allow for ample time to review and consider that feedback prior to implementing future regulatory priorities.

Time and time again, I have heard no more regulations will be issued in the shortened process, and yet the interim rules continued to be issued. I have heard that stakeholder comments will be thoroughly reviewed and considered, but the actions by the administration don't seem to prove this. I have heard that economic impacts will be carefully considered, and yet the studies indicate otherwise.

If history truly does repeat itself, I don't have much hope of that.

TRIBUTES TO SENATOR BARBARA MIKULSKI

Mr. CONRAD. Mr. President, I wish to add my voice to those of my colleagues paying tribute to the senior Senator from Maryland, who recently became the longest-serving female Member of Congress in American history.

Senator BARBARA MIKULSKI and I were first elected to the Senate at the same time. Over the past 26 years she has been a colleague, a legislative partner, and a friend. Courageous, determined, and honorable are only a few of the words I use when describing Senator MIKULSKI.

Senator MIKULSKI has devoted her life to public service. She began her career as a social worker in Baltimore, where she worked with high-risk children and educated seniors about Medicare. In 1971, she transitioned into politics by attaining a seat on the Baltimore City Council. As a council member, she continued to advocate for those in need. In 1976, she was elected to the U.S. House of Representatives, where she became the first woman ever to sit on the influential Energy and Commerce Committee. As a member of the House, she worked on a variety of important legislation, including funding for shelters for battered spouses.

Issues concerning women have always been a passion of Senator MIKULSKI's. From sponsoring the Lilly Ledbetter Fair Pay Act to being a leader in women's health issues, she has been a champion for women's rights.

Senator MIKULSKI was particularly helpful to me during the Grand Forks flooding in 1997. When our third largest city was devastated by flooding and fire, Senator MIKULSKI stood with Grand Forks residents every step of the way as we fought for Community Development Block Grant funding to recover and rebuild. Her support was critical. More recently, Senator MIKULSKI joined me in pushing for comparative effectiveness research as part of health reform, so that patients and doctors can have better information on which treatments and medical interventions are most effective and which amount to wasteful spending.

Senator MIKULSKI is a fierce advocate for her constituents—and for working men and women everywhere. She will never back down from a cause she believes in, and she has compiled an impressive record of results. I congratulate her on being the longest-serving female Member of Congress.

Mr. JOHNSON of South Dakota. Mr. President, I rise today to honor a true trailblazer, my colleague Senator BARBARA MIKULSKI. Earlier this month, she crossed a major milestone by becoming the longest serving woman in Congress.

Before she set her sights on Congress, Senator MIKULSKI worked as a community activist, social worker, and a member of the Baltimore City Council. In 1977, she was elected to the U.S. House of Representatives from Maryland's Third Congressional District. At that time, she was one of only 21 women serving in Congress.

She never let any misguided stereotypes or long odds slow her down. Ten years later, she won her first race for the U.S. Senate and in the process became the first Democratic woman elected to this Chamber from the State of Maryland. She immediately lent her voice to issues like education, health care, and national service.

Along the way, she has given a voice not only to families and the middle class but also sent a powerful message to women all across this Nation. If there were ever any doubt, they now know for sure that they deserve a seat at the table in Congress. And her message is being heard. Since Senator MIKULSKI first was elected to the House of Representatives, the number of women serving in Congress today has increased to 92.

I have gotten to know BARBARA well, especially through our work on the Senate Appropriations Committee. I know she would rather we focus on her accomplishments regardless of her gender, but Senator MIKULSKI has blazed an important path. Along the way, she has never forgotten the value of hard work that was instilled in her from an early age. She has also built the kind of working relationships you need to get things done.

There is a reason the people of Maryland have sent BARBARA MIKULSKI back to the Congress time and again. She is telling their story and making sure that every voice has a chance to be heard. I want to congratulate her on this milestone. It is an important one for her and her family, and I believe it is symbolic of the gains we have seen our Nation make since she first was elected to Congress more than 35 years ago.

Mr. SANDERS. Mr. President, in 1977, Jimmy Carter became our Nation's President, Elvis Presley died, and ''Rocky'' won the Oscar as best picture.

It was also the year my colleague, BARBARA MIKULSKI, came to Congress. She has served since then, for 10 years in the House and since 1987 in the Senate, with exemplary dedication to our Nation and its working families. Those of us who have had the pleasure to serve with her in the Senate and all the citizens of Maryland who have elected her to represent them celebrate this moment, for Senator MIKULSKI has become the longest serving female Member of Congress in our Nation's history.

BARBARA MIKULSKI is the first female Democrat to have served in both the House and the Senate, as well as being the first Democratic woman to be elected to the Senate without succeeding a spouse or father. She is, among all of us, truly a path breaker.

When she entered the Senate, there was only one other female Member of this body. Today, there are 17. BARBARA MIKULSKI has served as an inspiration, a leader, and a mentor to generations of women seeking to secure their rightful place as members of our Nation's highest legislative bodies.

Throughout her time in both the House and the Senate, she has worked tirelessly on behalf of the elderly, veterans, the poor, hard-pressed families, and our Nation's children. Daughter of a grocer, her roots are in Baltimore. She may have come a long way to play her important role here in Washington, but what makes her such a vital voice in Congress is that she has never lost touch with the values and needs of the blue-collar neighborhood of Highlandtown where she grew up.

BARBARA MIKULSKI entered politics as an activist and a populist, and she has remained true to that initial motivation. BARBARA MIKULSKI genuinely cares about the people of our Nation about all the people, not just the wealthy or the famous or the influential.

She understands the difficulties faced by working families as their incomes have been stagnant, as unions have declined, as disparities in wealth and income have widened dramatically. She is passionately committed to the importance of education for our young people, just as she respects and fights for our nation's elderly and their security as they negotiate the later years of life.

We serve together on the HELP Committee, on which she has long been a leader. No one, no one, better exemplifies the values of caring for those who are all too easy to forget working families, the elderly, the poor, the children than BARBARA MIKULSKI. Having worked with them both, I know how completely she has taken on the mantle of her friend Ted Kennedy and kept our committee focused on those whose needs are greatest.

As we celebrate the inspiration BARBARA MIKULSKI has been for the women of the Senate, Maryland, and the country, let's not forget that she has also been an inspiration to all of us. She has shown us how to fight for the powerless

and how to cast votes based on ethical values and a deep commitment to our fellow men and women, not based on political expediency.

For that leadership, both as a great female legislator and as an accomplished legislator with a lifelong commitment to improving the lives of all Americans, we honor her.

Mr. BEGICH. Mr. President, today I wish to pay tribute to my esteemed colleague, Senator BARBARA MIKULSKI from the great State of Maryland. I am honored to recognize the historic achievements of my fellow Senator. On Saturday she became the longest-serving woman in congressional history after serving more than 35 years in both the House and Senate. Originally a social worker and community organizer in Baltimore, Senator MIKULSKI's congressional legacy began in 1976 when she was elected to the U.S. House of Representatives. Ten years later with her election into the U.S. Senate she became the first female Senator from Maryland as well as the first woman to be elected to both the House and Senate. Senator MIKULSKI deserves great honor and reverence for her dedication to the people of Maryland, the United States, and to the institution of the Senate.

Three years ago I entered these chambers as a freshman from a faraway State. Senator MIKULSKI was already known as a legend, to me and so many of my constituents. Since then, she has been an inspiration—and, to no one's surprise, a straight shooter and passionate advocate of her issues. More than once, when I have not yet signed onto one of her bills—usually something near and dear to her, like child abuse prevention—she has cornered me. And in a tough stance, all 4 feet 5 inches of her, she'll tell me why it is my duty to sign the bill. She is always right, and I am happy to follow her lead on such issues.

Throughout her time in Congress Senator MIKULSKI has been a champion for civil rights, fighting to end discrimination of all kinds. As the chairwoman of the Committee on Health, Education, Labor, and Pensions she has continually fought to end discrimination in the workplace. In 2011 she was a sponsor of the Paycheck Fairness Act, which ensures equal pay, regardless of gender.

She has also defended our Nation's teachers and students by fighting for more affordable and accessible education and supporting the needs of rural school districts. Just this year she introduced legislation that would ensure veterans who receive educational assistance from the Department of Veterans Affairs also receive adequate counseling when considering their educational options.

Senator MIKULSKI's accomplishments are numerous and diverse, from the day-to-day needs of workers, business owners, and students to the strengthening of scientific innovation and research. Senator MIKULSKI deserves great honor and esteem for her dedication to fighting for the good of the people of Maryland and the Nation.

I am honored to serve alongside such a devoted advocate, and I look forward to her continued service in the U.S. Senate. She began her tenure in 1977 as one of 21 women serving in the House and today is one of 17 women in the Senate. She has helped paved the way for future generations. Yet she likely would not agree that women have come a long way over those years; instead she will say there is a long way to go.

Today I congratulate and pay homage to Senator BARBARA MIKULSKI. She is a friend, a mentor, and—so very often—the good conscience of the United States Senate.

Mr. UDALL of Colorado. Mr. President, I come to the floor today to speak in honor of Senator BARBARA MIKULSKI. I join my colleagues in recognizing her for becoming the longest serving female Member of Congress in our Nation's history.

I know Senator MIKULSKI is more interested in results than milestones, but this is an appropriate moment to congratulate her for all that she has accomplished. She is both a tenacious fighter and gracious colleague.

The true measure of a society is how we treat people in the dawn and twilight years of their lives. By that standard, Senator MIKULSKI's career has been extraordinary.

From the start of her career in public service as a Baltimore social worker helping at-risk kids and seniors to today, she has been a champion for children and the elderly. She has been a champion for education, research, and veterans, and she has been an unflinching champion for Maryland.

Senator MIKULSKI has also been a friend since my first days in the Senate. Early on she reached out to me to explain the appropriations process in the Senate. My father, who spent his entire career in the U.S. House of Representatives, was always suspicious of the Senate. So to a freshman Senator making the transition from the House, hers was a welcome and reassuring gesture, kind of like the folksy gesture of calling me ''cowboy,'' which always brings a smile to my face.

Senator MIKULSKI's style is a powerful counter to the old Washington joke that there are actually three political parties: Democrats, Republicans, and appropriators. She always values the input of other Senators and strives to balance the many competing priorities of all the Members of this body. For example, we have worked together on the Joint Polar Satellite System. This program is over budget and behind schedule, but it is also indispensible to public safety and our economy. As an appropriator, she has the unenviable challenge of striving to continually put this program on firm financial footing. In the process, she has repeatedly asked for my perspective and welcomed me into the process. This is above and beyond the call of duty but is so typical of BARBARA MIKULSKI.

Many have compared Senator MIKULSKI's streak to another famous Marylander's—Cal Ripken, Jr. I think Cal would agree with Barbara when she said, ''It's not only how long I serve, but how well I serve.''

She has undoubtedly served this institution, this country, and Maryland very well.

I commend Senator BARBARA MIKULSKI for her 35 years of service in Congress and look forward to her future successes.

ADDITIONAL STATEMENTS

PORTLAND'S FIRST AME ZION CHURCH

● Mr. MERKLEY. Mr. President, it is with great pride that I congratulate the First African Methodist Episcopal Zion Church in Portland, OR, on its 150 years of devotion to God and the Portland community.

In 1862, the A.M.E. Zion Church convened as the first of its kind in Portland, just 3 years after Oregon became a State. First Church's humble beginnings started in the home of Mrs. Mary Carr on A Street, now Ankeny Street, under the leadership of Rev. J.O. Lodge. Since then, the congregation has grown substantially and has weathered four relocations. It now has settled at its current home on North Vancouver and North Skidmore Avenue.

First Church has impacted countless lives over the course of its 150 years. It has provided shelter and clothing for the homeless, food for the hungry, and scholarships to young students chasing their dreams to college. Today, they continue their good work keeping youth off the streets and reducing gang violence. The church is a strong, positive force in the Portland community.

To Pastor Robert Nelson Probasco, Sr., and the First African Methodist Episcopal Zion Church of Portland: Thank you for your dedication, conviction, and faithful service to the people of Portland.●

ARGO MARKETING GROUP

● Ms. SNOWE. Mr. President, as the American economy becomes increasingly global, small businesses specializing in telecommunications and direct-response marketing provide essential services to businesses throughout the world. Today, I rise to commend and recognize Argo Marketing Group, located in Lewiston, ME, for being among the best in this expanding industry.

Jason Levesque founded Argo in 2003 to provide consulting and direct-response marketing services to companies in Maine and throughout the world. Since that time, this small firm has continued to expand despite the turbulent economy, adding numerous jobs throughout the State. In 2011, Argo Marketing moved from Auburn to Lewiston to allow for a company expansion, which included the doubling of

employees from 25 to 51. Moreover, the firm recently added 25 additional employees in January of this year to its new location in Pittsfield. This remarkable expansion provides high-quality jobs for Mainers, which is especially vital after the closing of Global Contract Services in Pittsfield, leaving 65 employees without jobs.

With cutting-edge technology, Argo is a leader in call center service and support. The company prides itself on having the best integrated system in the industry that is customized to handle a vast array of clients. Moreover, Argo has always firmly believed that having dedicated professionals as part of the Argo family helps direct the path of any given project. There is a pervading philosophy in the telecommunications, marketing, and customer service industry that retaining a current customer is easier than finding a new one. Indeed, customer care is a top priority, especially for small businesses competing with larger companies with more resources and cheaper products. This quality investment in customer service has been a key component in Argo's success.

Further, Jason understands the importance of an engaged staff and giving back to the local community. He consistently works to increase company morale and provide an atmosphere where people enjoy coming into work every day with a positive attitude. As a dedicated part of the Lewistown-Auburn community, this company also donated to Sand Castle Pre-School in Lewistown which assists disadvantaged youths.

Small businesses drive the American economy by consistently creating jobs in the private sector while spurring investment in their local community. Argo's success and expansion is a glowing example of why these firms are so critical to America's economy. It is innovative entrepreneurs like Jason Levesque who are going to lead us out of our economic morass by creating jobs and opportunity all across our Nation. Despite these difficult economic times, he has clearly fostered a winning strategy, and I congratulate him and everyone at Argo Marketing for their dedication to excellence and for maintaining an impressive record of job creation in central Maine. I offer my best wishes for their future endeavors.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were placed on the Executive Calendar under Privileged Nominations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 10:41 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3298. An act to establish the position of Special Assistant for Veterans Affairs in the Department of Housing and Urban Development, and for other purposes.

H.R. 3309. An act to amend the Communications Act of 1934 to provide for greater transparency and efficiency in the procedures followed by the Federal Communications Commission.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3298. An act to establish the position of Special Assistant for Veterans Affairs in the Department of Housing and Urban Development, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3309. An act to amend the Communications Act of 1934 to provide for greater transparency and efficiency in the procedures followed by the Federal Communications Commission; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 2682. An act to provide end user exemptions from certain provisions of the Commodity Exchange Act and the Securities Exchange Act of 1934, and for other purposes.

H.R. 2779. An act to exempt inter-affiliate swaps from certain regulatory requirements put in place by the Dodd-Frank Wall Street Reform and Consumer Protection Act.

H.R. 4014. An act to amend the Federal Deposit Insurance Act with respect to information provided to the Bureau of Consumer Financial Protection.

ENROLLED BILL PRESENTED

The Secretary of the Senate announced that on today, March 28, 2012, she had presented to the President of the United States the following enrolled bill:

S. 2038. An act to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, 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–5501. A communication from the Vice President of Government Affairs and Corporate Communications, National Railroad Passenger Corporation, Amtrak, transmitting, pursuant to law, a report relative to Amtrak's Executive Level 1 salary for 2011; to the Committee on Commerce, Science, and Transportation.

EC–5502. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Trawl Gear in the Western Regulatory Area of the Gulf of Alaska'' (RIN0648–XB014) received in the Office of the President of the Senate on March 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5503. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod for American Fisheries Act Catcher/Processors Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area'' (RIN0648–XB028) received in the Office of the President of the Senate on March 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5504. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska'' (RIN0648–XB010) received in the Office of the President of the Senate on March 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5505. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Closure'' (RIN0648–XA989) received in the Office of the President of the Senate on March 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5506. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Herring Fishery; Sub-ACL (Annual Catch Limit) Harvested for Management Area 2'' (RIN0648–XB001) received in the Office of the President of the Senate on March 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5507. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Herring Fishery; Sub-ACL (Annual Catch Limit) Havested for Management Area 1B'' (RIN0648–XA971) received in the Office of the President of the Senate on March 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5508. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Herring Fishery; Adjustment to 2012 Annual Catch Limits'' (RIN0648–BB50) received in the Office of the President of the Senate on March 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5509. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries

Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Amendment 11; Correction'' (RIN0648–AX05) received in the Office of the President of the Senate on March 27, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5510. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic'' (RIN0648–XB031) received in the Office of the President of the Senate on March 27, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5511. A communication from the Director, Bureau of Economic Analysis, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''International Services Surveys: BE–150, Quarterly Survey of Cross-Border Credit, Debit, and Charge Card Transactions'' (RIN0691–AA79) received in the Office of the President of the Senate on March 22, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5512. A communication from the Associate Administrator, Human Exploration and Operations Mission Directorate, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Revision to the Tracking and Data Relay Satellite System (TDRSS) Rates for Non-U.S. Government Customers'' (RIN2700–AD72) received in the Office of the President of the Senate on March 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5513. A communication from the Deputy General Counsel, Office of the General Counsel, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled ''Claims for Patent and Copyright Infringement'' (RIN2700–AD63) received in the Office of the President of the Senate on March 21, 2012; to the Committee on Commerce, Science, and Transportation.

EC–5514. A communication from the Under Secretary for Industry and Security, Department of Commerce, transmitting, pursuant to law, a report entitled ''Report to Congress: Export and Reexport License Requirements to Temporarily Control Items that Provide at Least a Significant Military or Intelligence Advantage to the United States or for Foreign Policy Reasons''; to the Committee on Commerce, Science, and Transportation.

EC–5515. A communication from the Acting Director, Office of Sustainable Fisheries, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Hook-and-Line Gear in the Central Regulatory Area of the Gulf of Alaska'' (RIN0648–XB004) received in the Office of the President of the Senate on March 27, 2012; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KERRY, from the Committee on Foreign Relations, without amendment and with a preamble:

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.

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and with an amended preamble:

S. Res. 344. A resolution supporting the democratic aspirations of the Nicaraguan people and calling attention to the deterioration of constitutional order in Nicaragua.

By Mr. KERRY, from the Committee on Foreign Relations, without amendment and with an amended preamble:

S. Res. 356. A resolution expressing support for the people of Tibet.

S. Res. 391. A resolution condemning violence by the Government of Syria against journalists, and expressing the sense of the Senate on freedom of the press in Syria.

S. Res. 395. A resolution expressing the sense of the Senate in support of the North Atlantic Treaty Organization and the NATO summit to be held in Chicago, Illinois from May 20 through 21, 2012.

By Mr. KERRY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and with an amended preamble:

S. Res. 397. A resolution promoting peace and stability in Sudan, and for other purposes.

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. THUNE (for himself, Mr. RUBIO, Mr. BOOZMAN, Mr. LUGAR, Mr. VITTER, Mr. ISAKSON, Mr. KYL, Mr. HELLER, Mr. MORAN, Mr. ROBERTS, Mr. INHOFE, Mr. ENZI, Mr. GRASSLEY, Mr. LEE, Mr. PAUL, Mr. BLUNT, Mr. MCCAIN, Mr. BARRASSO, Mr. CORNYN, Mr. MCCONNELL, Mr. CRAPO, Mr. HOEVEN, Mr. KIRK, Mr. WICKER, Mrs. HUTCHISON, Mr. COCHRAN, Mr. BURR, Mr. SESSIONS, Mr. TOOMEY, Ms. AYOTTE, Mr. RISCH, Mr. COBURN, Mr. JOHANNS, Mr. DEMINT, and Mr. COATS):

S. 2242. A bill to amend the Internal Revenue Code of 1986 to repeal the estate and generation-skipping transfer taxes, and for other purposes; to the Committee on Finance.

By Mr. WYDEN (for himself and Mr. PORTMAN):

S. 2243. A bill to establish a program to provide incentive payments to participating Medicare beneficiaries who voluntarily establish and maintain better health; to the Committee on Finance.

By Mr. PORTMAN (for himself and Mr. BEGICH):

S. 2244. A bill to direct the Secretary of Veterans Affairs to assist in the identification of unclaimed and abandoned human remains to determine if any such remains are eligible for burial in a national cemetery, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BARRASSO (for himself, Mr. INHOFE, Mr. SESSIONS, Mr. HELLER, Mr. VITTER, Mr. BOOZMAN, Mr. CRAPO, Mr. MCCONNELL, Mr. ROBERTS, Mr. WICKER, Mr. RISCH, Mr. GRASSLEY, Mr. CORNYN, Mr. COBURN, Mr. THUNE, Mr. LUGAR, Mr. BLUNT, Mr. RUBIO, Mr. ENZI, Mr. KYL, Mr. TOOMEY, Mr. COATS, Mr. PAUL, Mr. JOHANNS, Mr. CHAMBLISS, Mr. HOEVEN, Mr. MORAN, Mr. ISAKSON, Mr. JOHNSON of Wisconsin, and Mr. COCHRAN):

S. 2245. A bill to preserve existing rights and responsibilities with respect to waters of the United States; to the Committee on Environment and Public Works.

By Mr. BOOZMAN (for himself, Mr. BEGICH, and Mr. RUBIO):

S. 2246. A bill to direct the Secretary of Labor to provide off-base transition training, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LEE:

S. 2247. A bill to amend the Federal Reserve Act to improve the functioning and transparency of the Board of Governors of the Federal Reserve System and the Federal Open Market Committee, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. INHOFE (for himself, Ms. MURKOWSKI, Mr. VITTER, Mr. SESSIONS, Mr. CORNYN, Mr. RISCH, Mr. HOEVEN, and Mr. LEE):

S. 2248. A bill to clarify that a State has the sole authority to regulate hydraulic fracturing on Federal land within the boundaries of the State; to the Committee on Energy and Natural Resources.

By Mr. AKAKA:

S. 2249. A bill to provide for the reform of the Senior Executive Service; to the Committee on Homeland Security and Governmental 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. BURR (for himself, Ms. LANDRIEU, Mrs. HUTCHISON, and Mrs. HAGAN):

S. Res. 408. A resolution supporting the goals and ideals of Take Our Daughters and Sons To Work Day; considered and agreed to.

By Mr. AKAKA (for himself, Mr. ENZI, Mr. BAUCUS, Mr. BLUNT, Mr. CARDIN, Mr. CARPER, Mr. COCHRAN, Mr. COONS, Mr. CRAPO, Mr. DURBIN, Mrs. HAGAN, Mr. INOUYE, Mr. JOHNSON of South Dakota, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. MENENDEZ, Mrs. MURRAY, Mr. WICKER, and Mr. BROWN of Ohio):

S. Res. 409. A resolution designating April 2012 as ''Financial Literacy Month''; considered and agreed to.

By Mr. MENENDEZ (for himself, Mr. REID, Ms. STABENOW, Mr. AKAKA, Mr. DURBIN, Mr. UDALL of New Mexico, Mr. LEAHY, Mr. BROWN of Ohio, Mrs. BOXER, Mr. BINGAMAN, Mrs. GILLIBRAND, Mr. MERKLEY, Mr. UDALL of Colorado, and Mr. SCHUMER):

S. Res. 410. A resolution honoring the accomplishments and legacy of Cesar Estrada Chavez; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INHOFE (for himself, Ms. MURKOWSKI, Mr. VITTER, Mr. SESSIONS, Mr. CORNYN, Mr. RISCH, Mr. HOEVEN, and Mr. LEE):

S. 2248. A bill to clarify that a State has the sole authority to regulate hydraulic fracturing on Federal land within the boundaries of the State; to the Committee on Energy and Natural Resources.

Mr. INHOFE. Mr. President, I rise to introduce S. 2248, a bill that would clarify the States' sole authority to regulate the process of hydraulic fracturing at the State level as opposed to the Federal level.

I am pleased to be joined by Senators MURKOWSKI, VITTER, SESSIONS, CORNYN, RISCH, HOEVEN, and LEE as cosponsors.

The reason for this bill is the State jurisdiction of a process called hydraulic fracturing, which has taken place since 1949. In 1949, the first hydraulic fracturing well took place in Duncan, OK. It is interesting that there has not been one documented case, in over a million wells using this process—in 60 years—of groundwater contamination.

As a matter of fact, numerous studies, including reports by the Groundwater Protection Council, the EPA, and recently the Energy Institute at the University of Texas at Austin, have found no evidence of hydraulic fracturing posing a risk to water wells or groundwater. A lot of people believe—and I am among them—that the reason to take it over at the Federal level is to do away with hydraulic fracturing. It is interesting that, recently, with some of the shale deposits and discoveries that have been made in the United States, we have been able to get in there, using this process, and come up with huge reserves and start producing these reserves.

In every case, without exception—in fact, I will go so far as to say you cannot get one cubic foot of natural gas out of a type formation without using hydraulic fracturing. The process is and will continue to be a safe process. Despite the evidence, in President Obama's recent campaign rhetoric, this administration continues to wage an all-out war on domestic oil and gas development. During the State of the Union Message—it was interesting because, apparently, now because of the high price of gas at the pump, the President is feeling political pressure, so he is coming out and saying: No, I am not against all fossil fuels, even though he has been for 4 years. And he started talking about clean, plentiful, cheap natural gas. I agreed with that; that is what it is. However, at the same time, if he could have that rhetoric and be able to make the case that the Federal Government needs to take over the process of hydraulic fracturing to be under his control and he can stop that process, he can cut off almost all production altogether.

According to the nonpartisan Congressional Research Service—and this is one that came out this month—since 2007, ''about 96 percent of the [oil production] increase took place on nonfederal lands.''

A recent study also found that 93 percent of shale oil and gas wells are on private and State lands. The Department of Interior is in the process of issuing rules which will further discourage production on Federal lands and federally regulate disclosure of fracking fluids, well integrity, and waste water. According to Secretary of Interior Ken Salazar, these are rules which they hope will serve as a model for future regulation of State lands.

The Obama EPA alone is looking to regulate hydraulic fracturing through its offices of Water, Air, and Toxics.

What does this legislation do? It is simple. It makes clear that the States have the sole authority to regulate hydraulic fracturing on any land within their borders. This would include Federal lands within the borders of a State.

It also requires hydraulic fracturing on Federal lands to comply with the State laws of which the Federal lands are located.

Activities related to hydraulic fracturing are already regulated at the Federal level under a variety of environmental statutes, including portions of the Clean Water Act, Safe Drinking Water Act, and the Clean Air Act.

States better understand their unique geologies and interests. I happen to be from Oklahoma, which is an oil State, and it varies from State to State. Louisiana deposits are found at a different level than ours in Oklahoma. Recently, people think of all these deposits being located in the West. However, the Marcellus discoveries that have been made are actually in New York State and Pennsylvania, so their local regulations are much more applicable than it would be if you did it at the Federal level.

I invite cosponsors. Here we are in the United States with more recoverable reserves in oil, gas, and coal than any other country in the world. We can be completely self-sufficient from the Mid Eastern oil if we get politics out of the way and use our own resources. We are the only country in the world that doesn't develop its own resources. This is the answer to the problem—the answer to the price of gas at the pump. It is one more option. We need to get out of the way of this process called hydraulic fracturing.

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. 2248

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 ''Fracturing Regulations are Effective in State Hands Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) hydraulic fracturing is a commercially viable practice that has been used in the United States for more than 60 years in more than 1,000,000 wells;

(2) the Ground Water Protection Council, a national association of State water regulators that is considered to be a leading groundwater protection organization in the United States, released a report entitled ''State Oil and Natural Gas Regulations Designed to Protect Water Resources'' and dated May 2009 finding that the ''current State regulation of oil and gas activities is environmentally proactive and preventive'';

(3) that report also concluded that ''[a]ll oil and gas producing States have regulations which are designed to provide protection for water resources'';

(4) a 2004 study by the Environmental Protection Agency, entitled ''Evaluation of Impacts to Underground Sources of Drinking Water by Hydraulic Fracturing of Coalbed Methane Reservoirs'', found no evidence of drinking water wells contaminated by fracture fluid from the fracked formation;

(5) a 2009 report by the Ground Water Protection Council, entitled ''State Oil and Natural Gas Regulations Designed to Protect Water Resources'', found a ''lack of evidence'' that hydraulic fracturing conducted in both deep and shallow formations presents a risk of endangerment to ground water;

(6) a January 2009 resolution by the Interstate Oil and Gas Compact Commission stated ''The states, who regulate production, have comprehensive laws and regulations to ensure operations are safe and to protect drinking water. States have found no verified cases of groundwater contamination associated with hydraulic fracturing.'';

(7) on May 24, 2011, before the Oversight and Government Reform Committee of the House of Representatives, Lisa Jackson, the Administrator of the Environmental Protection Agency, testified that she was ''not aware of any proven case where the fracking process itself has affected water'';

(8) in 2011, Bureau of Land Management Director Bob Abbey stated, ''We have not seen evidence of any adverse effect as a result of the use of the chemicals that are part of that fracking technology.'';

(9)(A) activities relating to hydraulic fracturing (such as surface discharges, wastewater disposal, and air emissions) are already regulated at the Federal level under a variety of environmental statutes, including portions of—

(i) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(ii) the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(iii) the Clean Air Act (42 U.S.C. 7401 et seq.); but

(B) Congress has continually elected not to include the hydraulic fracturing process in the underground injection control program under the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(10) in 2011, the Secretary of the Interior announced the intention to promulgate new Federal regulations governing hydraulic fracturing on Federal land; and

(11) a February 2012 study by the Energy Institute at the University of Texas at Austin, entitled ''Fact-Based Regulation for Environmental Protection in Shale Gas Development'', found that ''[n]o evidence of chemicals from hydraulic fracturing fluid has been found in aquifers as a result of fracturing operations''.

SEC. 3. DEFINITION OF FEDERAL LAND.

In this Act, the term ''Federal land'' means—

(1) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702));

(2) National Forest System land;

(3) land under the jurisdiction of the Bureau of Reclamation; and

(4) land under the jurisdiction of the Corps of Engineers.

SEC. 4. STATE AUTHORITY.

(a) IN GENERAL.—A State shall have the sole authority to promulgate or enforce any regulation, guidance, or permit requirement regarding the underground injection of fluids or propping agents pursuant to the hydraulic fracturing process, or any component of that process, relating to oil, gas, or geothermal production activities on or under any land within the boundaries of the State.

(b) FEDERAL LAND.—The underground injection of fluids or propping agents pursuant to the hydraulic fracturing process, or any components of that process, relating to oil, gas, or geothermal production activities on

Federal land shall be subject to the law of the State in which the land is located.

By Mr. AKAKA:

S. 2249. A bill to provide for the reform of the Senior Executive Service; to the Committee on Homeland Security and Governmental Affairs.

Mr. AKAKA. Mr. President, today I am introducing the Senior Executive Service Reform Act of 2012, a bill to strengthen the Federal Government's senior leadership corps.

In this time of fiscal constraint, agencies and Federal employees are being asked to do more with less, and they are rising to meet this challenge. Leading the way in efforts to cut costs without compromising agency missions are members of the Senior Executive Service, SES, who are responsible for driving management priorities and promoting efficiency within agencies and across the Government.

Each year, Presidential Rank Awards are given to outstanding Senior Executives in recognition of their innovation and management expertise that save taxpayers billions of dollars. This is no small feat in an era of shrinking budgets and limited resources. I am proud that such talented people have chosen to join the Federal Government, and believe that America has benefitted as a result of their commitment to public service.

Last year, I chaired a hearing entitled, ''Strengthening the Senior Executive Service: A Review of Challenges Facing the Government's Leadership Corps.'' Witnesses testified about shortcomings in Senior Executive Service candidate development, diversity, and training. Testimony also focused on disincentives for applying to the SES, including increased workload and responsibilities compared to General Schedule, GS, positions with little additional compensation and fewer workers' rights. This bill addresses many of the challenges my hearing brought to light.

A recent report from the Congressional Budget Office concluded that Federal employees with professional degrees are paid 23 percent less than their counterparts in the private sector. The Senior Executive Service is made up of these highly-educated professionals who often find themselves not only making less than those in the private sector, but also other Federal workers. In 2004, Congress enacted reforms linking SES pay to Congressional pay, which has not kept pace with the GS. As a result, the GS pay scale overlaps substantially with the lower end of the SES. This means that a Senior Executive may be paid less than employees he or she supervises. This bill would mitigate the overlap—often referred to as pay compression—by having Senior Executive pay more closely pace the pay of those they supervise.

Performance-based pay is an integral part of the Senior Executive Service. The legislation would strengthen SES performance management and further address disincentives for joining the SES by including performance awards as base pay for the purpose of retirement calculations. Additionally, it would increase transparency in SES performance ratings by requiring an explanation for why a rating is lowered from an initial recommendation. Quotas in performance pay adjustments also would be prohibited.

Restoration of career leadership and career development are important components of this legislation. A Senior Executive Service Resource Office would be established to collect data on the SES and oversee candidate development, management, and training.

Finally, the bill would encourage diversity in the SES by requiring agencies to include ethnic minorities, women, and those with disabilities as part of the SES hiring process whenever practicable. This language closely mirrors the Senior Executive Service Diversity Assurance Act, which I introduced with Congressman Danny Davis of Illinois in the 110 and 111 Congresses.

The time has come to reframe the discussion surrounding our Nation's civil servants. We must invest in our Government's senior leaders and recognize the critical role they play in making our agencies and the Federal Government more efficient and effective.

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. 2249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Senior Executive Service Reform Act of 2012''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—RESTORATION OF CAREER LEADERSHIP

SEC. 101. SENIOR EXECUTIVE SERVICE AGENCY APPOINTMENTS.

Section 3134 of title 5, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting ''(1)'' after ''(b)''; and

(B) by adding at the end the following:

''(2) The total number of Senior Executive Service positions used to determine the 10-percent limitation under paragraph (1) for available positions for noncareer appointees shall be based on filled Senior Executive Service positions at the start of each fiscal year, not total authorized positions.'';

(2) in subsection (d)(1), by striking ''25 percent'' and inserting ''15 percent'';

(3) by redesignating subsection (e) as subsection (f); and

(4) by inserting after subsection (d) the following:

''(e)(1) The total number of Senior Executive Service positions used to determine the 15-percent limitation under subsection(d)(1) for available positions for noncareer appointees shall be based on filled Senior Executive Service positions at the start of each fiscal year, not total authorized positions.''.

SEC. 102. CAREER RESERVED POSITION DESIGNATION FOR CERTAIN ADMINISTRATIVE OR MANAGEMENT POSITIONS.

(a) IN GENERAL.—Chapter 14 of title 5, United States Code, is amended by adding at the end the following:

''§ 1403. Career reserved position designation for certain administrative or management positions

''(a)(1) The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall establish a position which is, or is comparable to, an assistant secretary for administration or management.

''(2) Each agency assistant secretary for administration or management, or incumbent of a comparable position shall—

''(A) be appointed in accordance with the law, or if no law provides for that appointment, by the head of the agency;

''(B) be a member of the career Senior Executive Service;

''(C) be appointed or designated, as applicable, from among individuals who possess demonstrated ability in general management of, and knowledge of, and extensive practical experience in areas such as procurement, human capital, information technology, and related matters; and

''(D) perform such duties as the head of the agency shall prescribe.

''(b) If the individual serving in any position of assistant secretary or in any comparable position in an agency described under subsection (a) is not a career appointee as defined under section 3132(a)(4), the head of that agency shall appoint a career appointee to the position of the principal deputy to that assistant secretary or the officer in that comparable position.

''(c) The head of each agency shall appoint a career appointee to the positions which entail direct responsibility for agency-wide programs or functions in the following occupational disciplines:

''(1) Acquisition.

''(2) Information Technology.

''(3) Human Resources.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 14 of title 5, United States Code, is amended by inserting after the item relating to section 1402 the following:

''Sec. 1403. Career reserved position designation for certain administrative or management positions.''.

(c) REGULATIONS.—The Office of Personnel Management shall prescribe regulations to carry out this section.

TITLE II—SENIOR EXECUTIVE SERVICE PAY AND PERFORMANCE MANAGEMENT IMPROVEMENT

SEC. 201. ANNUAL ADJUSTMENT FOR SENIOR EXECUTIVES AND OTHER SENIOR EMPLOYEES AT THE FULLY SUCCESSFUL LEVEL OR HIGHER.

(a) PROHIBITION ON QUOTAS AND FORCED DISTRIBUTIONS.—Section 4314 of title 5, United States Code, is amended by adding at the end the following:

''(d) Any determination under this section shall be made without the use of quotas or forced distribution of ratings.''.

(b) PAY FOR CERTAIN SENIOR-LEVEL POSITIONS.—Section 5376(b) of title 5, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2)(A) Subject to paragraph (1), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of pay under the General Schedule, each rate of pay established under this section for positions within an agency shall be adjusted, in the case of an employee in such a position whose most recent performance appraisal rating is the equivalent of fully successful or higher, by the total average adjustment in rates of pay authorized by section 5303 and 5304.

''(B) Subject to paragraph (1), subparagraph (A) of this paragraph shall not limit the authorization of an annual adjustment based on performance or contribution to agency mission that is greater than the amount provided for in this section.''.

(c) SETTING SENIOR EXECUTIVE PAY.—Section 5383 of title 5, United States Code, is amended by striking subsection (c) and inserting the following:

''(c)(1) Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 and 5304 in the rates of pay under the General Schedule, each rate of pay established under this section for positions within an agency shall be adjusted, in the case of an employee in such a position whose most recent performance appraisal rating is the equivalent of fully successful or higher, by the total average adjustment in rates of pay authorized by section 5303 and 5304.

''(2) Subject to paragraph (1) this subsection shall not limit the authorization of an annual adjustment based on performance or contribution to agency mission that is greater than the amount provided for in this section.

''(3) This subsection shall comply with any requirement established under section 5382.

''(4) Except as provided under paragraph (3), this subsection shall not limit the head of an agency from authorizing an annual adjustment that is greater than the amount provided for in this section.''.

(d) SETTING INDIVIDUAL SENIOR-LEVEL PAY.—Section 5383(e) of title 5, United States Code, is amended by adding at the end the following:

''(3)(A) In this paragraph the term 'covered appointee' means—

''(i) an appointee to a senior level position described under section 5376(a)(1) or (2); or

''(ii) an appointee to the FBI–DEA Senior Executive Service established under section 3151.

''(B) Paragraphs (1) and (2) shall apply to covered appointees—

''(i) by substituting 'covered appointee' for 'career appointee'; and

''(ii) by substituting 'a career position as a covered appointee' for 'a career reserved position in the Senior Executive Service'.''.

SEC. 202. INCLUSION OF EXECUTIVE PERFORMANCE AWARDS AND BONUSES IN BASIC PAY FOR RETIREMENT ANNUITIES.

(a) DEFINITION OF BASIC PAY.—Section 8331(3) of title 5, United States Code, is amended—

(1) in subparagraph (G), by striking ''and'' after the semicolon;

(2) in the matter following subparagraph (H), by striking ''subparagraphs (B) through (H)'' and inserting ''subparagraphs (B) through (J)''; and

(3) by inserting after subparagraph (H) the following:

''(I) with respect to a member of the Senior Executive Service, performance awards under section 5384; and

''(J) with respect to a senior executive as defined under section 3132(a)(3), a member of the FBI–DEA Senior Executive Service established under section 3151, and senior level positions compensated under section 5376—

''(i) agency awards under section 4503;

''(ii) performance awards under section 4505a;

''(iii) bonuses under section 5754; and

''(iv) bonuses under section 5753;''.

(b) APPLICATION.—The amendments made by this section only apply to bonuses and awards granted to an employee after the date of enactment of this Act.

SEC. 203. CERTIFICATION OF AGENCY PERFORMANCE APPRAISAL SYSTEMS.

Section 5307(d)(3) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking ''and the Office of Management and Budget jointly'';

(2) in subparagraph (B), by striking ''not to exceed 24 months'' and inserting ''of 36 months'';

(3) in subparagraph (C), by striking '', with the concurrence of the Office of Management and Budget,''; and

(4) by adding at the end the following:

''(D)(i) The Office of Personnel Management may annually review the information provided by agencies under section 4314(c)(6) to determine whether the agency meets minimum certification requirements.

''(ii) At the discretion of the Office, the Office may review the certification of an agency and request the agency to submit information to support certification at any time during the certification period.

''(E)(i) An agency that has received certification from the Office of Personnel Management shall not make changes to that agency's performance appraisal system without approval from the Office of Personnel Management.

''(ii) The Office of Personnel Management shall review annual performance plans to ensure agency compliance and implementation.

''(F) The termination of certification during the certification period shall be preceded by—

''(i) notification from the Office of Personnel Management to an agency about what the agency is required to do to continue its certification; and

''(ii) a reasonable period of time following the notification referred to under clause (i) to take corrective action.''.

SEC. 204. TRANSPARENCY OF RATINGS FOR PERFORMANCE APPRAISALS AND RATING REDUCTIONS OF SENIOR EXECUTIVES.

Section 4314(c) of title 5, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting ''(A)'' after ''(1)''; and

(B) by adding at the end the following:

''(B) When recommending a lower rating than was assigned in the initial appraisal of a senior executive's performance, a written explanation providing reasons for the lower rating shall be provided to the senior executive by the board not later than the date the recommendation is made.'';

(2) in paragraph (3), by inserting ''Not later than 30 days after an appraisal and rating is made for a senior executive, the agency shall provide the senior executive with notification of that appraisal and rating, including, as applicable, a written explanation of reasons why a lower rating is assigned than is recommended by the board.'' after the period; and

(3) by adding at the end the following:

''(6)(A)(i) Each agency, having 10 or more career appointees, shall annually publish on the agency website the overall number of ratings awarded to members of the Senior Executive Service at each performance rating level, including—

''(I) the average overall salary adjustment at each level;

''(II) the minimum and maximum adjustment at each level;

''(III) the percentage of senior executives at each rating level who received the minimum and maximum salary adjustment; and

''(IV) the number of senior executives who received performance awards under section 5384 and the average amount of those awards.

''(ii) Rating levels and salary adjustment information under clause (i) shall be provided separately for career and noncareer senior executives in agencies having 10 or more noncareer senior executives.

''(B) Each agency shall annually publish on the agency website an internal plan which describes a system for determining Senior Executive Service salary and bonus amounts.''.

SEC. 205. TRANSPARENCY OF SENIOR EXECUTIVE SERVICE RANKINGS AND PAY.

(a) IN GENERAL.—Chapter 43 of title 5, United States Code, is amended—

(1) by redesignating section 4315 as section 4316;

(2) in section 4312(c)(3), by striking ''4315'' and inserting ''4316''; and

(3) by inserting after section 4314 the following:

''§ 4315. Survey on the transparency of Senior Executive Service performance management and pay

''In consultation with the organization representing the largest number of senior executives, the Merit Systems Protection Board shall every 2 years conduct and publish the results of a survey of career appointees relating to—

''(1) the level of transparency and availability of agency performance appraisal systems and compensation policies to career appointees;

''(2) the use or perceived use of quotas or forced distribution in the application of the agency performance appraisal system;

''(3) any actual or perceived irregularities with the administration of the Senior Executive Service performance appraisal system; and

''(4) such other factors as the Merit Systems Protection Board shall determine are necessary and appropriate.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 43 of

title 5, United States Code, is amended by striking the item relating to section 4315 and inserting the following:

''Sec. 4315. Survey on the transparency of Senior Executive Service performance management and pay.
''Sec. 4316. Regulations.''.

SEC. 206. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided under subsection (b), this title shall take effect 180 days after the date of enactment of this Act.

(b) CERTIFICATION OF AGENCY PERFORMANCE APPRAISAL SYSTEMS.—Section 203 shall take effect on the date of enactment of this Act.

TITLE III—SENIOR EXECUTIVE SERVICE CAREER DEVELOPMENT

SEC. 301. SENIOR EXECUTIVE SERVICE RESOURCE OFFICE.

(a) DEFINITIONS.—In this section—

(1) the term ''Director'' means the Director of the Office of Personnel Management;

(2) the term ''Senior Executive Service'' has the meaning given under section 2101a of title 5, United States Code;

(3) the terms ''agency'' and ''career reserved position'' have the meanings given under section 3132 of title 5, United States Code; and

(4) the term ''SES Resource Office'' means the Senior Executive Service Resource Office established under subsection (b).

(b) ESTABLISHMENT.—The Director shall establish within the Office of Personnel Management an office to be known as the Senior Executive Service Resource Office.

(c) MISSION.—The mission of the SES Resource Office shall be to—

(1) improve the efficiency, effectiveness, and productivity of the Senior Executive Service through policy formulation and oversight;

(2) advance the professionalism of the Senior Executive Service; and

(3) seek to achieve a Senior Executive Service reflective of the Nation's diversity.

(d) FUNCTIONS.—

(1) IN GENERAL.—The functions of the SES Resource Office are to—

(A) make recommendations to the Director with respect to regulations; and

(B) provide guidance to agencies, concerning the structure, management, and diverse composition of the Senior Executive Service.

(2) SPECIFIC FUNCTIONS.—In order to carry out the purposes of this section, the SES Resource Office shall—

(A) take such actions as the SES Resource Office considers necessary to manage and promote an efficient, elite, and diverse corps of senior executives by providing oversight of the onboarding, performance, structure, composition, and candidate development of the Senior Executive Service, including the Senior Executive Service Federal Candidate Development Program;

(B) be responsible for coordinating, promoting, and monitoring programs for the advancement and training of senior executives, including mentoring programs;

(C) be responsible for the policy development, management, and oversight of the Senior Executive Service pay and performance management system;

(D) develop standards for certification of each agency's Senior Executive Service performance management system and evaluate all agency applications for certification;

(E) provide oversight of, and guidance to, agency executive resources boards;

(F) be responsible for the administration of the qualifications review board;

(G) establish and maintain annual statistics (in a form that renders such statistics useful to appointing authorities and candidates) on—

(i) the total number of career reserved positions at each agency;

(ii) the total number of vacant career reserved positions at each agency;

(iii) the amount of time it takes to hire a candidate into a career reserved position;

(iv) the number of individuals who have been certified in accordance with section 3393(c) of title 5, United States Code, and the composition of that group of individuals with regard to race, ethnicity, sex, age, and individuals with disabilities;

(v) the composition of the Senior Executive Service with regard to race, ethnicity, sex, age, and individuals with disabilities;

(vi) the composition of executive resources boards with regard to race, ethnicity, sex, and individuals with disabilities; and

(vii) the composition of qualifications review boards with regard to race, ethnicity, sex, and individuals with disabilities;

(H) make available to the public through the official public Internet site of the Office of Personnel Management, the data collected under subparagraph (G);

(I) conduct a continuing program for the recruitment of women, members of racial and ethnic minority groups, and individuals with disabilities for Senior Executive Service positions, with special efforts directed at recruiting from educational institutions, professional associations, and other sources;

(J) advise agencies on the best practices for an agency in utilizing or consulting with an agency's equal employment or diversity office or official (if the agency has such an office or official) with regard to the agency's Senior Executive Service appointments process; and

(K) administer an online survey to all individuals leaving a position in the Senior Executive Service to better understand the reasons for the departure—

(i) which shall—

(I) at a minimum request information regarding—

(aa) the reason for departure;

(bb) plans for subsequent employment; and

(cc) suggestions for improving the effectiveness of senior executives within the agency in which the individual serves and the Federal Government; and

(II) be incorporated into strategic planning by agencies, in coordination with the Office of Personnel Management; and

(ii) the results of which shall be made available to the public on a semi-annual basis through the official public Internet site of the Office of Personnel Management.

(e) PROTECTION OF INDIVIDUALLY IDENTIFIABLE INFORMATION.—For purposes of subparagraphs (H) and (K)(ii) of subsection (d)(2), the SES Resource Office shall combine data for any agency that is not named in section 901(b) of chapter 31, United States Code, to protect individually identifiable information.

(f) COOPERATION OF AGENCIES.—The head of each agency shall provide the Office of Personnel Management with such information as the SES Resource Office may require in order to carry out subsection (d)(2)(G).

SEC. 302. SENIOR EXECUTIVE SERVICE EXECUTIVE DEVELOPMENT PLANS.

(a) EXECUTIVE DEVELOPMENT PLANS.—Section 3396 of title 5, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following:

''(c)(1) Upon appointment into the Senior Executive Service, each senior executive shall create an executive development plan that includes continuing development, training, and mentoring goals. The plan shall be submitted to the head of the agency for approval. Each senior executive shall update their executive development plan on a regular basis.

''(2) The Office shall establish standards for multi-year executive development plans.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3151(a)(7) of title 5, United States Code, is amended by striking ''section 3396(c)'' and inserting ''section 3396(d)''.

SEC. 303. SENIOR EXECUTIVE ONBOARDING PROGRAMS.

Section 3396 of title 5, United States Code, (as amended by section 302) is further amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

''(d)(1) In consultation with the Office of Personnel Management, the head of each agency shall oversee the establishment of an onboarding program for newly appointed career appointees and noncareer appointees.

''(2)(A) Except as provided in subparagraph (B), not later than 180 days after the date of an initial appointment, each career appointee or noncareer appointee shall be required to successfully complete an onboarding program established under this subsection.

''(B)(i) A position described under section 5312 or 5313 may be exempt from the requirement under subparagraph (A).

''(ii) In addition to positions described in clause (i), the head of an agency may exempt appointees in very senior positions at the agency from the requirement under subparagraph (A).

''(C) The Office of Personnel Management shall establish criteria for determining which positions are very senior for purposes of this paragraph.

''(3) Each agency onboarding program shall include—

''(A) an overview of the mission, priorities, and strategic plan of the agency;

''(B) the role and responsibilities for each new appointee;

''(C) a review of individual performance objectives and goal setting;

''(D) goals for mentoring candidates for the Senior Executive Service;

''(E) an overview of the rules and regulations governing the Senior Executive Service; and

''(F) other components the head of the agency or the Office determines necessary.''.

SEC. 304. SENIOR EXECUTIVE SERVICE ROTATION PROGRAMS.

Section 3396 of title 5, United States Code, (as amended by sections 301 and 302) is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (d) the following:

''(e)(1)(A) In consultation with the Office of Personnel Management, an agency may establish a program to provide for inter-agency, inter-governmental, and inter-sector rotation programs for career appointees and potential career appointees in the Senior Executive Service, senior positions, and managers showing leadership potential. The rotation programs established under this section shall adhere to the principles of the Senior Executive Service by strengthening collaboration and building interagency relationships.

''(B)(i) In consultation with the Chief Privacy Officer of the Office of Personnel Management, the Office shall establish a centralized database for agencies establishing rotation programs under subparagraph (A) that—

''(I) contains information on each senior executive as defined under section 3132, including information on education, experience, training, and professional development interests; and

''(II) shall serve as a profile registry to be used by agencies and senior executives in making rotation decisions.

''(ii) The Office shall prescribe regulations to carry out this subparagraph, including regulations to establish the database and provide for oversight, management, and administration of the database.

''(C) Each agency shall allow a senior executive the right of return from a temporary rotation detail or assignment that is not a reassignment or transfer without a loss of status and seniority.

''(2) Senior Executive Service rotations may be accomplished through the use of—

''(A) extended details;

''(B) task force assignments and interagency projects;

''(C) sabbaticals to the private sector in accordance with subsection (c);

''(D) programs established under the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 note);

''(E) the Information Technology Exchange Program; or

''(F) other exchange programs as established by agencies.

''(3) Any career appointee in an agency may be granted a detail or sabbatical under this subsection if the appointee agrees, as a condition of accepting the detail or sabbatical, to serve in the civil service upon the completion of the detail or sabbatical for a period equal to the period of the detail or sabbatical.

''(4) The Office shall publish guidelines for specific objectives and desired results that should be obtained by a senior executive who receives a rotation assignment.

''(5)(A) Except as provided under subparagraph (B), an agency may not require participation in a rotation program as a precondition for an appointment to a career reserved position as defined under section 3132.

''(B) Subparagraph (A) shall not apply if the agency, under regulations prescribed by the Office—

''(i) provides adequate notice of a requirement to participate in a rotation program to candidates within the agency;

''(ii) makes opportunities under a rotation program available to those candidates; and

''(iii) provides a phase-in period for candidates to meet the rotation requirement.

''(C) The Office shall prescribe regulations to carry out this paragraph.''.

SEC. 305. EFFECTIVE DATE.

This title shall take effect 180 days after the date of enactment of this Act.

TITLE IV—SENIOR EXECUTIVE SERVICE DIVERSITY ASSURANCE

SEC. 401. CAREER APPOINTMENTS.

(a) PROMOTING DIVERSITY IN THE CAREER APPOINTMENTS PROCESS.—Section 3393(b) of title 5, United States Code, is amended by inserting after the first sentence the following: ''In establishing an executive resources board, the head of the agency shall, to the extent practicable, ensure diversity of the board and of any subgroup thereof or other evaluation panel related to the merit staffing process for career appointees, by including members of racial and ethnic minority groups, women, and individuals with disabilities.''.

(b) REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, the Director shall promulgate regulations to implement subsection (a).

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Director shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report evaluating agency efforts to improve diversity in executive resources boards based on the information collected by the SES Resource Office under section 301(d)(2)(G)(vi) and (vii).

SEC. 402. ENCOURAGING A MORE DIVERSE SENIOR EXECUTIVE SERVICE.

(a) SENIOR EXECUTIVE SERVICE DIVERSITY PLANS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, each agency, in consultation with the Office of Personnel Management and the Chief Human Capital Officers Council, shall submit to the Office of Personnel Management a plan to enhance and maximize opportunities for the advancement and appointment of minorities, women, and individuals with disabilities in the agency to the Senior Executive Service. Agency plans shall be reflected in the strategic human capital plan.

(2) CONTENTS.—Agency plans shall address how the agency is identifying and eliminating barriers that impair the ability of minorities, women, and individuals with disabilities to obtain appointments to the Senior Executive Service and any actions the agency is taking to provide advancement opportunities, including—

(A) conducting outreach to minorities, women, and individuals within the agency and outside the agency;

(B) establishing and maintaining training and education programs to foster leadership development;

(C) identifying career enhancing opportunities for agency employees;

(D) assessing internal availability of candidates for Senior Executive Service positions; and

(E) conducting an inventory of employee skills and addressing current and potential gaps in skills and the distribution of skills.

(3) UPDATE OF AGENCY PLANS.—Agency plans shall be updated at least every 2 years during the 10 years following enactment of this Act. An agency plan shall be reviewed by the Office of Personnel Management and, if determined to provide sufficient assurances, procedures, and commitments to provide adequate opportunities for the advancement and appointment of minorities, women, and individuals with disabilities to the Senior Executive Service, shall be approved by such Office. An agency may, in updating its plan, submit to the Office of Personnel Management an assessment of the impacts of the plan.

(b) SUMMARY AND EVALUATION.—Not later than 180 days after the deadline for the submission of any report or update under subsection (a), the Director shall transmit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives a report summarizing and evaluating the agency plans or updates (as the case may be) so submitted.

(c) COORDINATION.—The Office of Personnel Management shall, in carrying out subsection (a), evaluate existing requirements under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) and section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and determine how agency reporting can be performed so as to be consistent with, but not duplicative of, such sections and any other similar requirements.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 408—SUPPORTING THE GOALS AND IDEALS OF TAKE OUR DAUGHTERS AND SONS TO WORK DAY

Mr. BURR (for himself, Ms. LANDRIEU, Mrs. HUTCHISON, and Mrs. HAGAN) submitted the following resolution; which was considered and agreed to:

S. RES. 408

Whereas the Take Our Daughters To Work Day program was created in New York City as a response to research that showed that, by the 8th grade, many girls were dropping out of school, had low self-esteem, and lacked confidence;

Whereas, in 2003, the name of the program was changed to ''Take Our Daughters and Sons To Work Day'' so that boys who face many of the same challenges as girls could also be involved in the program;

Whereas the mission of the program, to develop ''innovative strategies that empower girls and boys to overcome societal barriers to reach their full potential'', now fully reflects the addition of boys;

Whereas the Take Our Daughters and Sons To Work Foundation, a nonprofit organization, has grown to become one of the largest public awareness campaigns, with more than 37,000,000 participants annually in more than 3,000,000 organizations and workplaces in every State;

Whereas, in 2007, the Take Our Daughters To Work program transitioned to Elizabeth City, North Carolina, became known as the Take Our Daughters and Sons To Work Foundation, and received national recognition for the dedication of the Foundation to future generations;

Whereas every year, mayors, governors, and other private and public officials sign proclamations and lend their support to Take Our Daughters and Sons To Work;

Whereas the fame of the Take Our Daughters and Sons To Work program has spread overseas, with requests and inquiries being made from around the world on how to operate the program;

Whereas 2012 marks the 20th anniversary of the Take Our Daughters and Sons To Work program;

Whereas Take Our Daughters and Sons to Work Day will be observed on Thursday, April 26, 2012; and

Whereas Take Our Daughters and Sons To Work is intended to continue helping millions of girls and boys on an annual basis through experienced activities and events to examine their opportunities and strive to reach their fullest potential: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the goals of introducing our daughters and sons to the workplace; and

(2) commends all the participants in Take Our Daughters and Sons To Work for their ongoing contributions to education, and for the vital role the participants play in promoting and ensuring a brighter, stronger future for the United States.

SENATE RESOLUTION 409—DESIGNATING APRIL 2012 AS ''FINANCIAL LITERACY MONTH''

Mr. AKAKA (for himself, Mr. ENZI, Mr. BAUCUS, Mr. BLUNT, Mr. CARDIN, Mr. CARPER, Mr. COCHRAN, Mr. COONS, Mr. CRAPO, Mr. DURBIN, Mrs. HAGAN, Mr. INOUYE, Mr. JOHNSON of South Dakota, Mr. KOHL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. MENENDEZ, Mrs. MURRAY, Mr. WICKER, and Mr. BROWN of Ohio) submitted the following resolution; which was considered and agreed to:

S. RES. 409

Whereas according to the Federal Deposit Insurance Corporation, at least 25.6 percent of households in the United States, or close

to 30,000,000 households with approximately 60,000,000 adults, are unbanked or underbanked and, subsequently, have missed opportunities for savings, lending, and basic financial services;

Whereas according to the 2011 Consumer Financial Literacy Survey Final Report of the National Foundation for Credit Counseling, 41 percent of adults in the United States, or more than 77,000,000 adults living in the United States, gave themselves a grade of C, D, or F on their knowledge of personal finance;

Whereas according to the National Bankruptcy Research Center, the number of personal bankruptcy filings reached 1,500,000 in 2010, the highest number since 2005, and in 2011, the percentage of total consumer filings increased from 2010;

Whereas the 2011 Retirement Confidence Survey conducted by the Employee Benefit Research Institute found that only 13 percent of workers were ''very confident'' about having enough money for a comfortable retirement, a sharp decline in worker confidence from the 27 percent of workers who were ''very confident'' in 2007;

Whereas according to the 2011 Retirement Confidence Survey conducted by the Employee Benefit Research Institute, less than half of workers (42 percent) in the United States have tried to calculate how much they need to save for retirement;

Whereas according to a 2011 ''Flow of Funds'' report by the Board of Governors of the Federal Reserve System, household debt stood at $13,200,000,000,000 at the end of the third quarter of 2010;

Whereas according to the 2011 Consumer Financial Literacy Survey Final Report of the National Foundation for Credit Counseling, 28 percent, or nearly 64,000,000 adults, admit to not paying all of their bills on time;

Whereas according to the 2011 Consumer Financial Literacy Survey Final Report of the National Foundation for Credit Counseling, only 43 percent of adults keep close track of their spending, and more than 128,400,000 adults do not know how much they spend on food, housing, and entertainment, and do not monitor their overall spending;

Whereas according to the 2011 Consumer Financial Literacy Survey Final Report of the National Foundation for Credit Counseling, 1 in 3 adults in the United States, or more than 75,600,000 individuals, report that they have no savings, and only 22 percent of adults in the United States are now saving more than they did a year ago because of the current economic climate;

Whereas according to the seventh Council for Economic Education biennial Survey of the States 2011: Economic, Personal Finance, and Entrepreneurship Education in Our Nation's Schools, only 22 States require students to take an economics course as a high school graduation requirement, and only 16 States require the testing of student knowledge in economics;

Whereas according to the seventh Council for Economic Education biennial Survey of the States 2011: Economic, Personal Finance, and Entrepreneurship Education in Our Nation's Schools, only 12 States require students to take a personal finance course either independently or as part of an economics course as a high school graduation requirement;

Whereas according to the Gallup-Operation HOPE Financial Literacy Index, while 69 percent of American students strongly believe that the best time to save money is now, only 57 percent believe that their parents are saving money for the future;

Whereas expanding access to the mainstream financial system will provide individuals with less expensive and more secure options for managing finances and building wealth;

Whereas quality personal financial education is essential to ensure that individuals are prepared to manage money, credit, and debt, and to become responsible workers, heads of households, investors, entrepreneurs, business leaders, and citizens;

Whereas increased financial literacy empowers individuals to make wise financial decisions and reduces the confusion caused by an increasingly complex economy;

Whereas a greater understanding of, and familiarity with, financial markets and institutions will lead to increased economic activity and growth;

Whereas, in 2003, Congress found it important to coordinate Federal financial literacy efforts and formulate a national strategy; and

Whereas, in light of that finding, Congress passed the Financial Literacy and Education Improvement Act (20 U.S.C. 9701 et seq.), establishing the Financial Literacy and Education Commission: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2012 as ''Financial Literacy Month'' to raise public awareness about—

(A) the importance of personal financial education in the United States; and

(B) the serious consequences that may result from a lack of understanding about personal finances; and

(2) calls on the Federal Government, States, localities, schools, nonprofit organizations, businesses, and the people of the United States to observe the month with appropriate programs and activities.

SENATE RESOLUTION 410—HONORING THE ACCOMPLISHMENTS AND LEGACY OF CÉSAR ESTRADA CHÁVEZ

Mr. MENENDEZ (for himself, Mr. REID of Nevada, Ms. STABENOW, Mr. AKAKA, Mr. DURBIN, Mr. UDALL of New Mexico, Mr. LEAHY, Mr. BROWN of Ohio, Mrs. BOXER, Mr. BINGAMAN, Mrs. GILLIBRAND, Mr. MERKLEY, Mr. UDALL of Colorado, and Mr. SCHUMER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 410

Whereas César Estrada Chávez was born on March 31, 1927, near Yuma, Arizona;

Whereas César Estrada Chávez spent his early years on a family farm;

Whereas, at the age of 10, César Estrada Chávez joined the thousands of migrant farm workers laboring in fields and vineyards throughout the Southwest after a bank foreclosure resulted in the loss of the family farm;

Whereas César Estrada Chávez, after attending more than 30 elementary and middle schools and achieving an eighth grade education, left school to work full-time as a farm worker to help support his family;

Whereas, at the age of 17, César Estrada Chávez entered the United States Navy and served the United States with distinction for 2 years;

Whereas, in 1948, César Estrada Chávez returned from military service to marry Helen Fabela, whom he had met while working in the vineyards of central California;

Whereas César Estrada Chávez and Helen Fabela had 8 children;

Whereas, as early as 1949, César Estrada Chávez was committed to organizing farm workers to campaign for safe and fair working conditions, reasonable wages, livable housing, and the outlawing of child labor;

Whereas, in 1952, César Estrada Chávez joined the Community Service Organization, a prominent Latino civil rights group, and worked with the organization—

(1) to coordinate voter registration drives; and

(2) to conduct campaigns against discrimination in East Los Angeles;

Whereas César Estrada Chávez served as the national director of the Community Service Organization;

Whereas, in 1962, César Estrada Chávez left the Community Service Organization to found the National Farm Workers Association, which eventually became the United Farm Workers of America;

Whereas César Estrada Chávez was a strong believer in the principles of nonviolence practiced by Mahatma Gandhi and Dr. Martin Luther King, Jr.;

Whereas César Estrada Chávez effectively used peaceful tactics that included fasting for 25 days in 1968, 25 days in 1972, and 38 days in 1988, to call attention to the terrible working and living conditions of farm workers in the United States;

Whereas, under the leadership of César Estrada Chávez, the United Farm Workers of America organized thousands of migrant farm workers to fight for fair wages, health care coverage, pension benefits, livable housing, and respect;

Whereas, through his commitment to nonviolence, César Estrada Chávez—

(1) brought dignity and respect to the organized farm workers; and

(2) became an inspiration to and a resource for individuals engaged in human rights struggles throughout the world;

Whereas the influence of César Estrada Chávez extends far beyond agriculture and provides inspiration for those working—

(1) to better human rights;

(2) to empower workers; and

(3) to advance the American Dream that includes all inhabitants of the United States;

Whereas César Estrada Chávez died on April 23, 1993, at the age of 66 in San Luis, Arizona, only miles from his birthplace;

Whereas more than 50,000 people attended the funeral services of César Estrada Chávez in Delano, California;

Whereas César Estrada Chávez was laid to rest at the headquarters of the United Farm Workers of America, known as Nuestra Señora de La Paz, located in the Tehachapi Mountains at Keene, California;

Whereas, since the death of César Estrada Chávez, schools, parks, streets, libraries, and other public facilities, as well as awards and scholarships, have been named in his honor;

Whereas 10 States and dozens of communities across the United States honor the life and legacy of César Estrada Chávez on March 31 of each year;

Whereas, during his lifetime, César Estrada Chávez was a recipient of the Martin Luther King, Jr. Peace Prize;

Whereas, on August 8, 1994, César Estrada Chávez was posthumously awarded the Presidential Medal of Freedom;

Whereas President Barack Obama honored the life of service of César Estrada Chávez by proclaiming March 31, 2011, to be ''César Chávez Day''; and

Whereas the United States should continue the efforts of César Estrada Chávez to ensure equality, justice, and dignity for all people of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the accomplishments and example of a great hero of the United States, César Estrada Chávez;

(2) pledges to promote the legacy of César Estrada Chávez; and

(3) encourages the people of the United States to commemorate the legacy of César

Estrada Chávez and to always remember his great rallying cry, ''¡Sí, se puede!'', which is Spanish for ''Yes we can!''.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1977. Mr. GRAHAM (for himself, Mr. DEMINT, Mr. JOHNSON of Wisconsin, and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table.

SA 1978. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1979. Mr. CARPER (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1980. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1981. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1982. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1983. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1984. Mr. HOEVEN (for himself, Mr. LUGAR, Mr. VITTER, and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1985. Ms. MURKOWSKI (for herself and Mr. HOEVEN) submitted an amendment intended to be proposed by her to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1986. Ms. MURKOWSKI (for herself and Mr. HOEVEN) submitted an amendment intended to be proposed by her to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1987. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1988. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1989. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1990. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1991. Mr. BENNET submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1992. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1993. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1994. Mr. SESSIONS (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1995. Mr. SESSIONS (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1996. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1997. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1977. Mr. GRAHAM (for himself, Mr. DEMINT, Mr. JOHNSON of Wisconsin, and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 22, between lines 3 and 4, insert the following:

TITLE III—NUCLEAR WASTE FUND RELIEF AND REBATES

SECTION 301. SHORT TITLE.

This Act may be cited as the ''Nuclear Waste Fund Relief and Rebate Act''.

SEC. 302. CERTIFICATION OF COMMITMENT TO YUCCA MOUNTAIN.

(a) IN GENERAL.—Subtitle E of title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10172 et seq.) is amended by adding at the end the following:

''SEC. 162. CERTIFICATION OF COMMITMENT TO YUCCA MOUNTAIN SITE.

''(a) DEFINITION OF DEFENSE WASTE.—In this section, the term 'defense waste' means—

''(1) transuranic waste;

''(2) high-level radioactive waste;

''(3) spent nuclear fuel;

''(4) special nuclear materials;

''(5) greater-than-class C, low-level radioactive waste; and

''(6) any other waste arising from the production, storage, or maintenance of nuclear weapons (including components of nuclear weapons).

''(b) CERTIFICATION OF COMMITMENT.—Not later than 30 days after the date of enactment of this section, the President shall publish in the Federal Register a notice that the President certifies that the Yucca Mountain site is the selected site for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, in accordance with section 160.

''(c) FAILURE TO PUBLISH CERTIFICATION; REVOCATION OF CERTIFICATION.—If the President fails to publish the certification of the President in accordance with subsection (b), or if the President revokes the certification of the President after the date described in that subsection, not later than 1 year after the date described in subsection (b), or the date of revocation, as appropriate, and in accordance with subsection (d)—

''(1) each entity that is required under section 302 to make a payment to the Secretary shall not be required to make any additional payment; and

''(2) each entity that has made a payment under section 302 shall receive from the Secretary of the Treasury, from amounts available in the Nuclear Waste Fund, an amount equal to the aggregate amount of the payments made by the entity (including interest on the aggregate amount of the payments) to the Secretary for deposit in the Nuclear Waste Fund.

''(d) USE OF RETURNED PAYMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2), of the aggregate amount of payments returned to an entity described in subsection (c)(2)—

''(A) 75 percent shall be used by the entity to provide rebates to ratepayers of the entity; and

''(B) 25 percent shall be used by the entity to carry out upgrades to nuclear power facilities of the entity to enhance the storage and security of materials used to generate nuclear power.

''(2) DEFENSE WASTE.—In the case of a payment required to be paid to an entity for the storage of defense waste, the Secretary shall use the amount required to be paid to the entity to meet the penalty payment obligation of the Secretary under subsection (e)(2) to the State in which the entity is located.

''(e) DISPOSITION OF DEFENSE WASTE.—

''(1) IN GENERAL.—Not later than January 1, 2017, the Secretary shall initiate the transportation of defense waste from each State in which defense waste is located to the Yucca Mountain site.

''(2) PENALTY.—

''(A) IN GENERAL.—Subject to subparagraph (B), if the Secretary fails to initiate the transportation of defense waste in accordance with paragraph (1), the Secretary shall pay to each State in which defense waste is located $1,000,000 for each day that the defense waste is located in the State until the date on which the Secretary initiates the transportation of the defense waste under paragraph (1).

''(B) MAXIMUM AMOUNT.—Subject to subsection (c)(2), for each calendar year, the Secretary shall not pay to any State described in subparagraph (A) an amount greater than $100,000,000.

''(C) REQUIRED USE OF PAYMENTS.—A State that receives amounts through a payment from the Secretary under this paragraph shall use the amounts—

''(i) to help offset the loss in community investments that results from the continued storage of defense waste in the State; and

''(ii) to help mitigate the public health risks that result from the continued storage of defense waste in the State.

''(f) DETERMINATION BY COMMISSION TO GRANT OR AMEND LICENSES.—In determining whether to grant or amend any license to operate any civilian nuclear power reactor, or high-level radioactive waste or spent fuel storage or treatment facility, under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the responsibilities of the President and the Secretary described in this subtitle shall be considered to be sufficient and independent grounds for the Commission to determine the existence of reasonable assurances that spent nuclear fuel and high-level radioactive waste would be disposed of safely and in a timely manner by the entity that is the subject of the determination.

''(g) EFFECTS.—

''(1) TERMINATION OF PAYMENT REQUIREMENT; ACCEPTANCE OF RETURNED PAYMENTS.—With respect to an entity that receives a benefit under paragraph (1) or (2) of subsection (c)—

''(A) the entity shall not be considered by the Commission to be in violation under section 302(b); and

''(B) the Commission shall not refuse to take any action with respect to a current or prospective license of the entity on the grounds that the entity has cancelled or rescinded a contract to which the entity is a party as the result of—

''(i) the failure by the entity to make a payment to the Secretary under section 302; or

''(ii) the acceptance by the entity of amounts described in subsection (c)(2).

''(2) DISPOSITION OF WASTE.—Nothing in this section affects the responsibility of the

Federal Government under any Act (including regulations) with respect to the ultimate disposition of high-level radioactive waste and spent nuclear fuel.''.

(b) CONFORMING AMENDMENT.—The table of contents of the Nuclear Waste Policy Act of 1982 (42 U.S.C. prec. 10101) is amended by adding at the end of the items relating to subtitle E of title I the following:

''Sec. 162. Certification of commitment to Yucca Mountain site.''.

SA 1978. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 22, between lines 3 and 4, insert the following:

Subtitle C—Miscellaneous

SEC. 221. EXEMPTION OF SAND DUNE LIZARD FROM ENDANGERED SPECIES ACT OF 1973.

Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended by adding at the end the following:

''(j) EXEMPTION OF SAND DUNE LIZARD.—This Act shall not apply to the sand dune lizard.''.

SA 1979. Mr. CARPER (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end of title I, insert the following:

SEC. 119. QUALIFYING OFFSHORE WIND FACILITY CREDIT.

(a) IN GENERAL.—Section 46 of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (5), by striking the period at the end of paragraph (6), and by adding at the end the following new paragraph:

''(7) the qualifying offshore wind facility credit.''.

(b) AMOUNT OF CREDIT.—Subpart E of part IV of subchapter A of chapter 1 is amended by inserting after section 48D the following new section:

''SEC. 48E. CREDIT FOR OFFSHORE WIND FACILITIES.

''(a) IN GENERAL.—For purposes of section 46, the qualifying offshore wind facility credit for any taxable year is an amount equal to 30 percent of the qualified investment for such taxable year with respect to any qualifying offshore wind facility of the taxpayer.

''(b) QUALIFIED INVESTMENT.—

''(1) IN GENERAL.—For purposes of subsection (a), the qualified investment for any taxable year is the basis of eligible property placed in service by the taxpayer during such taxable year which is part of a qualifying offshore wind facility.

''(2) CERTAIN QUALIFIED PROGRESS EXPENDITURES RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this section.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFYING OFFSHORE WIND FACILITY.—

''(A) IN GENERAL.—The term 'qualifying offshore wind facility' means an offshore facility using wind to produce electricity the megawatt capacity of which does not exceed the capacity certified by the Secretary as eligible for the credit under this section.

''(B) OFFSHORE FACILITY.—The term 'offshore facility' means any facility located in the inland navigable waters of the United States, including the Great Lakes, or in the coastal waters of the United States, including the territorial seas of the United States, the exclusive economic zone of United States, and the outer Continental Shelf of the United States.

''(2) ELIGIBLE PROPERTY.—The term 'eligible property' means any property—

''(A) which is—

''(i) tangible personal property, or

''(ii) other tangible property (not including a building or its structural components), but only if such property is used as an integral part of the qualifying offshore wind facility, and

''(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable.

''(d) QUALIFYING CREDIT FOR OFFSHORE WIND FACILITIES PROGRAM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—Not later than 180 days after the date of the enactment of this section, the Secretary, in consultation with the Secretary of Energy and the Secretary of the Interior, shall establish a qualifying credit for offshore wind facilities program to consider and award certifications for qualified investments eligible for credits under this section to qualifying offshore wind facility sponsors.

''(B) LIMITATION.—The total amount of megawatt capacity for offshore facilities with respect to which credits may be allocated under the program shall not exceed 3,000 megawatts.

''(2) CERTIFICATION.—

''(A) APPLICATION PERIOD.—Each applicant for certification under this paragraph shall submit an application containing such information as the Secretary may require beginning on the date the Secretary establishes the program under paragraph (1).

''(B) PERIOD OF ISSUANCE.—An applicant which receives a certification shall have 5 years from the date of issuance of the certification in order to place the facility in service and if such facility is not placed in service by that time period, then the certification shall no longer be valid.

''(3) SELECTION CRITERIA.—In determining which qualifying offshore wind facilities to certify under this section, the Secretary shall—

''(A) take into consideration which facilities will be placed in service at the earliest date, and

''(B) take into account the technology of the facility that may lead to reduced industry and consumer costs or expand access to offshore wind.

''(4) REVIEW, ADDITIONAL ALLOCATIONS, AND REALLOCATIONS.—

''(A) REVIEW.—Periodically, but not later than 4 years after the date of the enactment of this section, the Secretary shall review the credits allocated under this section as of the date of such review.

''(B) ADDITIONAL ALLOCATIONS AND REALLOCATIONS.—The Secretary may make additional allocations and reallocations of credits under this section if the Secretary determines that—

''(i) the limitation under paragraph (1)(B) has not been attained at the time of the review, or

''(ii) scheduled placed-in-service dates of previously certified facilities have been significantly delayed and the Secretary determines the applicant will not meet the timeline pursuant to paragraph (2)(B).

''(C) ADDITIONAL PROGRAM FOR ALLOCATIONS AND REALLOCATIONS.—If the Secretary determines that credits under this section are available for further allocation or reallocation, but there is an insufficient quantity of qualifying applications for certification pending at the time of the review, the Secretary is authorized to conduct an additional program for applications for certification.

''(5) DISCLOSURE OF ALLOCATIONS.—The Secretary shall, upon making a certification under this subsection, publicly disclose the identity of the applicant and the amount of the credit with respect to such applicant.

''(e) DENIAL OF DOUBLE BENEFIT.—A credit shall not be allowed under this section with respect to any facility if—

''(1) a credit has been allowed to such facility under section 45 for such taxable year or any prior taxable year,

''(2) a credit has been allowed with respect to such facility under section 46 by reason of section 48(a) or 48C(a) for such taxable or any preceding taxable year, or

''(3) a grant has been made with respect to such facility under section 1603 of the American Recovery and Reinvestment Act of 2009.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 49(a)(1)(C) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''and'' at the end of clause (v),

(B) by striking the period at the end of clause (vi) and inserting '', and'', and

(C) by adding after clause (vi) the following new clause:

''(vi) the basis of any property which is part of a qualifying offshore wind facility under section 48E.''.

(2) The table of sections for subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 48D the following new item:

''48E. Credit for offshore wind facilities.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

SA 1980. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROHIBITING TAXPAYER DOLLARS FROM SUPPORTING HIGH-RISK RESEARCH AND DEVELOPMENT PROJECTS BY COMPANIES THAT EMPLOY 1,000 INDIVIDUALS OR MORE.

Notwithstanding any other provision of law, the Secretary of Energy shall put in place limitations on funding awards at the Advanced Research Projects Agency—Energy that prevent companies that employ 1,000 or more individuals from receiving funding awards.

SA 1981. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

Subtitle C—Energy Subsidies for Millionaires

SEC. 221. NO RESIDENTIAL ENERGY EFFICIENT PROPERTY CREDIT FOR MILLIONAIRES AND BILLIONAIRES.

(a) IN GENERAL.—Section 25D(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(9) NO CREDIT FOR MILLIONAIRES AND BILLIONAIRES.—No credit shall be allowed under this section for any taxable year with respect to any taxpayer with an adjusted gross income equal to or greater than $1,000,000 for such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2011.

SA 1982. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.___. CONSOLIDATING UNNECESSARY DUPLICATIVE AND OVERLAPPING ENERGY PROGRAMS.

Notwithstanding any other provision of law and not later than 150 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall coordinate with the Secretary of the Department of Energy and the heads of the relevant department and agencies to—

(1) use available administrative authority to eliminate, consolidate, or streamline Government energy-related programs and agencies with duplicative and overlapping missions identified in the—

(A) March 2011 Government Accountability Office report to Congress entitled ''Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue'' (GAO 11 318SP) regarding federal fleet energy goals and ethanol production; and

(B) February 2012 Government Accountability Office report to Congress entitled ''2012 Annual Report: Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue'' (GAO 12 342SP) regarding Department of Energy contractor support costs, nuclear proliferation, diesel emissions, and green building initiatives;

(2) identify and report to Congress any legislative changes required to further eliminate, consolidate, or streamline Government energy-related programs and agencies with duplicative and overlapping missions identified in the—

(A) March 2011 Government Accountability Office report to Congress entitled ''Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue'' (GAO 11 318SP); and

(B) February 2012 Government Accountability Office report to Congress entitled ''2012 Annual Report: Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue'' (GAO 12 342SP);

(3) determine the total cost savings that shall result to each agency, office, and department from the actions described in paragraph (1); and

(4) rescind from the appropriate accounts and apply the savings towards deficit reduction the amount greater of—

(A) $2,000,000,000; or

(B) the total amount of cost savings estimated by paragraph (3).

SA 1983. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. ___. Notwithstanding any other provision of this Act, none of the funds made available by this Act shall be used by the Office of Fossil Energy to carry out any energy research relating to fossil fuels, except that nothing in this section affects the responsibilities of the Secretary of Energy relating to national petroleum reserves.

SA 1984. Mr. HOEVEN (for himself, Mr. LUGAR, Mr. VITTER, and Mr. KIRK) submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. APPROVAL OF KEYSTONE XL PIPELINE PROJECT.

(a) APPROVAL OF CROSS-BORDER FACILITIES.—

(1) IN GENERAL.—In accordance with section 8 of article 1 of the Constitution (delegating to Congress the power to regulate commerce with foreign nations), TransCanada Keystone Pipeline, L.P. is authorized to construct, connect, operate, and maintain pipeline facilities, subject to subsection (c), for the import of crude oil and other hydrocarbons at the United States-Canada Border at Phillips County, Montana, in accordance with the application filed with the Department of State on September 19, 2008 (as supplemented and amended).

(2) PERMIT.—Notwithstanding any other provision of law, no permit pursuant to Executive Order 13337 (3 U.S.C. 301 note) or any other similar Executive Order regulating construction, connection, operation, or maintenance of facilities at the borders of the United States, and no additional environmental impact statement, shall be required for TransCanada Keystone Pipeline, L.P. to construct, connect, operate, and maintain the facilities described in paragraph (1).

(b) CONSTRUCTION AND OPERATION OF KEYSTONE XL PIPELINE IN UNITED STATES.—

(1) IN GENERAL.—The final environmental impact statement issued by the Department of State on August 26, 2011, shall be considered to satisfy all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other provision of law that requires Federal agency consultation or review with respect to the cross-border facilities described in subsection (a)(1) and the related facilities in the United States described in the application filed with the Department of State on September 19, 2008 (as supplemented and amended).

(2) PERMITS.—Any Federal permit or authorization issued before the date of enactment of this Act for the cross-border facilities described in subsection (a)(1), and the related facilities in the United States described in the application filed with the Department of State on September 19, 2008 (as supplemented and amended), shall remain in effect.

(c) CONDITIONS.—In constructing, connecting, operating, and maintaining the cross-border facilities described in subsection (a)(1) and related facilities in the United States described in the application filed with the Department of State on September 19, 2008 (as supplemented and amended), TransCanada Keystone Pipeline, L.P. shall comply with the following conditions:

(1) TransCanada Keystone Pipeline, L.P. shall comply with all applicable Federal and State laws (including regulations) and all applicable industrial codes regarding the construction, connection, operation, and maintenance of the facilities.

(2) Except as provided in subsection (a)(2), TransCanada Keystone Pipeline, L.P. shall comply with all requisite permits from Canadian authorities and applicable Federal, State, and local government agencies in the United States.

(3) TransCanada Keystone Pipeline, L.P. shall take all appropriate measures to prevent or mitigate any adverse environmental impact or disruption of historic properties in connection with the construction, connection, operation, and maintenance of the facilities.

(4) The construction, connection, operation, and maintenance of the facilities shall be—

(A) in all material respects, similar to that described in—

(i) the application filed with the Department of State on September 19, 2008 (as supplemented and amended); and

(ii) the final environmental impact statement described in subsection (b)(1); and

(B) carried out in accordance with—

(i) the construction, mitigation, and reclamation measures agreed to for the project in the construction mitigation and reclamation plan contained in appendix B of the final environmental impact statement described in subsection (b)(1);

(ii) the special conditions agreed to between the owners and operators of the project and the Administrator of the Pipeline and Hazardous Materials Safety Administration of the Department of Transportation, as contained in appendix U of the final environmental impact statement;

(iii) the measures identified in appendix H of the final environmental impact statement, if the modified route submitted by the State of Nebraska to the Secretary of State crosses the Sand Hills region; and

(iv) the stipulations identified in appendix S of the final environmental impact statement.

(d) ROUTE IN NEBRASKA.—

(1) IN GENERAL.—Any route and construction, mitigation, and reclamation measures for the project in the State of Nebraska that is identified by the State of Nebraska and submitted to the Secretary of State under this section is considered sufficient for the purposes of this section.

(2) PROHIBITION.—Construction of the facilities in the United States described in the application filed with the Department of State on September 19, 2008 (as supplemented and amended), shall not commence in the State of Nebraska until the date on which the Secretary of State receives a route for the project in the State of Nebraska that is identified by the State of Nebraska.

(3) RECEIPT.—On the date of receipt of the route described in paragraph (1) by the Secretary of State, the route for the project within the State of Nebraska under this section shall supersede the route for the project in the State specified in the application filed with the Department of State on September 19, 2008 (including supplements and amendments).

(4) COOPERATION.—Not later than 30 days after the date on which the State of Nebraska submits a request to the Secretary of State or any appropriate Federal official, the Secretary of State or Federal official shall provide assistance that is consistent with the law of the State of Nebraska.

(e) ADMINISTRATION.—

(1) IN GENERAL.—Any action taken to carry out this section (including the modification of any route under subsection (d)) shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) STATE SITING AUTHORITY.—Nothing in this section alters any provision of State law relating to the siting of pipelines.

(3) PRIVATE PROPERTY.—Nothing in this section alters any Federal, State, or local process or condition in effect on the date of enactment of this Act that is necessary to secure access from an owner of private property to construct the project.

(f) FEDERAL JUDICIAL REVIEW.—The cross-border facilities described in subsection (a)(1), and the related facilities in the United States described in the application filed with the Department of State on September 19, 2008 (as supplemented and amended), that are approved by this section, and any permit, right-of-way, or other action taken to construct or complete the project pursuant to Federal law, shall only be subject to judicial review on direct appeal to the United States Court of Appeals for the District of Columbia Circuit.

SA 1985. Ms. MURKOWSKI (for herself and Mr. HOEVEN) submitted an amendment intended to be proposed by her to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. EXPEDITED FEDERAL PERMITTING AND REVIEW DECISIONS FOR ENERGY, NATURAL RESOURCE, AND INFRASTRUCTURE PROJECTS.

(a) FINDINGS.—Congress finds that—

(1) it is imperative to significantly reduce the aggregate time required to make decisions by the Federal Government on the permitting and review of energy, natural resource, and energy infrastructure projects, while improving environmental and community outcomes;

(2) investing in the energy infrastructure of the United States provides immediate and long-term economic benefits for local communities and the United States as a whole;

(3) Federal permitting and review processes, including planning, approval, and consultation processes, have a substantive impact on the economy of the United States;

(4) it is critical that Executive agencies take all steps, within the authority and resources of the Executive agencies, to execute Federal permitting and review processes with maximum efficiency and effectiveness, while ensuring the health, safety, and security of communities, the environment, and vital economic growth;

(5) Federal permitting and review processes should—

(A) provide a transparent, consistent, and predictable path for project sponsors and affected communities;

(B) ensure that Executive agencies—

(i) establish and adhere to timelines and schedules for completion of reviews;

(ii) establish clear permitting performance goals; and

(iii) track progress against those goals;

(C) encourage early collaboration among Executive agencies, State, local, and tribal governments, project sponsors, and affected stakeholders to incorporate and address affected interests and minimize delays;

(D) provide for transparency and accountability by using cost-effective information technology to collect and disseminate information concerning individual projects and Executive agency performance;

(E) rely on early and active consultation with State, local, and tribal governments to avoid conflicts or duplication of effort, resolve concerns, and allow for concurrent rather than sequential reviews;

(F) recognize the critical role project sponsors play in ensuring the timely and cost-effective review of projects by providing complete information and analysis and by supporting, as appropriate, the costs associated with review; and

(G) enable Executive agencies—

(i) to share priorities;

(ii) to work collaboratively and concurrently to advance reviews and permitting decisions; and

(iii) to facilitate the resolution of disputes at all levels of Executive agency organization;

(6) each of the actions described in paragraph (5) should be incorporated into routine Executive agency practice to provide demonstrable improvements in the performance of Federal infrastructure permitting and review processes, including lower costs, more timely decisions, and a healthier and cleaner environment; and

(7) it is imperative to institutionalize best practices—

(A) to enhance Federal, State, local, and tribal government coordination on permitting and review processes (such as conducting reviews concurrently rather than sequentially to the maximum extent practicable);

(B) to avoid duplicative reviews;

(C) to engage stakeholders early in the permitting process; and

(D) to develop mechanisms to better communicate priorities and resolve disputes among Executive agencies at the national and regional levels.

(b) DEFINITIONS.—In this section:

(1) COVERED REGULATIONS.—The term ''covered regulations'' means regulations issued to carry out permitting processes for—

(A) any energy or natural resource development project on Federal land that requires the approval of the Federal Government; or

(B) any interstate energy transmission or transportation infrastructure project through electrical lines or pipelines that requires the approval of the Federal Government.

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given the term in section 105 of title 5, United States Code.

(3) PROJECT.—The term ''project'' means—

(A) any energy or mineral development project on Federal land that requires the approval of the Federal Government; or

(B) any interstate energy transmission or transportation infrastructure project through electrical lines or pipelines that requires the approval of the Federal Government.

(c) COVERED REGULATIONS.—Not later than 1 year after the date of enactment of this Act, each Executive agency shall amend the covered regulations of the Executive agency—

(1) to reduce, to the maximum extent practicable, the time required to make permitting and review decisions on projects and to execute Federal permitting and review processes with maximum efficiency and effectiveness, while ensuring the health, safety, and security of communities, the environment, and vital economic growth; and

(2) to incorporate specific and measurable actions to carry out paragraph (1), including actions such as—

(A) performance metrics, including timelines or schedules for review;

(B) technological improvements, such as institutionalized use of Dashboard and other information technology systems; and

(C) improved preapplication procedures;

(D) early collaboration with other Executive agencies, project sponsors, and affected stakeholders; and

(E) coordination with State, local, and tribal governments.

SEC. 2. ADOPTION OF EXISTING ENVIRONMENTAL DOCUMENTS.

(a) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''agency'' has the meaning given the term in section 551 of title 5, United States Code.

(2) CIRCULATE.—The term ''circulate'' means to distribute an environmental impact statement to another agency for the consideration of that agency.

(3) COOPERATING AGENCY.—The term ''cooperating agency'' means any agency, other than a lead agency, that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment.

(4) ENVIRONMENTAL ASSESSMENT.—The term ''environmental assessment'' has the meaning given the term in section 1508.9 of title 40, Code of Federal Regulations (or a successor regulation).

(5) ENVIRONMENTAL DOCUMENT.—The term ''environmental document'' means an environmental impact statement or an environmental assessment.

(6) ENVIRONMENTAL IMPACT STATEMENT.—The term ''environmental impact statement'' has the meaning given the term in section 1508.11 of title 40, Code of Federal Regulations (or a successor regulation).

(7) FINDING OF NO SIGNIFICANT IMPACT.—The term ''finding of no significant impact'' has the meaning given the term in section 1508.13 of title 40, Code of Federal Regulations (or a successor regulation).

(8) HUMAN ENVIRONMENT.—The term ''human environment'' has the meaning given the term in section 1508.14 of title 40, Code of Federal Regulations (or a successor regulation).

(9) LEAD AGENCY.—The term ''lead agency'' has the meaning given the term in section 1508.16 of title 40, Code of Federal Regulations (or a successor regulation).

(10) MAJOR FEDERAL ACTION.—The term ''major Federal action'' has the meaning given the term in section 1508.18 of title 40, Code of Federal Regulations (or a successor regulation).

(11) NOTICE OF INTENT.—The term ''notice of intent'' has the meaning given the term in section 1508.22 of title 40, Code of Federal Regulations (or a successor regulation).

(b) ADOPTION OF EXISTING ENVIRONMENTAL ASSESSMENTS.—If an agency determines that an environmental assessment should be prepared for a proposed action relating to oil and gas development on Federal public land or water, the agency shall adopt, in whole or in part, an existing Federal draft or final environmental assessment if—

(1) the existing assessment meets the standards for an adequate assessment under the regulations promulgated by the agency and the Council on Environmental Quality;

(2) the action covered by the existing assessment and the proposed action are substantially the same; and

(3) there are no significant new circumstances or information relating to the quality of the human environment affected by the proposed action.

(c) PUBLICATION OF FINDINGS OF NO SIGNIFICANT IMPACT AND NOTICES OF INTENT.—

(1) FINDING OF NO SIGNIFICANT IMPACT.—If a proposed action is determined not to be a major Federal action that significantly affects the quality of the human environment under the National Environmental Policy

Act (42 U.S.C. 4321 et seq.), an agency adopting an existing environmental assessment under subsection (b) shall publish for public review a finding of no significant impact in accordance with the regulations of the agency.

(2) NOTICE OF INTENT.—If a proposed action is determined to be a major Federal action that significantly affects the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), an agency adopting an existing environmental assessment under subsection (b) shall publish for public review a notice of intent in accordance with the regulations of the agency.

(d) ADOPTION OF EXISTING ENVIRONMENTAL IMPACT STATEMENTS.—If a proposed action of an agency relating to oil and gas development on Federal public land or water is determined to be a major Federal action that significantly affects the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the agency shall adopt, in whole or in part, an existing Federal draft or final environmental impact statement if—

(1) the existing statement meets the standards for an adequate statement under the regulations promulgated by the Council on Environmental Quality;

(2) the action covered by the existing statement and the proposed action are substantially the same; and

(3) there are no significant new circumstances or information relating to the quality of the human environment affected by the proposed action.

(e) RECIRCULATION OF ENVIRONMENTAL IMPACT STATEMENTS.—

(1) DRAFT STATEMENT.—Subject to paragraphs (2) and (3), an agency adopting an environmental impact statement of another agency shall recirculate the statement as a draft statement.

(2) FINAL STATEMENT.—An agency adopting the final environmental impact statement of another agency shall recirculate the statement as a final statement.

(3) COOPERATING AGENCY.—A cooperating agency adopting the environmental impact statement of a lead agency shall not recirculate the statement if the cooperating agency determines, after an independent review of the statement, that the comments and suggestions of the cooperating agency have been satisfied.

(f) FINALITY OF ADOPTED DOCUMENT.—An agency may not adopt as final an environmental document prepared by another agency if, at the time of the proposed adoption—

(1) the existing document was not final within the agency that prepared the environmental document;

(2) the adequacy of the existing document is the subject of a pending judicial action; or

(3) in the case of an environmental impact statement, the action the existing statement assesses is the subject of a referral under part 1504 of title 40, Code of Federal Regulations (commonly known as ''Predecision referrals to the Council of proposed Federal actions determined to be environmentally unsatisfactory'') (or a successor regulation).

(g) JUDICIAL REVIEW.—The decision of an agency to adopt, in whole or in part, an existing environmental assessment or environmental impact statement shall not be subject to judicial review.

(h) REGULATIONS.—Notwithstanding any other provision of this section, an agency shall not adopt, in whole or in part, an existing environmental impact statement when issuing a proposed or final rule.

SEC. 3. STATE COOPERATION.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of the Interior or the Secretary of Agriculture, as applicable, shall—

(1) survey the use by the Secretary of categorical exclusions in the issuance of permits since fiscal year 2005;

(2) publish a review of the survey that includes a description of—

(A) the types of actions categorically excluded; and

(B) any requests previously received by the Secretary for new categorical exclusions; and

(3) solicit requests from State natural resources permitting agencies or other State, local, and tribal government agencies for new categorical exclusions.

(b) NEW CATEGORICAL EXCLUSIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall publish a notice of proposed rulemaking that proposes new categorical exclusions, taking into account the survey under subsection (a), subject to the condition that the new categorical exclusions meet the criteria for a categorical exclusion under section 1508.4 of title 40 Code of Federal Regulations (as in effect on the date of on which the notice of proposed rulemaking is issued).

(c) CATEGORICAL EXCLUSIONS PROVIDED BY LAW.—Not later than 120 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall each issue final rules implementing section 390 of the Energy Policy Act of 2005 (42 U.S.C. 15942).

(d) PROGRAMMATIC AGREEMENTS.—

(1) IN GENERAL.—The Secretary of the Interior and the Secretary of Agriculture shall seek opportunities to enter into programmatic agreements with States that establish efficient administrative procedures for carrying out environmental and other required project reviews.

(2) INCLUSIONS.—

(A) IN GENERAL.—Programmatic agreements authorized under paragraph (1) may include agreements that allow a State to determine on behalf of the relevant Department whether a project is categorically excluded from the preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) DETERMINATIONS.—A programmatic agreement described in subparagraph (A) may include determinations by the Secretary of the types of projects categorically excluded (consistent with section 1508.4 of title 40, Code of Federal Regulations or successor regulations) in the State in addition to the types of projects described in section 390 of the Energy Policy Act of 2005 (42 U.S.C. 14942).

SEC. 4. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.

(a) DEFINITIONS.—In this section:

(1) AGENCY.—The term ''agency'' means any agency, department, or other unit of Federal, State, local, or Indian tribal government.

(2) CHAIRMAN.—The term ''Chairman'' means the chairman of the Federal Energy Regulatory Commission.

(3) ENVIRONMENTAL IMPACT STATEMENT.—The term ''environmental impact statement'' means the detailed statement of environmental impacts required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) ENVIRONMENTAL REVIEW PROCESS.—

(A) IN GENERAL.—The term ''environmental review process'' means the process of preparing an environmental impact statement, environmental assessment, categorical exclusion, or other document for a project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) INCLUSIONS.—The term ''environmental review process'' includes the process and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(5) LEAD AGENCY.—The term ''lead agency'' means—

(A) in the case of energy or mineral development on Federal land, the Department of the Interior;

(B) in the case of interstate energy transmission or transportation through electrical lines or pipelines, the Federal Energy Regulatory Commission; and

(C) any State or local governmental entity serving as a joint lead agency pursuant to this section.

(6) PROJECT.—The term ''project'' means—

(A) any energy or mineral development project on Federal land that requires the approval of the Federal Government; or

(B) any interstate energy transmission or transportation infrastructure project through electrical lines or pipelines that requires the approval of the Federal Government.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(b) APPLICABILITY.—

(1) IN GENERAL.—The project development procedures under this section—

(A) shall apply to all projects for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) may be applied, as determined by the Secretary or Chairman, to projects for which an environmental document is prepared pursuant to that Act.

(2) FLEXIBILITY.—Any authority granted to the Secretary or Chairman under this section may be exercised for a project, class of projects, or program of projects.

(c) LEAD AGENCIES.—

(1) FEDERAL LEAD AGENCY.—The Department of the Interior or the Federal Energy Regulatory Commission, as applicable, shall be the Federal lead agency in the environmental review process for a project.

(2) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from acting as a joint lead agency in accordance with regulations issued under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) ENSURING COMPLIANCE.—The Secretary or Chairman, as applicable, shall ensure that the project complies with all design and mitigation commitments made in any environmental document prepared in accordance with this section and that the environmental document is appropriately supplemented if project modifications become necessary.

(4) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this section may be adopted or used by any Federal agency making any approval to the same extent that the Federal agency could adopt or use a document prepared by another Federal agency.

(5) ROLE AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project, the lead agency shall have the authority and responsibility—

(A) to carry out any actions that are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project; and

(B) to prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in

accordance with this section and applicable Federal law.

(d) PARTICIPATING AGENCIES.—

(1) IN GENERAL.—The lead agency shall be responsible for inviting and designating participating agencies in accordance with this subsection.

(2) INVITATION.—

(A) IN GENERAL.—The lead agency shall identify, as early as practicable in the environmental review process for a project, any other Federal and non-Federal agencies that may have an interest in the project, and shall invite those agencies to become participating agencies in the environmental review process for the project.

(B) DEADLINE.—The invitation shall state a deadline by which responses shall be submitted to the lead agency, which may be extended by the lead agency for good cause.

(3) FEDERAL PARTICIPATING AGENCIES.—Any Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a participating agency by the lead agency unless the invited agency informs the lead agency, in writing, by the deadline specified in the invitation that the invited agency—

(A) has no jurisdiction or authority with respect to the project;

(B) has no expertise or information relevant to the project; and

(C) does not intend to submit comments on the project.

(4) EFFECT OF DESIGNATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—

(A) supports a proposed project;

(B) has any jurisdiction over the project; or

(C) has special expertise with respect to the evaluation of the project.

(5) COOPERATING AGENCY.—A participating agency may also be designated by a lead agency as a cooperating agency under part 1500 of title 40, Code of Federal Regulations (or successor regulations).

(6) DESIGNATIONS FOR CATEGORIES OF PROJECTS.—The Secretary or Chairman, as applicable, may exercise the authorities granted under this subsection for a project, class of projects, or program of projects.

(7) CONCURRENT REVIEWS.—Each Federal agency shall, to the maximum extent practicable—

(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and

(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

(e) PROJECT INITIATION.—The project sponsor shall notify the Secretary or Chairman, as applicable, of the type and general location of the proposed project, together with a statement of any Federal approvals anticipated to be necessary for the proposed project, for the purpose of informing the Secretary or Chairman that the environmental review process should be initiated.

(f) PUBLIC PARTICIPATION.—

(1) IN GENERAL.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for participating agencies and the public to participate in defining the purpose and need for a project.

(2) SCOPE AND OBJECTIVES.—

(A) IN GENERAL.—After providing an opportunity for participation under paragraph (1), the lead agency shall prepare a statement of purpose and need for any document that the lead agency is responsible for preparing for the project.

(B) OBJECTIVES.—The statement of purpose and need shall include a clear statement of the objectives that the proposed action is intended to achieve, which may include—

(i) increasing energy and mineral security; and

(ii) reducing energy, mineral, and natural resource costs to consumers.

(3) ALTERNATIVE ANALYSIS.—

(A) IN GENERAL.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for participating agencies and the public to participate in determining the range of alternatives to be considered for a project.

(B) RANGE OF ALTERNATIVES.—After providing an opportunity for participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document that the lead agency is responsible for preparing for the project.

(C) METHODOLOGIES.—The lead agency, in collaboration with the participating agencies, shall determine, at appropriate times during the study process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.

(D) PREFERRED ALTERNATIVE.—At the discretion of the lead agency, the lead agency may—

(i) identify a preferred alternative for a project; and

(ii) develop a more detailed analysis for that alternative than other alternatives to facilitate the development of mitigation measures or concurrent compliance with other applicable laws, subject to the condition that the lead agency determines that the development of the more detailed analysis will not prevent the lead agency from making an impartial decision as to whether to accept another alternative under consideration.

(g) COORDINATION AND SCHEDULING.—

(1) COORDINATION PLAN.—

(A) IN GENERAL.—The lead agency shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a project or category of projects, which may be incorporated in a memorandum of understanding.

(B) SCHEDULE.—

(i) IN GENERAL.—The lead agency may establish as part of the coordination plan, after consultation with each participating agency for the project and with each State in which the project is located, a schedule for completion of the environmental review process for the project.

(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—

(I) the responsibilities of participating agencies under applicable laws;

(II) the resources available to the participating agencies;

(III) the overall size and complexity of the project;

(IV) the overall schedule for and cost of the project; and

(V) the sensitivity of the natural and historic resources that could be affected by the project.

(C) ADMINISTRATION.—A schedule under subparagraph (B) shall be consistent with any other relevant schedule required under Federal law.

(D) MODIFICATIONS.—The lead agency may—

(i) extend a schedule established under subparagraph (B) for good cause; and

(ii) reduce a schedule established under subparagraph (B) only with the concurrence of the affected participating agencies.

(E) DISSEMINATION.—A copy of a schedule under subparagraph (B), including any modifications to the schedule, shall be—

(i) provided to all participating agencies and to the relevant agencies of each State in which the project is located; and

(ii) made available to the public.

(2) COMMENT DEADLINES.—The lead agency shall establish comment deadlines for agencies and the public such that—

(A) the comment period on draft environmental impact statements shall last for a period of not more than 60 days after the date on which the notice of the date of public availability of the document is published in the Federal Register, unless—

(i) a different deadline is established by agreement of the lead agency and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause;

(B) the comment period on the environmental review process shall last for a period of not more than 30 days after the date on which the materials on which comment is requested are available, unless—

(i) a different deadline is established by agreement of the lead agency and all participating agencies; or

(ii) the deadline is extended by the lead agency for good cause.

(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by a date that is not later than the date that is 180 days after the date on which the Secretary or Chairman, as applicable, has made all final decisions of the lead agency with respect to the project, or not later than 180 days after the date on which an application was submitted for the permit or license, the Secretary or Chairman, as applicable, shall submit to the Committees on Environment and Public Works and Energy and Natural Resources of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives—

(A) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

(4) PUBLIC PARTICIPATION.—Nothing in this subsection reduces any time period under existing Federal law, including regulations, for which public comment is provided in the environmental review process.

(h) ISSUE IDENTIFICATION AND RESOLUTION.—

(1) IN GENERAL.—The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or result in denial of any approvals required for the project under applicable laws.

(2) LEAD AGENCY RESPONSIBILITIES.—

(A) IN GENERAL.—The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration.

(B) BASIS OF INFORMATION.—The information described in subparagraph (A) may be based on existing data sources, including geographical information systems mapping.

(3) PARTICIPATING AGENCY RESPONSIBILITIES.—

(A) IN GENERAL.—Based on any information received from the lead agency under paragraph (2), each participating agency shall identify, as early as practicable, any issues of concern regarding the potential environmental or socioeconomic impacts of the project.

(B) INCLUSIONS.—For purposes of this paragraph, issues of concern include any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project.

(4) ISSUE RESOLUTION.—

(A) IN GENERAL.—At any time, at the request of the Governor of a State in which the project is located, the lead agency shall promptly convene a meeting with the relevant participating agencies and the Governor to resolve issues that could delay completion of the environmental review process or result in denial of any approvals required for the project under applicable laws.

(B) NOTICE THAT RESOLUTION CANNOT BE ACHIEVED.—If a resolution cannot be achieved by a date that is not later than 30 days after the date on which the meeting under subparagraph (A) occurs and the lead agency determines that all information necessary to resolve the issue has been obtained, the lead agency shall—

(i) notify the heads of all participating agencies, the Governor, the Committee on Energy and Natural Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Council on Environmental Quality; and

(ii) publish the notification in the Federal Register.

(i) PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on any progress made toward improving and expediting the planning and environmental review process.

(j) JUDICIAL REVIEW.—

(1) IN GENERAL.—Except as provided in subsection (k), nothing in this section affects the reviewability of any final Federal agency action in a court of the United States or in the court of any State.

(2) NO EFFECT ON OTHER LAW.—Nothing in this section—

(A) supersedes, amends, or modifies the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute;

(B) affects the responsibility of any Federal officer to comply with or enforce any such statute; or

(C) preempts or interferes with—

(i) any practice of seeking, considering, or responding to public comment;

(ii) any power, jurisdiction, responsibility, or authority that a Federal, State, local government agency, or Indian tribe has with respect to carrying out a project; or

(iii) any other provision of law applicable to a project.

(k) LIMITATIONS ON CLAIMS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a project shall be barred unless the claim is filed by not later than 180 days after the date of publication of a notice in the Federal Register announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed.

(2) NO RIGHT TO REVIEW OR LIMIT ON CLAIM.—Nothing in this subsection—

(A) establishes any right to judicial review; or

(B) places any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

(3) NEW INFORMATION.—

(A) IN GENERAL.—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under section 1502.9(c) of title 40, Code of Federal Regulations (or a successor regulation).

(B) PREPARATION OF NEW STATEMENT.—With respect to the preparation of a supplemental environmental impact statement, when required—

(i) the preparation of such a statement shall be considered to be a separate final agency action; and

(ii) the deadline for filing a claim for judicial review of that action shall be 180 days after the date of publication of a notice in the Federal Register announcing the action.

(l) ACCELERATED DECISIONMAKING IN ENVIRONMENTAL REVIEWS.—

(1) IN GENERAL.—When preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency makes changes in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant further agency response, the lead agency may write on errata sheets attached to the statement instead of rewriting the draft statement, on the condition that the errata sheets—

(A) cite the sources, authorities, or reasons that support the position of the agency; and

(B) if appropriate, indicate the circumstances that would trigger agency reappraisal or further response.

(2) INCORPORATION.—To the maximum extent practicable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision unless—

(A) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety concerns; or

(B) there are significant new circumstances or information relevant to environmental concerns and that bear on the proposed action or the impacts of the proposed action.

SA 1986. Ms. MURKOWSKI (for herself and Mr. HOEVEN) submitted an amendment intended to be proposed by her to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. EXPEDITED FEDERAL PERMITTING AND REVIEW DECISIONS FOR ENERGY, NATURAL RESOURCE, AND INFRASTRUCTURE PROJECTS.

(a) FINDINGS.—Congress finds that—

(1) it is imperative to significantly reduce the aggregate time required to make decisions by the Federal Government on the permitting and review of energy, natural resource, and energy infrastructure projects, while improving environmental and community outcomes;

(2) investing in the energy infrastructure of the United States provides immediate and long-term economic benefits for local communities and the United States as a whole;

(3) Federal permitting and review processes, including planning, approval, and consultation processes, have a substantive impact on the economy of the United States;

(4) it is critical that Executive agencies take all steps, within the authority and resources of the Executive agencies, to execute Federal permitting and review processes with maximum efficiency and effectiveness, while ensuring the health, safety, and security of communities, the environment, and vital economic growth;

(5) Federal permitting and review processes should—

(A) provide a transparent, consistent, and predictable path for project sponsors and affected communities;

(B) ensure that Executive agencies—

(i) establish and adhere to timelines and schedules for completion of reviews;

(ii) establish clear permitting performance goals; and

(iii) track progress against those goals;

(C) encourage early collaboration among Executive agencies, State, local, and tribal governments, project sponsors, and affected stakeholders to incorporate and address affected interests and minimize delays;

(D) provide for transparency and accountability by using cost-effective information technology to collect and disseminate information concerning individual projects and Executive agency performance;

(E) rely on early and active consultation with State, local, and tribal governments to avoid conflicts or duplication of effort, resolve concerns, and allow for concurrent rather than sequential reviews;

(F) recognize the critical role project sponsors play in ensuring the timely and cost-effective review of projects by providing complete information and analysis and by supporting, as appropriate, the costs associated with review; and

(G) enable Executive agencies—

(i) to share priorities;

(ii) to work collaboratively and concurrently to advance reviews and permitting decisions; and

(iii) to facilitate the resolution of disputes at all levels of Executive agency organization;

(6) each of the actions described in paragraph (5) should be incorporated into routine Executive agency practice to provide demonstrable improvements in the performance of Federal infrastructure permitting and review processes, including lower costs, more timely decisions, and a healthier and cleaner environment; and

(7) it is imperative to institutionalize best practices—

(A) to enhance Federal, State, local, and tribal government coordination on permitting and review processes (such as conducting reviews concurrently rather than sequentially to the maximum extent practicable);

(B) to avoid duplicative reviews;

(C) to engage stakeholders early in the permitting process; and

(D) to develop mechanisms to better communicate priorities and resolve disputes among Executive agencies at the national and regional levels.

(b) DEFINITIONS.—In this section:

(1) COVERED REGULATIONS.—The term ''covered regulations'' means regulations issued to carry out permitting processes for—

(A) any energy or natural resource development project on Federal land that requires the approval of the Federal Government; or

(B) any interstate energy transmission or transportation infrastructure project through electrical lines or pipelines that requires the approval of the Federal Government.

(2) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given the term in section 105 of title 5, United States Code.

(3) PROJECT.—The term ''project'' means—

(A) any energy or mineral development project on Federal land that requires the approval of the Federal Government; or

(B) any interstate energy transmission or transportation infrastructure project through electrical lines or pipelines that requires the approval of the Federal Government.

(c) COVERED REGULATIONS.—Not later than 1 year after the date of enactment of this Act, each Executive agency shall amend the covered regulations of the Executive agency—

(1) to reduce, to the maximum extent practicable, the time required to make permitting and review decisions on projects and to execute Federal permitting and review processes with maximum efficiency and effectiveness, while ensuring the health, safety, and security of communities, the environment, and vital economic growth; and

(2) to incorporate specific and measurable actions to carry out paragraph (1), including actions such as—

(A) performance metrics, including timelines or schedules for review;

(B) technological improvements, such as institutionalized use of Dashboard and other information technology systems; and

(C) improved preapplication procedures;

(D) early collaboration with other Executive agencies, project sponsors, and affected stakeholders; and

(E) coordination with State, local, and tribal governments.

SA 1987. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 9, strike lines 9 through 12, and insert the following:

(b) WIND FACILITIES.—

(1) IN GENERAL.—Paragraph (1) of section 45(d) of the Internal Revenue Code of 1986 is amended by striking ''January 1, 2013'' and inserting ''January 1, 2015''.

(2) REDUCED CREDIT RATE FOR WIND FACILITIES FOR 2013 AND 2014 AND TERMINATION AFTER 2014.—Subparagraph (A) of section 45(b)(4) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''In the case of'' and inserting:

''(i) IN GENERAL.—In the case of'', and

(B) by adding at the end the following new clause:

''(ii) WIND FACILITIES.—In the case of electricity produced and sold in any calendar year after 2012 at any qualified facility described in subsection (d)(1), the amount in effect under subsection (a)(1) for such calendar year (determined before the application of the last sentence of paragraph (2) of this subsection) shall be—

''(I) reduced by one-third in calendar year 2013,

''(II) reduced by two-thirds in calendar year 2014, and

''(III) zero after calendar year 2014.''.

(3) NO EXTENSION OF GRANTS FOR SPECIFIED ENERGY PROPERTY IN LIEU OF TAX CREDITS.—The amendments made by subsection (d) of this section and section 116 of this Act are hereby deemed null, void, and of no effect.

SA 1988. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

Strike section 115 and insert the following:

SEC. 115. EXTENSION AND MODIFICATION OF ALTERNATIVE FUELS EXCISE TAX CREDITS.

(a) EXTENSION.—

(1) EXCISE TAX CREDITS.—Sections 6426(d)(5) and 6426(e)(3) of the Internal Revenue Code of 1986 are each amended by striking ''December 31, 2011 (September 30, 2014, in the case of any sale or use involving liquified hydrogen)'' and inserting ''December 31, 2015''.

(2) PAYMENTS.—Section 6427(e)(6) of such Code is amended by inserting ''and'' at the end of subparagraph (B) and by striking subparagraphs (C) and (D) and inserting the following:

''(C) any alternative fuel or alternative fuel mixture (as defined in subsection (d)(2) or (e)(3) of section 6426) sold or used after December 31, 2015.''.

(b) APPLICATION OF CREDIT TO USE IN TRAINS.—Paragraph (1) of section 6426(d) of such Code is amended by striking ''in a motor vehicle or motorboat'' and inserting ''in a motor vehicle, motorboat, or vehicle on rail''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2011.

SA 1989. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CLEAN VEHICLE CORRIDORS PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) Traditional transportation refueling networks are well-established, but market uncertainties continue to hamper the full use of cleaner-burning domestic energy resources.

(2) Despite considerable investor interest, higher capital costs and an uncertain consumer base has limited expansion of cleaner-burning alternative refueling options and its customer base.

(3) Reduced emissions and energy independence are important factors at a national level, but they are not a sufficient inducement to create large-scale changes.

(4) While American-made fuels provide many energy security and environmental benefits, a significant portion of imported oil continues to be consumed as diesel fuel in on-road motor vehicles.

(5) Motor vehicles fueled by domestically-generated, cleaner-burning transportation fuels, such as compressed natural gas, liquified natural gas, propane, electricity, and biofuels, can pay for themselves over time, but sales of such vehicles, other than return-to-base vehicles, have been hampered because of insufficient refueling infrastructure.

(6) Simultaneous facilitation of infrastructure development and a robust customer base is needed to avoid penalizing current users or early adopters.

(7) Facilitating focused infrastructure development along designated routes will foster an expansion of alternative fuel vehicles and increase the likelihood for commercial success.

(8) Eliminating the logistical barriers that are delaying infrastructure development along clean vehicle corridors will—

(A) provide alternative refueling stations with a larger customer base;

(B) attract more buyers to the purchase of clean vehicles; and

(C) provide new market outlets for clean fuel providers.

(b) PURPOSES.—The purposes of this section are—

(1) to provide market certainty to drive private and commercial capital investment in clean transportation options;

(2) to promote clean transportation technologies that will—

(A) lead to increased diversity and dissemination of alternative fuel options; and

(B) enable the United States to bridge the gap from foreign energy imports to secure, domestically produced energy; and

(3) to facilitate clean transportation incentives that will—

(A) attract a critical mass of clean transportation vehicles that will give alternative fueling stations an assured customer base and market certitude;

(B) provide for ongoing increases in energy demands;

(C) support the growth of jobs and businesses in the United States; and

(D) reduce petroleum use and emissions by vehicles.

(c) CLEAN VEHICLE CORRIDORS PROGRAM.—

(1) CORRIDOR DESIGNATIONS.—

(A) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy (referred to in this section as the ''Secretary'') shall designate 10 ''Clean Vehicle Corridors'' along Federal highways or other contiguous highways.

(B) CONSULTATION.—In making designations under paragraph (1), the Secretary shall—

(i) consult with the Secretary of Transportation; and

(ii) gather information from Federal, State, and local governments, nongovernmental organizations, and individuals to help determine which highways should be included in the corridors designated under subparagraph (A).

(2) INFRASTRUCTURE DEVELOPMENT.—

(A) CLEANER-BURNING FUELS.—

(i) IN GENERAL.—The Secretary shall encourage the addition of alternative fueling options and other supporting infrastructure along Clean Vehicle Corridors. These refueling stations should provide 2 or more cleaner-burning fuels and allow any motor vehicle that operates on such fuels to refuel at distances comfortably within 1 tank range without the need for prior arrangement. Existing and private facilities should be encouraged to be included in the Clean Vehicle Corridors network.

(B) DEFINITIONS.—In this paragraph:

(i) CLEANER-BURNING FUELS.—The term ''cleaner-burning fuels'' includes—

(I) rapid-fueling compressed natural gas;

(II) liquefied natural gas;

(III) liquefied petroleum gas (also known as propane);

(IV) plug-in electric;

(V) biofuel;

(VI) hydrogen; and

(VII) other clean fuels designated by the Secretary.

(ii) SUPPORTING INFRASTRUCTURE.—The term ''supporting infrastructure'' includes fueling stations, rest stops, travel plazas, and other service areas on Federal or private property that are found to be most practically located along a Clean Vehicle Corridor.

(3) INFORMATION AND RESOURCES ON CLEAN VEHICLE CORRIDORS.—

(A) WEBSITE.—The Secretary shall maintain a website containing information and resources for Clean Vehicle Corridors.

(B) INTERSTATE COMPACTS.—

(i) ESTABLISHMENT.—Two or more contiguous States may enter into an interstate compact to establish clean vehicle corridor partnerships to facilitate planning for and siting of necessary facilities within those States.

(ii) TECHNICAL ASSISTANCE.—The Secretary, in consultation with the Secretary of Energy, may provide technical assistance to interstate compact partnerships established pursuant to clause (i).

SA 1990. Mr. CASEY submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NATURAL GAS ENERGY AND ALTERNATIVES REBATE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ALTERNATIVE FUEL.—The term ''alternative fuel'' means natural gas, liquid petroleum gas, hydrogen, electric, or fuel cell.

(2) ALTERNATIVELY FUELED BUS.—The term ''alternatively fueled bus'' means—

(A) a school bus (as defined in section 390.5 of title 49, Code of Federal Regulations) that operates on alternative fuel;

(B) a multifunction school activity bus (as defined in section 571.3 of title 49, Code of Federal Regulations) that operates on alternative fuel; or

(C) a motor vehicle that—

(i) provides public transportation (as defined in section 5302(a)(10) of title 49, United States Code); and

(ii) operates on alternative fuel.

(3) ELIGIBLE ENTITY.—The term eligible entity means—

(A) a public or private entity providing transportation exclusively for school students, personnel, and equipment; or

(B) a public entity providing mass transit services to the public.

(b) REBATE PROGRAM.—

(1) IN GENERAL.—The Secretary of Transportation shall establish the Natural Gas Energy and Alternatives Rebates Program (referred to in this section as the ''NGEAR Program'') to subsidize the purchase of alternatively fueled buses by eligible entities.

(2) AMOUNTS.—An eligible entity that purchases an alternatively fueled bus during the period beginning on the date of the enactment of this Act and ending on December 31, 2016, is eligible to receive a rebate from the Department of Transportation under this subsection in an amount equal to the lesser of—

(A) 30 percent of the purchase price of the alternatively fueled bus; or

(B) $15,000.

(3) APPLICATION.—Eligible entities desiring a rebate under the NGEAR Program shall submit an application to the Secretary of Transportation that contains copies of relevant sales invoices and any additional information that the Secretary of Transportation may require.

SA 1991. Mr. BENNET submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 22, between lines 3 and 4, insert the following:

TITLE III—MISCELLANEOUS

SEC. 301. CLEAN ENERGY GRANT PROGRAM.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE ENTITY.—The term ''eligible entity'' means an entity described in subsection (c).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(b) ESTABLISHMENT.—There is established in the Department of Energy a program to provide grants to eligible entities, on a competitive basis, to develop and carry out clean energy and carbon reduction measures, such as—

(1) renewable electricity standards;

(2) regional or statewide climate action plans;

(3) the use of hybrid, electric, compressed natural gas, or fuel cell vehicles in State or local fleets;

(4) measures to increase the percentage of public buildings of the eligible entity that are certified with respect to standards for energy efficiency;

(5) participation in a regional greenhouse gas reduction program;

(6) facilitation of on-bill financing for energy efficiency improvements for residences and business served by rural coops;

(7) provision of State tax incentives for the manufacture or installation of clean energy components or energy efficiency upgrades;

(8) provision of innovative financing mechanisms to private sector entities to encourage the deployment of clean energy technologies;

(9) implementation of best management practices for the public utility commission of an eligible entity;

(10) improvement and updating of grid technology; and

(11) implementation of carbon efficiency standards.

(c) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, a State or unit of local government, or a regional consortium comprised of States or units of local governments, in partnership with private sector and nongovernmental organization partners, shall—

(1) meet any requirements established by the Secretary under subsection (f); and

(2) submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

(d) AWARD.—The Secretary shall determine which eligible entities shall receive grants and the amount of the grants provided based on—

(1) the information provided in an application submitted under subsection (c)(2); and

(2) any criteria for reviewing and ranking applications developed by the Secretary by regulation under subsection (f).

(e) USE OF FUNDS.—Grant funds provided under this section shall only be used for eligible uses specified by the Secretary by regulation under subsection (f).

(f) REGULATIONS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall issue regulations that establish criteria for grants under this section, including specifying the types of measures that are eligible for grants, establishing application criteria, and developing a point system to assist the Secretary in reviewing and ranking grant applications.

(2) CONSIDERATIONS.—In developing the regulations under paragraph (1), the Secretary shall take into account—

(A) regional disparities in the ways in which energy is produced and used; and

(B) the clean energy resource potential of the measures.

(g) EXPLANATION.—As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register an explanation of the manner by which grants awarded under subsection (d) would ensure an objective evaluation based on the criteria regulations promulgated under subsection (f)(1).

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for fiscal year 2011 to carry out this section $5,000,000,000, to remain available until expended.

SA 1992. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, insert the following:

SEC. _____. SAVINGS OFFSET.

OMB shall reduce the total amount of deficit reduction required by section 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 2013 by an amount equal to the increase in revenues for fiscal year 2013 resulting from the enactment of this Act.

SA 1993. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Regulatory Relief to Reduce Energy Prices Act of 2012''.

SEC. 2. CONGRESSIONAL FINDINGS.

Congress finds that—

(1) Americans are suffering through record levels of job losses, slow economic growth, high gasoline prices, and increasing energy costs, and unemployment in the United States is currently more than 8 percent;

(2) the President wrote in an August 2011 letter to the Speaker of the House of Representatives that ''it is extremely important to minimize regulatory burdens and to avoid unjustified regulatory costs, particularly in this difficult economic period'' and, in that letter, the President identified at least 7 proposed regulations that would each impose billions of dollars in new costs on the private sector and, with respect to at least 1 of those rules, the President ultimately directed the Federal agency to not proceed with promulgation;

(3) the President stated in Executive Order 13563 that our Nation's regulatory system should ''protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation'';

(4) since the issuance of Executive Order 13563, additional significant Federal rules have been issued that increase energy costs and hinder economic growth;

(5) many existing Federal laws do not expressly authorize the President or the Federal agencies to delay or terminate the rulemaking process for new regulations based on adverse economic impacts, unemployment, energy prices and electric reliability, and other related considerations; and

(6) it is necessary for job creation, until the unemployment rate improves, to authorize the President to delay or disapprove any major rule due to concerns related to significant economic impacts.

SEC. 3. PURPOSE.

The purpose of this Act—

(1) is to facilitate economic growth, affordable energy, and job creation by providing

the President with authority to delay or disapprove the adoption, finalization, promulgation, issuance, or implementation of any major rule due to concerns related to significant economic impacts; and

(2) is not to authorize the President to delay or terminate rules that—

(A) facilitate economic recovery or job creation; or

(B) reduce the overall Federal regulatory burden.

SEC. 4. DEFINITIONS.

In this Act—

(1) the term ''major rule'' has the meaning given that term under section 804(2) of title 5, United States Code; and

(2) the term ''significant economic impacts'' includes impacts on energy costs and electric reliability, gasoline prices, employment, gross domestic product, and related considerations.

SEC. 5. APPROVAL OF MAJOR RULES BY THE PRESIDENT.

(a) IN GENERAL.—Notwithstanding any other provision of law, any major rule (as determined by the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget in accordance with chapter 8 of title 5, United States Code) shall not become final and effective until the President issues an executive order of approval under subsection (b).

(b) EXECUTIVE ORDERS.—

(1) IN GENERAL.—After review of any major rule and consideration of significant economic impacts, the President may issue an executive order to—

(A) approve the major rule to become final and effective notwithstanding significant economic impacts;

(B) delay consideration of, or action upon, the major rule due to concerns related to significant economic impacts; or

(C) disapprove and terminate the major rule due to concerns related to significant economic impacts.

(2) CONTENTS.—Any executive order issued under paragraph (1) shall describe the basis for the finding of significant economic impacts and the rationale for the decision to approve, delay, or disapprove and terminate the major rule.

(c) EXEMPTION FOR NATIONAL SECURITY OR NATIONAL EMERGENCY.—A major rule is exempt from this Act if the exemption is necessary in the interest of national security or in response to a national emergency.

SA 1994. Mr. SESSIONS (for himself and Mr. VITTER) submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Truth in Energy Policy Act''.

SEC. 2. TRANSPARENCY IN DOMESTIC OIL AND NATURAL GAS PRODUCTION.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended by adding at the end the following:

''(i) TRANSPARENCY IN DOMESTIC OIL AND NATURAL GAS PRODUCTION.—The Secretary shall establish, and maintain with up-to-date data, a publicly available website listing the following:

''(1) The domestic strategic production goal for the development of oil and natural gas.

''(2) The current demand for oil and natural gas in the United States.

''(3) Oil production from Federal property on an annual basis since 2000.

''(4) Oil production from non-Federal property on an annual basis since 2000.

''(5) The percent reduction or increase, measured on an annual basis, in oil and gas production from Federal property.

''(6) The number of Federal oil and gas leases issued annually since 2000.

''(7) A map showing Federal areas accessible to oil and gas production.

''(8) The total areas comprising the outer Continental Shelf and, of that acreage, the percentage that—

''(A) is actually leased for oil and gas production; and

''(B) would have been leased if the 2010–2015 offshore lease plan was fully implemented as proposed in 2008.

''(9) Total estimated United States oil resources.''.

SA 1995. Mr. SESSIONS (for himself and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 22, between lines 3 and 4, insert the following:

TITLE III—MISCELLANEOUS

SEC. 301. DELAY OF IMPLEMENTATION OF RULE REGARDING STANDARDS OF PERFORMANCE FOR GREENHOUSE GAS EMISSIONS.

Notwithstanding any other provision of law, the Administrator of the Environmental Protection Agency shall not promulgate or implement any final version of the proposed rule entitled ''Standards of Performance for Greenhouse Gas Emissions for New Stationary Sources: Electric Utility Generating Units'' (EPA-HQ-OAR-2011-0660; FRL-RIN 2060 Aq91 (March 27, 2012)) until such time as the standards proposed in that rule are implemented by Russia, China, and India.

SA 1996. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 22, strike lines 4 and 5 and insert the following:

TITLE III—MISCELLANEOUS

SEC. 301. EFFECT OF NEPA ON CERTAIN FEDERAL AGENCIES.

(a) IN GENERAL.—The Comptroller General of the United States shall assess and produce a report on how the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) affects—

(1) the Department of Defense;

(2) the Department of Energy;

(3) the Department of the Interior;

(4) the Department of Transportation;

(5) the Environmental Protection Agency;

(6) the Corps of Engineers; and

(7) the Forest Service.

(b) CONTENTS.—For each Federal agency described in subsection (a), the report shall include an assessment of—

(1) the cost of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) the quantity of man hours spent on complying with that Act;

(3) the quantity of litigation the Federal agency engages in as a result of that Act, including the quantity of time and the cost that litigation adds to a project; and

(4) the economic costs associated with the delay in onshore and offshore oil and gas production as a result of that Act.

TITLE IV—BUDGETARY EFFECTS

SEC. 401. DEFICIT REDUCTION.

SA 1997. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Domestic Energy Advancement and Leasing Act''.

SEC. 2. COMMERCIAL LEASING PROGRAM FOR OIL SHALE RESOURCES ON PUBLIC LAND.

Subsection (e) of the Oil Shale, Tar Sands, and Other Strategic Unconventional Fuels Act of 2005 (42 U.S.C. 15927(e)) is amended—

(1) in the first sentence, by striking ''Not later'' and inserting the following:

''(1) IN GENERAL.—Not later'';

(2) in the second sentence—

(A) by striking ''If the Secretary'' and inserting the following:

''(2) LEASE SALES.—

''(A) IN GENERAL.—If the Secretary''; and

(B) by striking ''may'' and inserting ''shall'';

(3) in the last sentence, by striking ''Evidence of interest'' and inserting the following:

''(B) EVIDENCE OF INTEREST.—Evidence of interest''; and

(4) by adding at the end the following:

''(C) SUBSEQUENT LEASE SALES.—During any period for which the Secretary determines that there is sufficient support and interest in a State in the development of tar sands and oil shale resources, the Secretary shall—

''(i) at least annually, consult with the persons described in paragraph (1) to expedite the commercial leasing program for oil shale resources on public land in the State; and

''(ii) at least once every 270 days, conduct a lease sale in the State under the commercial leasing program regulations.''.

SEC. 3. JURISDICTION OVER COVERED ENERGY PROJECTS.

(a) DEFINITION OF COVERED ENERGY PROJECT.—In this section, the term ''covered energy project'' means any action or decision by a Federal official regarding—

(1) the leasing of Federal land (including submerged land) for the exploration, development, production, processing, or transmission of oil, natural gas, or any other source or form of energy, including actions and decisions regarding the selection or offering of Federal land for such leasing; or

(2) any action under such a lease, except that this section and Act shall not apply to a dispute between the parties to a lease entered into a provision of law authorizing the lease regarding obligations under the lease or the alleged breach of the lease.

(b) EXCLUSIVE JURISDICTION OVER CAUSES AND CLAIMS RELATING TO COVERED ENERGY PROJECTS.—Notwithstanding any other provision of law, the United States District Court for the District of Columbia shall have exclusive jurisdiction to hear all causes and claims under this section or any other Act that arise from any covered energy project.

(c) TIME FOR FILING COMPLAINT.—

(1) IN GENERAL.—Each case or claim described in subsection (b) shall be filed not later than the end of the 60-day period beginning on the date of the action or decision by

a Federal official that constitutes the covered energy project concerned.

(2) PROHIBITION.—Any cause or claim described in subsection (b) that is not filed within the time period described in paragraph (1) shall be barred.

(d) DISTRICT COURT FOR THE DISTRICT OF COLUMBIA DEADLINE.—

(1) IN GENERAL.—Each proceeding that is subject to subsection (b) shall—

(A) be resolved as expeditiously as practicable and in any event not more than 180 days after the cause or claim is filed; and

(B) take precedence over all other pending matters before the district court.

(2) FAILURE TO COMPLY WITH DEADLINE.—If an interlocutory or final judgment, decree, or order has not been issued by the district court by the deadline required under this section, the cause or claim shall be dismissed with prejudice and all rights relating to the cause or claim shall be terminated.

(e) ABILITY TO SEEK APPELLATE REVIEW.—An interlocutory or final judgment, decree, or order of the district court under this section may be reviewed by no other court except the Supreme Court.

(f) DEADLINE FOR APPEAL TO THE SUPREME COURT.—If a writ of certiorari has been granted by the Supreme Court pursuant to subsection (e), the interlocutory or final judgment, decree, or order of the district court shall be resolved as expeditiously as practicable and in any event not more than 180 days after the interlocutory or final judgment, decree, order of the district court is issued.

SEC. 4. ENVIRONMENTAL IMPACT STATEMENTS.

Title I of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.) is amended by adding at the end the following:

''SEC. 106. COMPLETION AND REVIEW OF ENVIRONMENTAL IMPACT STATEMENTS.

''(a) COMPLETION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, each review carried out under section 102(2)(C) with respect to any action taken under any provision of law, or for which funds are made available under any provision of law, shall be completed not later than the date that is 270 days after the commencement of the review.

''(2) FAILURE TO COMPLETE REVIEW.—If a review described in paragraph (1) has not been completed for an action subject to section 102(2)(C) by the date specified in paragraph (1)—

''(A) the action shall be considered to have no significant impact described in section 102(2)(C); and

''(B) that classification shall be considered to be a final agency action.

''(3) UNEMPLOYMENT RATE.—If the national unemployment rate is 5 percent or more, the lead agency conducting a review of an action under this section shall use the most expeditious means authorized under this title to conduct the review.

''(b) LEAD AGENCY.—The lead agency for a review of an action under this section shall be the Federal agency to which funds are made available for the action.

''(c) REVIEW.—

''(1) ADMINISTRATIVE APPEALS.—There shall be a single administrative appeal for each review carried out pursuant to section 102(2)(C).

''(2) JUDICIAL REVIEW.—

''(A) IN GENERAL.—On resolution of the administrative appeal, judicial review of the final agency decision after exhaustion of administrative remedies shall lie with the United States Court of Appeals for the District of Columbia Circuit.

''(B) ADMINISTRATIVE RECORD.—An appeal to the court described in subparagraph (A) shall be based only on the administrative record.

''(C) PENDENCY OF JUDICIAL REVIEW.—After an agency has made a final decision with respect to a review carried out under this subsection, the decision shall be effective during the course of any subsequent appeal to a court described in subparagraph (A).

''(3) CIVIL ACTION.—Each civil action covered by this section shall be considered to arise under the laws of the United States.''.

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on the first day after the date of enactment of this Act on which occurs any sale from the Strategic Petroleum Reserve established under part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 28, 2012, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, ''The Science and Standards of Forensics.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on March 28, 2012, at 10 a.m., to hold a hearing entitled, ''High Stakes and Hard Choices: U.S. Policy on Iran.''

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

COMMITTEE ON THE JUDICIARY

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on March 28, 2012, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Hearing on the Special Counsel's Report on the Prosecution of Senator Ted Stevens.''

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

COMMITTEE ON THE JUDICIARY

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on March 28, 2012, at 3 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Nominations.''

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on March 28, 2012, in room 418 of the Senate Russell Office Building, beginning at 9:45 a.m.

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

SUBCOMMITTEE ON ECONOMIC POLICY

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs' Subcommittee on Economic Policy be authorized to meet during the session of the Senate on March 28, 2012, at 2:30 p.m., to conduct a hearing entitled ''Retirement (In) Security: Examining the Retirement Savings Deficit.''

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, FEDERAL SERVICES, AND INTERNATIONAL SECURITY

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Managment, Government Information, Federal Services, and International Security be authorized to meet during the session of the Senate on March 28, 2012, at 2:30 p.m., to conduct a hearing entitled, ''Assessing Efforts to Combat Waste and Fraud in Federal Programs.''

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

SUBCOMMITTEE ON PERSONNEL

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Subcommittee on Personnel of the Committee on Armed Services be authorized to meet during the session of the Senate on March 28, 2012, at 2 p.m.

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

SUBCOMMITTEE ON SEAPOWER

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet during the session of the Senate on March 28, 2012, at 9:30 a.m.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on March 28, 2012, at 2:30 p.m.

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

PRIVILEGES OF THE FLOOR

Mr. REED. Mr. President, I ask unanimous consent that Melissa Laine and Michael Johnson, fellows in my office, be granted the privilege of the floor for the remainder of the 112th Congress.

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

NOTICE: REGISTRATION OF MASS MAILINGS

The filing date for the 2012 first quarter Mass Mailing report is Wednesday, April 25, 2012. If your office did no mass mailings during this period, please submit a form that states ''none.''

Mass mailing registrations, or negative reports, should be submitted to the Senate Office of Public Records, 232 Hart Building, Washington, D.C. 20510–7116.

The Senate Office of Public Records will be open from 9 a.m. to 6 p.m. on the filing date to accept these filings. For further information, please contact the Senate Office of Public Records at (202) 224–0322.

TAKE OUR DAUGHTERS AND SONS TO WORK DAY

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 408, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 408) supporting the goals and ideals of Take Our Daughters and Sons To Work Day.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. 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. 408) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 408

Whereas the Take Our Daughters To Work Day program was created in New York City as a response to research that showed that, by the 8th grade, many girls were dropping out of school, had low self-esteem, and lacked confidence;

Whereas, in 2003, the name of the program was changed to ''Take Our Daughters and Sons To Work Day'' so that boys who face many of the same challenges as girls could also be involved in the program;

Whereas the mission of the program, to develop ''innovative strategies that empower girls and boys to overcome societal barriers to reach their full potential'', now fully reflects the addition of boys;

Whereas the Take Our Daughters and Sons To Work Foundation, a nonprofit organization, has grown to become one of the largest public awareness campaigns, with more than 37,000,000 participants annually in more than 3,000,000 organizations and workplaces in every State;

Whereas, in 2007, the Take Our Daughters To Work program transitioned to Elizabeth City, North Carolina, became known as the Take Our Daughters and Sons To Work Foundation, and received national recognition for the dedication of the Foundation to future generations;

Whereas every year, mayors, governors, and other private and public officials sign proclamations and lend their support to Take Our Daughters and Sons To Work;

Whereas the fame of the Take Our Daughters and Sons To Work program has spread overseas, with requests and inquiries being made from around the world on how to operate the program;

Whereas 2012 marks the 20th anniversary of the Take Our Daughters and Sons To Work program;

Whereas Take Our Daughters and Sons to Work Day will be observed on Thursday, April 26, 2012; and

Whereas Take Our Daughters and Sons To Work is intended to continue helping millions of girls and boys on an annual basis through experienced activities and events to examine their opportunities and strive to reach their fullest potential: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the goals of introducing our daughters and sons to the workplace; and

(2) commends all the participants in Take Our Daughters and Sons To Work for their ongoing contributions to education, and for the vital role the participants play in promoting and ensuring a brighter, stronger future for the United States.

FINANCIAL LITERACY MONTH

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to S. Res. 409, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 409) designating April 2012 as ''Financial Literacy Month.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. 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 be printed in the RECORD.

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

The resolution (S. Res. 409) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 409

Whereas according to the Federal Deposit Insurance Corporation, at least 25.6 percent of households in the United States, or close to 30,000,000 households with approximately 60,000,000 adults, are unbanked or underbanked and, subsequently, have missed opportunities for savings, lending, and basic financial services;

Whereas according to the 2011 Consumer Financial Literacy Survey Final Report of the National Foundation for Credit Counseling, 41 percent of adults in the United States, or more than 77,000,000 adults living in the United States, gave themselves a grade of C, D, or F on their knowledge of personal finance;

Whereas according to the National Bankruptcy Research Center, the number of personal bankruptcy filings reached 1,500,000 in 2010, the highest number since 2005, and in 2011, the percentage of total consumer filings increased from 2010;

Whereas the 2011 Retirement Confidence Survey conducted by the Employee Benefit Research Institute found that only 13 percent of workers were ''very confident'' about having enough money for a comfortable retirement, a sharp decline in worker confidence from the 27 percent of workers who were ''very confident'' in 2007;

Whereas according to the 2011 Retirement Confidence Survey conducted by the Employee Benefit Research Institute, less than half of workers (42 percent) in the United States have tried to calculate how much they need to save for retirement;

Whereas according to a 2011 ''Flow of Funds'' report by the Board of Governors of the Federal Reserve System, household debt stood at $13,200,000,000,000 at the end of the third quarter of 2010;

Whereas according to the 2011 Consumer Financial Literacy Survey Final Report of the National Foundation for Credit Counseling, 28 percent, or nearly 64,000,000 adults, admit to not paying all of their bills on time;

Whereas according to the 2011 Consumer Financial Literacy Survey Final Report of the National Foundation for Credit Counseling, only 43 percent of adults keep close track of their spending, and more than 128,400,000 adults do not know how much they spend on food, housing, and entertainment, and do not monitor their overall spending;

Whereas according to the 2011 Consumer Financial Literacy Survey Final Report of the National Foundation for Credit Counseling, 1 in 3 adults in the United States, or more than 75,600,000 individuals, report that they have no savings, and only 22 percent of adults in the United States are now saving more than they did a year ago because of the current economic climate;

Whereas according to the seventh Council for Economic Education biennial Survey of the States 2011: Economic, Personal Finance, and Entrepreneurship Education in Our Nation's Schools, only 22 States require students to take an economics course as a high school graduation requirement, and only 16 States require the testing of student knowledge in economics;

Whereas according to the seventh Council for Economic Education biennial Survey of the States 2011: Economic, Personal Finance, and Entrepreneurship Education in Our Nation's Schools, only 12 States require students to take a personal finance course either independently or as part of an economics course as a high school graduation requirement;

Whereas according to the Gallup-Operation HOPE Financial Literacy Index, while 69 percent of American students strongly believe that the best time to save money is now, only 57 percent believe that their parents are saving money for the future;

Whereas expanding access to the mainstream financial system will provide individuals with less expensive and more secure options for managing finances and building wealth;

Whereas quality personal financial education is essential to ensure that individuals are prepared to manage money, credit, and debt, and to become responsible workers, heads of households, investors, entrepreneurs, business leaders, and citizens;

Whereas increased financial literacy empowers individuals to make wise financial decisions and reduces the confusion caused by an increasingly complex economy;

Whereas a greater understanding of, and familiarity with, financial markets and institutions will lead to increased economic activity and growth;

Whereas, in 2003, Congress found it important to coordinate Federal financial literacy efforts and formulate a national strategy; and

Whereas, in light of that finding, Congress passed the Financial Literacy and Education Improvement Act (20 U.S.C. 9701 et seq.), establishing the Financial Literacy and Education Commission: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2012 as ''Financial Literacy Month'' to raise public awareness about—

(A) the importance of personal financial education in the United States; and

(B) the serious consequences that may result from a lack of understanding about personal finances; and

(2) calls on the Federal Government, States, localities, schools, nonprofit organizations, businesses, and the people of the United States to observe the month with appropriate programs and activities.

ORDERS FOR THURSDAY, MARCH 29, 2012

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until Thursday, March 29, at 9:30 a.m.; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate resume consideration of the motion to proceed to S. 2230, the Paying A Fair Share Act, with the time until 11:30 a.m. equally divided and controlled between the two leaders or their designees, with the majority controlling the first 30 minutes and the Republicans controlling the second 30 minutes; further, that the filing deadline for second-degree amendments to S. 2204, the Repeal Big Oil Tax Subsidies Act, be 10:30 a.m. on Thursday; and that at 11:30 a.m., the Senate proceed to a vote on the motion to invoke cloture on S. 2204.

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

PROGRAM

Mr. WHITEHOUSE. Mr. President, I am informed that the first vote tomorrow will be at approximately 11:30 in the morning on the motion to invoke cloture on the Repeal Big Oil Tax Subsidies Act. The Transportation bill expires at the end of the month. That will also have to be addressed before we leave this week.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. WHITEHOUSE. If there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:07 p.m., adjourned until Thursday, March 29, 2012, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

LEGAL SERVICES CORPORATION

ROBERT JAMES GREY, JR., OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2014. (REAPPOINTMENT)

JOHN GERSON LEVI, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2014. (REAPPOINTMENT)

LAURIE I. MIKVA, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2013. (REAPPOINTMENT)

MARTHA L. MINOW, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2014. (REAPPOINTMENT)

GLORIA VALENCIA—WEBER, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2014. (REAPPOINTMENT)

CONFIRMATIONS

Executive nominations confirmed by the Senate March 28, 2012:

THE JUDICIARY

MIRANDA DU, OF NEVADA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA.

SUSIE MORGAN, OF LOUISIANA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.