Thereupon, the Senate, at 12:43 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. MCCAIN).

## KEYSTONE XL PIPELINE ACT—Continued

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, parliamentary inquiry: I understand we are on the bill.

The PRESIDING OFFICER. We are on the bill.

Mr. MENENDEZ. I thank the Presiding Officer.

Mr. President, let me say that I rise in general opposition to the Keystone Pipeline, and I rise in favor of Senator MARKEY's amendment. After long and careful deliberation—and after having had the benefit of a hearing on the pipeline in the Senate Foreign Relations Committee—I have decided to oppose this bill for four basic reasons.

First, on the bill, I am deeply concerned that if approved this pipeline will be the first of many pipelines opening one of the largest sources of carbon on Earth to exploitation.

Second, contrary to what many believe, I am convinced this pipeline will simply not enhance, help or—in any positive way—improve our energy profile.

Third, in my view, it is completely absurd for Congress to take the role of permitting pipelines. It is a role we have never assumed and should not assume now.

Fourth, I believe it is ridiculous that our Republican colleagues insist on language banning eminent domain for national parks legislation but oppose it when it comes to foreign or private projects such as Keystone.

Furthermore, we cannot underestimate the environmental impacts of this pipeline. The facts are clear. The resource in Alberta is enormous; the tar sands formation is the size of Iowa; tar sands oil is 17 percent more greenhouse gas intensive than other forms of oil because it takes an enormous industrial process to extract it.

It has been estimated that if this resource were fully exploited, it would release more carbon dioxide in the air than the United States has emitted in its entire history.

As James Hansen, one of the foremost climate scientists in the world, has said, building the Keystone pipeline would be ''game over for the planet.''

There are also more local risks. Over the weekend, landowners are seeing the pipeline spill in the Yellowstone River in Montana. It is happening right now, and landowners are wondering if their family farm will be the victim of a similar spill, wondering if property that has been in their family for generations can still be farmed and passed on to the next generation.

While some jobs will be created by the pipeline, the fact is—after 2 years of construction—it will create only 35 permanent jobs—35. That is not a lot of jobs.

If we want to create millions of permanent infrastructure jobs, I urge the supporters of the pipeline to support our efforts to increase transportation funding. I urge them to continue incentives for clean energy. I ask them to do all they can to help local governments rebuild local infrastructure systems. That is how we create permanent jobs that build our economy and help us keep our competitive advantage.

By comparison, the number of jobs created by Keystone is hardly an argument for passage of this legislation. As you all know, we also have the issue of eminent domain—the power of any governmental entity to take private property and convert it to public use subject to reasonable compensation.

Many, including some of my most conservative friends on the other side, were outraged by the idea that eminent domain proceedings could be used to seize private property for private gain. I have been working very closely with Senator CANTWELL on an amendment, and we agree with our conservative colleagues that using eminent domain proceedings for private gain is pretty outrageous. Here, on the issue of Keystone, a foreign-owned company is using eminent domain to seize private property so it can better export Canadian oil—a foreign-owned company using eminent domain to seize private property so it can better export Canadian oil. The project is not in the public interest but clearly in the private interest. Senator CANTWELL and I feel this amendment should be a no-brainer—an easy amendment every Senator can support.

In recent years Republicans have insisted on similar language prohibiting the use of eminent domain when we establish national parks. If eminent domain cannot be used to establish a national park in the public interest to conserve our national treasures and preserve America's beauty for future generations, then surely—surely—it should not be used to benefit private interests; in this case, in the interest of a foreign-owned oil company seeking to ship its product around the world, which brings me to the amendment of the Senator from Massachusetts.

### AMENDMENT NO. 13

We know the oil that will flow through this pipeline will flow directly to foreign markets. That is why I support the amendment from the Senator from Massachusetts. Foreign oil is not subject to America's crude oil export ban, but whether it is shipped as crude or refined here and then exported, we all know this oil is not going to help the American consumers.

The intent of the Markey amendment can be summed up very simply, using an old adage that President Reagan was fond of: ''Trust but verify.''

For months now supporters of the Keystone XL Pipeline have been telling us the tar sands that will travel through the United States will help advance our energy security. They have been telling us the pipeline will bring a reliable source of fuel from a close ally and that it will reduce prices at the pump, helping U.S. consumers and businesses.

The Markey amendment does nothing more than confirm the promises made—time and time again—by supporters of the pipeline. It would require the tar sands that travel through the United States stay in the United States. It says that if Americans are to accept all of the downsides of the pipeline, if U.S. property owners are to have their lands taken away for TransCanada's benefit, if Americans are forced to live with the risk of an oilspill of dirty tar sands that we do not even know how to clean up properly, then the very least we can do is get a guarantee in law that the United States will reap the benefits that come with all of these risks.

So all this amendment does is put into writing the promises we have heard over and over again from supporters of the pipeline. It codifies in law what we previously had to take on faith.

I thank my colleague from Massachusetts for offering the amendment, and I would note he has a long history of working to improve America's energy security. He and I have worked closely since he came to the Senate to protect the longstanding requirement that U.S.-produced crude oil stay here at home to benefit the U.S. consumer rather than being shipped across the globe.

This amendment is another commonsense protection to make sure our Nation's energy policy is aimed at helping consumers rather than helping oil companies' bottom line, and I encourage my colleagues to support it.

For the last several Congresses I have introduced the American Oil for American Families Act, a bill to ensure that oil or petroleum products that originate within America's public lands or waters are not exported as crude or in refined form. That bill would increase our energy supply at home, lowering prices for consumers and businesses, and I intend to reintroduce that legislation in this Congress.

For these reasons, I urge my colleagues to support the Markey amendment. I intend to vote against the bill, which in my view is nothing more than an earmark for Big Oil. The pipeline will have enormous environmental impacts, it will not significantly help the American economy, it will not benefit American consumers, and it will needlessly harm landowners for generations.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

### STATE OF THE UNION ADDRESS

Mr. CORNYN. Mr. President, tonight the President of the United States will address the Nation on the state of our Union and talk a little bit about his priorities for the coming year.

I am not sure how much more there is for the President to say than has already been leaked in the press in the drip, drip, drip of social media and other stories, but I am concerned he simply did not get the message that was delivered loud and clear on November 4 by the American voters.

Just a couple of months ago they sent a message that was loud and it was clear. They are fed up with the way things operate in Washington, DC. They are fed up with the dysfunction, and they are fed up with the lack of real leadership that focuses on their concerns, not Washington's concerns—concerns such as more money in their pocket.

I was amused to listen to our good friend, our colleague from New Jersey, complaining about additional exports of oil or actually gasoline and other fuel. It is actually the supply, the glut of gasoline onto the global markets that has caused a pay raise for most hard-working, middle-class families. The price of gasoline has plummeted because of the glut of supply.

But we ought to be focused like a laser on how we put more money into the pocketbook of hard-working American taxpayers—after years of stagnant jobs and stagnant wages, the stagnant number of jobs for the record number of Americans who have been looking for them.

So after sending a message loud and clear on November 4, what is the President's response? He says more of the same. He is set to announce a $320 billion tax hike and hundreds of billions of dollars in more spending—yes, hundreds of billions of dollars more in taxes and hundreds of billions of dollars in more Federal spending. Sadly, the President has doubled down on the same agenda which, in his own words, was on the ballot this last fall and was soundly rejected.

But this agenda and these policies are not only wrong for America today, they are certainly wrong for the America of our future. Future generations deserve a country that provides them more opportunity than our parents had or than we have. That is called the American dream. But hundreds of billions of dollars in new spending and new taxes—when we already face an $18 trillion debt—well, that makes the American promise one unlikely to be fulfilled.

The cause of this problem is pretty clear: The President remains focused on the priorities in Washington, DC, and not on the priorities of hard-working American taxpayers working from paycheck to paycheck, dealing with rising costs of living when it comes to food and other commodities and who are sorely in need of additional money in their pocket.

Things clearly need to change. That to me was what the voters said on November 4. I think I speak for many Americans and many Texans when I say: Mr. President, enough is enough. The American people expect better, and, more importantly, they deserve better.

Sure, we know there are always going to be big challenges, and they are not easy to deal with by any stretch of the imagination. But surely—surely—we can come up with better solutions than more taxes and more spending. This is really doubling down over the last 6 years. One would think that the President, giving the State of the Union now in his seventh year in office, could come up with something a little bit different, particularly after his own party lost nine Senate seats after this referendum on his failed policies that took place on November 4.

The great news—and there is good news—is we do not have to start from scratch. We need to look no further than some of the laboratories of democracy—that is what Louis Brandeis called the State: the laboratories of democracy—to see what actually works. We know what does not work. So let's look and see what does work.

We could learn a lot from States such as Arizona, where the Presiding Officer is from, and my home State of Texas. We are not perfect, but I think we have learned a few important lessons we could teach to the policymakers in the White House. Many policymakers in Washington seem to have forgotten the secret sauce, the formula, the recipe by which strong, sustainable economic growth that lifts the middle class in Texas and in so many other States across the country—why that is alive and well and why those policies actually work.

Just last Friday I had the opportunity to visit Southeast Texas. I was in Beaumont, TX, actually, where the existing gulf coast leg of the Keystone Pipeline is already operating.

I bet many of my colleagues would be amazed to know that we are already transporting Canadian crude from Canada all the way across the country, by and large on railcars, to refineries on the gulf coast. The Keystone XL Pipeline—the legislation that we will be voting on today—will increase the supply, which means more product, and hopefully, that will result in downward pressure on prices for hard-working American taxpayers.

While the President stood in the way of the building of this completed pipeline and the tens of thousands of jobs it would support, the gulf coast leg of the Keystone Pipeline in Texas is already booming. But they are hungry for more crude feedstock so they can produce more and thereby create more jobs.

It has been good for communities. I talked to the mayor of Beaumont and other communities. I talked to a county judge. These taxes, which are provided by investment from the Keystone XL Pipeline, not only create good jobs, but the tax base is necessary to educate our kids in K–12 education. They provide the products and services from local businesses that sell goods. In other words, projects such as the Keystone XL Pipeline is a force multiplier when it comes to our economy and economic growth and opportunity, and of course, it has been good for thousands of construction workers who built the pipeline.

I heard our colleagues on the other side of the aisle try to denigrate these construction jobs. They say that they are just temporary jobs. Mr. President, you and I have a temporary job. We are elected for a term of office, and if we are not reelected, it is a temporary job. In effect, every job is a temporary job. But to denigrate these good, high-paying construction jobs, including those performed by welders—in Texas, properly trained welders can make $140,000 to $150,000 a year. Those are good, high-paying jobs, and we ought to respect and encourage them.

That is just one example of how some of the folks at the White House look down their nose at these construction jobs and try to denigrate the economic contribution of projects such as the Keystone XL Pipeline and what they could learn from this project.

In my State we reduced taxes, cut red tape in favor of sensible regulations, and encouraged businesses to come to Texas to grow and create jobs. If I heard the story one time, I heard it 100 times. In my State, Governor Perry has contacted people in California and said: Come to Texas, where you are welcome and the cost of doing business is lower and the cost of living is cheaper. You can actually buy an affordable home for your family. People have voted with their feet and have come where the opportunity is.

If we add it all up, over the last 6 years two-thirds of all new net jobs created in the United States of America came from just one State, and that is my home State.

Another thing Washington could learn from Texas is how to balance a budget. We actually balance our budget every year. Earlier I mentioned that the President seems to be proud of the fact that the deficit is actually going down. As the Presiding Officer knows, that is the annual difference between what we take in and what we spend.

What he doesn't tell you is that we are actually adding to the debt every year because we are still spending more money than we are bringing in, and it has now gone up about $8 trillion during his administration to an unprecedented $18 trillion national debt. We need to roll up our sleeves, and we invite the President to join us and take on the priorities of hard-working American taxpayers in every State across the country.

We know this is not going to be easy, but that is what we volunteered for. I know there are colleagues here in the Senate—Republicans and Democrats alike—who are eager to address the challenges that confront our country—whether it is economic, national security, or you name it. These are things that need to get done.

At the end of the day, it doesn't really matter what I think the State of our

Union is or, for that matter, it doesn't really matter what the President thinks the State of our Union is. What matters is whether the teacher in Katy, TX, believes his students will have the opportunities he did growing up or whether the single mom waiting tables in Fort Worth can find enough work to feed her family.

Our Nation is truly strong when its people believe it to be, and I hope the President understands that and tries something new rather than the same old failed policies of the past.

I yield the floor.

The PRESIDING OFFICER (Mr. PORTMAN). The Senator from Minnesota.

Mr. FRANKEN. I thank the Presiding Officer.

AMENDMENT NO. 17

I wish to urge my colleagues to oppose any motion to table my amendment. My amendment is about making sure that, if we do build the Keystone XL Pipeline, it is built with American iron and steel. Those are jobs. I don't wish to short-circuit the process here, but if the pipeline is built, it should be built with American steel.

The Presiding Officer's State produces a lot of American steel and very often with iron ore from my State. These are American jobs.

TransCanada has said that 50 percent of the iron and steel will be outsourced from other countries, and the iron and steel for some of the other pipes could come from other countries. They also said they can use those pipes in other projects, including other projects in Canada.

I agree with Senator CORNYN when he said these construction jobs that will help build the pipeline are real jobs. Just because they are not permanent jobs does not mean they are not real jobs. Providing the iron and steel and other manufactured products for this project will also provide real jobs. Our amendment will do this entirely and consistently within the language of the bill and within our trade obligations.

I ask that my colleagues not vote to table this amendment because a vote to table this is a vote against American jobs. It is a vote against jobs in Ohio and Minnesota. It is a vote against the shippers who ship our iron ore over the Great Lakes or by rail or over the Mississippi so it can be used to make steel. We have done ''Buy America'' legislation before. We just did it in 2013 on the WRDA bill. I ask that my colleagues please not vote against American jobs.

I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I will take a couple of minutes before we vote to speak to the Franken amendment. I think all of us want to buy American and buy local whenever and wherever we can. We strongly support that since it does mean jobs—whether we are talking about a pipeline or otherwise.

But I think the bigger question here—and what we have in front of us with the Keystone XL Pipeline—is what this amendment would do. This amendment would mandate specific materials for the Keystone XL pipeline, and I think we need to put this into context. This pipeline is a private project. This is not a federally funded infrastructure project. This would be the first time that Congress has directed or forced private parties to purchase domestic goods and materials.

We actually asked the Congressional Research Service to look into this to see if there was any other instance at the Federal level where private parties were told that they must purchase 100-percent domestic goods and materials, and so far the answer to that inquiry has been that they can find no instance of that.

I think we need to be careful about this as a precedent because if we are going to direct this particular project—the Keystone XL—to have this requirement on it, where do we go next? What will happen to the next project that we have? Will it be the next pipeline or the next renewable energy project? Where does this slippery slope go?

I think it is fair to note that TransCanada has made a commitment to have 75 percent of the pipes for this project come from North America, and fully half of that—more than 332,000 tons of steel will come from the State of Arkansas.

I am with the Senator from Minnesota. We want to make sure we get as many jobs as we absolutely can and make sure they are good-paying jobs—whether it is in steel making or widget making or welders. This is about jobs. This is what we want to do to encourage jobs. I think we need to be very cognizant of what this particular amendment would do. This amendment—for the first time ever—would direct a private entity to utilize all American-made products throughout the process of the construction.

It is important to note that the American Iron and Steel Institute has been a strong supporter of the Keystone XL Pipeline. We have all received a letter—they called it a Steelgram—from the American Iron and Steel Institute. They let us know very clearly and in no uncertain terms that they support Keystone XL. They said it is essential that Congress act to ensure the approval of the Keystone XL Pipeline without further delay. Again, I agree.

We need to get moving on it. We need to do it without delay. I do think it is interesting to note that the amendment does allow for the President to waive the requirements for American materials based on certain findings he can make. I appreciate that is in there, and I think that is good. But think about where we are. It has been 3,200-and-some-odd days now where we have been waiting for the President to act to make a decision on the Keystone XL Pipeline. So I don't have any real confidence that he will move to act quickly on any kind of a waiver requirement.

I just wanted to put that out there before we moved to take up the amendments that we have pending before us this afternoon and note that we will be doing that in a few short minutes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. FRANKEN. Mr. President, I have the greatest respect for the Senator from Alaska. I wish to say a few things about this private company. This company is asking us to do an extraordinary thing. We are debating this on the floor because they are asking us to circumvent the environmental and safety process here and possibly expose the United States—and the path of this pipeline—to tremendous environmental damage. This is very different.

The Senator asked: Why won't this extend to every private enterprise? This is something we are here debating and voting on, and that should say something about the nature of this issue.

The United Steelworkers have endorsed my amendment. This is about American jobs. The question is: If we do build this pipeline, should it be built with American steel or should it be built with steel from other countries?

Again, in the bill, we make sure this is compliant with our trade obligations. There is nothing to stop us from doing this. This is a private foreign company that is asking us to circumvent our normal processes, and because of that, I feel we have the right to say this should be made with American steel and with jobs in the State of Ohio and in the State of Minnesota—American jobs. If this is about American jobs, let's make it about American jobs.

Again, this is a company that is asking us to circumvent our normal processes. So all I will say is that TransCanada has said the pipes that have been made for this can be used in other projects in Canada.

If we are going to build this project, let's make it about American jobs.

I thank the Presiding Officer.

Ms. MIKULSKI. Mr. President, I rise today to talk about jobs—especially jobs in the U.S. steel industry.

This November I went to a ceremony at Sparrows Point a former steel plant in Maryland. It was a bittersweet day. I was there to honor the legacy of Bethlehem Steel and all of the Steelworkers in Baltimore.

The site is being demolished but Sparrows Point has over 3,000 acres of land, access to ports, rails, and roads to attract companies to create jobs today and tomorrow.

We don't have steel in Maryland anymore. Many of us still mourn its loss. But we still have steel in America and I am still for steel.

If this Keystone bill is really a jobs bill, then let us put some made-in-America jobs in it and show our support for American steel.

For over a hundred years, workers at Sparrows Point produced the steel that built America. Members of my own family worked at this steel mill. My father would open the doors to his grocery store early so that Bethlehem Steel workers could pick up their lunch on their way to work.

America's steel and steelworkers protect the United States and our freedom. At Sparrows Point, they rolled gun barrels, made steel for grenades, shells and landing craft during World War II.

God help us all if America stops making steel. During times of war—will we depend on foreign steel to build our ships, aircraft carriers and weapons?

American steelworkers work hard, play by the rules and serve their country. In war: building ships, tanks and weapons. In peace: making steel for our buildings and cars.

Yet for over 50 years, the steel industry withered—not because steel was unproductive or overpriced. The steel industry withered in America because Congress didn't do everything possible to protect American steel from factors in the international steel market, raw material costs, slumping demand, low steels prices, and a global recession. The government looked the other way when foreign imports began to drive down our prices and drive down our steel mills.

Our government singles out specific industries all the time when it is in our national interest. We single out specific industries and then talk about their value to America. I agree with that.

We single out industries when it is in our national interest because we need them as part of our economy or as part of our national production.

Helping the farmers or the airlines because of the national interest means national responsibility. In 2008, we bailed out the banks and we bailed out the auto industry for stability, security, and American independence. Where is the help for the steel industry and the steelworkers?

I have fought for steel in the past. Now I am fighting for steel again. I fought so hard year after year to protect the lives and livelihoods in Baltimore, in Dundalk.

I have fought for more than 25 years to reverse this tide against American manufacturing and against American steel. I am going to keep on fighting.

I fought to keep Sparrows Point open. And when that wasn't possible, I fought for a safety net for workers Trade Adjustment Assistance, unemployment insurance and health care benefits.

I think about Maryland steelworkers every day—what they are going through these past few years have been tough on workers, their families, and the community.

I am supporting an amendment that protects American steel like steel has protected us. It is simple. Let us put American workers back to work in good, solid steel jobs, by requiring that the pipeline's construction, connection, operation, and maintenance all be done with made-in-America, U.S. steel.

Let us get to work for American workers and let us put the jobs in this jobs bill.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 3, AS MODIFIED

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that Portman amendment No. 3 be modified with the changes that are at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the end, add the following:

**DIVISION B—ENERGY EFFICIENCY IMPROVEMENT**

**SECTION 1. SHORT TITLE.**

This division may be cited as the ''Energy Efficiency Improvement Act of 2015''.

**TITLE I—BETTER BUILDINGS**

**SEC. 101. SHORT TITLE.**

This title may be cited as the ''Better Buildings Act of 2015''.

**SEC. 102. ENERGY EFFICIENCY IN FEDERAL AND OTHER BUILDINGS.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of General Services.

(2) COST-EFFECTIVE ENERGY EFFICIENCY MEASURE.—The term ''cost-effective energy efficiency measure'' means any building product, material, equipment, or service, and the installing, implementing, or operating thereof, that provides energy savings in an amount that is not less than the cost of such installing, implementing, or operating.

(3) COST-EFFECTIVE WATER EFFICIENCY MEASURE.—The term ''cost-effective water efficiency measure'' means any building product, material, equipment, or service, and the installing, implementing, or operating thereof, that provides water savings in an amount that is not less than the cost of such installing, implementing, or operating.

(b) MODEL PROVISIONS, POLICIES, AND BEST PRACTICES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy and after providing the public with an opportunity for notice and comment, shall develop model commercial leasing provisions and best practices in accordance with this subsection.

(2) COMMERCIAL LEASING.—

(A) IN GENERAL.—The model commercial leasing provisions developed under this subsection shall, at a minimum, align the interests of building owners and tenants with regard to investments in cost-effective energy efficiency measures and cost-effective water efficiency measures to encourage building owners and tenants to collaborate to invest in such measures.

(B) USE OF MODEL PROVISIONS.—The Administrator may use the model commercial leasing provisions developed under this subsection in any standard leasing document that designates a Federal agency (or other client of the Administrator) as a landlord or tenant.

(C) PUBLICATION.—The Administrator shall periodically publish the model commercial leasing provisions developed under this subsection, along with explanatory materials, to encourage building owners and tenants in the private sector to use such provisions and materials.

(3) REALTY SERVICES.—The Administrator shall develop policies and practices to implement cost-effective energy efficiency measures and cost-effective water efficiency measures for the realty services provided by the Administrator to Federal agencies (or other clients of the Administrator), including periodic training of appropriate Federal employees and contractors on how to identify and evaluate those measures.

(4) STATE AND LOCAL ASSISTANCE.—The Administrator, in consultation with the Secretary of Energy, shall make available model commercial leasing provisions and best practices developed under this subsection to State, county, and municipal governments for use in managing owned and leased building space in accordance with the goal of encouraging investment in all cost-effective energy efficiency measures and cost-effective water efficiency measures.

**SEC. 103. SEPARATE SPACES WITH HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURES.**

(a) IN GENERAL.—Subtitle B of title IV of the Energy Independence and Security Act of 2007 (42 U.S.C. 17081 et seq.) is amended by adding at the end the following:

**''SEC. 424. SEPARATE SPACES WITH HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURES.**

''(a) DEFINITIONS.—In this section:

''(1) HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURE.—The term 'high-performance energy efficiency measure' means a technology, product, or practice that will result in substantial operational cost savings by reducing energy consumption and utility costs.

''(2) SEPARATE SPACES.—The term 'separate spaces' means areas within a commercial building that are leased or otherwise occupied by a tenant or other occupant for a period of time pursuant to the terms of a written agreement.

''(b) STUDY.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Assistant Secretary of Energy Efficiency and Renewable Energy, shall complete a study on the feasibility of—

''(A) significantly improving energy efficiency in commercial buildings through the design and construction, by owners and tenants, of separate spaces with high-performance energy efficiency measures; and

''(B) encouraging owners and tenants to implement high-performance energy efficiency measures in separate spaces.

''(2) SCOPE.—The study shall, at a minimum, include—

''(A) descriptions of—

''(i) high-performance energy efficiency measures that should be considered as part of the initial design and construction of separate spaces;

''(ii) processes that owners, tenants, architects, and engineers may replicate when designing and constructing separate spaces with high-performance energy efficiency measures;

''(iii) policies and best practices to achieve reductions in energy intensities for lighting, plug loads, heating, cooling, cooking, laundry, and other systems to satisfy the needs of the commercial building tenant;

''(iv) return on investment and payback analyses of the incremental cost and projected energy savings of the proposed set of high-performance energy efficiency measures, including consideration of available incentives;

''(v) models and simulation methods that predict the quantity of energy used by separate spaces with high-performance energy efficiency measures and that compare that

predicted quantity to the quantity of energy used by separate spaces without high-performance energy efficiency measures but that otherwise comply with applicable building code requirements;

''(vi) measurement and verification platforms demonstrating actual energy use of high-performance energy efficiency measures installed in separate spaces, and whether such measures generate the savings intended in the initial design and construction of the separate spaces;

''(vii) best practices that encourage an integrated approach to designing and constructing separate spaces to perform at optimum energy efficiency in conjunction with the central systems of a commercial building; and

''(viii) any impact on employment resulting from the design and construction of separate spaces with high-performance energy efficiency measures; and

''(B) case studies reporting economic and energy savings returns in the design and construction of separate spaces with high-performance energy efficiency measures.

''(3) PUBLIC PARTICIPATION.—Not later than 90 days after the date of the enactment of this section, the Secretary shall publish a notice in the Federal Register requesting public comments regarding effective methods, measures, and practices for the design and construction of separate spaces with high-performance energy efficiency measures.

''(4) PUBLICATION.—The Secretary shall publish the study on the website of the Department of Energy.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Energy Independence and Security Act of 2007 is amended by inserting after the item relating to section 423 the following new item:

''Sec. 424. Separate spaces with high-performance energy efficiency measures.''.

**SEC. 104. TENANT STAR PROGRAM.**

(a) IN GENERAL.—Subtitle B of title IV of the Energy Independence and Security Act of 2007 (42 U.S.C. 17081 et seq.) (as amended by section 103) is amended by adding at the end the following:

**''SEC. 425. TENANT STAR PROGRAM.**

''(a) DEFINITIONS.—In this section:

''(1) HIGH-PERFORMANCE ENERGY EFFICIENCY MEASURE.—The term 'high-performance energy efficiency measure' has the meaning given the term in section 424.

''(2) SEPARATE SPACES.—The term 'separate spaces' has the meaning given the term in section 424.

''(b) TENANT STAR.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, shall develop a voluntary program within the Energy Star program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a), which may be known as 'Tenant Star', to promote energy efficiency in separate spaces leased by tenants or otherwise occupied within commercial buildings.

''(c) EXPANDING SURVEY DATA.—The Secretary of Energy, acting through the Administrator of the Energy Information Administration, shall—

''(1) collect, through each Commercial Buildings Energy Consumption Survey of the Energy Information Administration that is conducted after the date of enactment of this section, data on—

''(A) categories of building occupancy that are known to consume significant quantities of energy, such as occupancy by data centers, trading floors, and restaurants; and

''(B) other aspects of the property, building operation, or building occupancy determined by the Administrator of the Energy Information Administration, in consultation with the Administrator of the Environmental Protection Agency, to be relevant in lowering energy consumption;

''(2) with respect to the first Commercial Buildings Energy Consumption Survey conducted after the date of enactment of this section, to the extent full compliance with the requirements of paragraph (1) is not feasible, conduct activities to develop the capability to collect such data and begin to collect such data; and

''(3) make data collected under paragraphs (1) and (2) available to the public in aggregated form and provide such data, and any associated results, to the Administrator of the Environmental Protection Agency for use in accordance with subsection (d).

''(d) RECOGNITION OF OWNERS AND TENANTS.—

''(1) OCCUPANCY-BASED RECOGNITION.—Not later than 1 year after the date on which sufficient data is received pursuant to subsection (c), the Administrator of the Environmental Protection Agency shall, following an opportunity for public notice and comment—

''(A) in a manner similar to the Energy Star rating system for commercial buildings, develop policies and procedures to recognize tenants in commercial buildings that voluntarily achieve high levels of energy efficiency in separate spaces;

''(B) establish building occupancy categories eligible for Tenant Star recognition based on the data collected under subsection (c) and any other appropriate data sources; and

''(C) consider other forms of recognition for commercial building tenants or other occupants that lower energy consumption in separate spaces.

''(2) DESIGN- AND CONSTRUCTION-BASED RECOGNITION.—After the study required by section 424(b) is completed, the Administrator of the Environmental Protection Agency, in consultation with the Secretary and following an opportunity for public notice and comment, may develop a voluntary program to recognize commercial building owners and tenants that use high-performance energy efficiency measures in the design and construction of separate spaces.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Energy Independence and Security Act of 2007 is amended by inserting after the item relating to section 424 (as added by section 103(b)) the following new item:

''Sec. 425. Tenant Star program.''.

## TITLE II—GRID-ENABLED WATER HEATERS

**SEC. 201. GRID-ENABLED WATER HEATERS.**

Part B of title III of the Energy Policy and Conservation Act is amended—

(1) in section 325(e) (42 U.S.C. 6295(e)), by adding at the end the following:

''(6) ADDITIONAL STANDARDS FOR GRID-ENABLED WATER HEATERS.—

''(A) DEFINITIONS.—In this paragraph:

''(i) ACTIVATION LOCK.—The term 'activation lock' means a control mechanism (either a physical device directly on the water heater or a control system integrated into the water heater) that is locked by default and contains a physical, software, or digital communication that must be activated with an activation key to enable the product to operate at its designed specifications and capabilities and without which activation the product will provide not greater than 50 percent of the rated first hour delivery of hot water certified by the manufacturer.

''(ii) GRID-ENABLED WATER HEATER.—The term 'grid-enabled water heater' means an electric resistance water heater that—

''(I) has a rated storage tank volume of more than 75 gallons;

''(II) is manufactured on or after April 16, 2015;

''(III) has—

''(aa) an energy factor of not less than 1.061 minus the product obtained by multiplying—

''(AA) the rated storage volume of the tank, expressed in gallons; and

''(BB) 0.00168; or

''(bb) an equivalent alternative standard prescribed by the Secretary and developed pursuant to paragraph (5)(E);

''(IV) is equipped at the point of manufacture with an activation lock; and

''(V) bears a permanent label applied by the manufacturer that—

''(aa) is made of material not adversely affected by water;

''(bb) is attached by means of non-water-soluble adhesive; and

''(cc) advises purchasers and end-users of the intended and appropriate use of the product with the following notice printed in 16.5 point Arial Narrow Bold font:

''''IMPORTANT INFORMATION: This water heater is intended only for use as part of an electric thermal storage or demand response program. It will not provide adequate hot water unless enrolled in such a program and activated by your utility company or another program operator. Confirm the availability of a program in your local area before purchasing or installing this product.'.

''(B) REQUIREMENT.—The manufacturer or private labeler shall provide the activation key for a grid-enabled water heater only to a utility or other company that operates an electric thermal storage or demand response program that uses such a grid-enabled water heater.

''(C) REPORTS.—

''(i) MANUFACTURERS.—The Secretary shall require each manufacturer of grid-enabled water heaters to report to the Secretary annually the quantity of grid-enabled water heaters that the manufacturer ships each year.

''(ii) OPERATORS.—The Secretary shall require utilities and other demand response and thermal storage program operators to report annually the quantity of grid-enabled water heaters activated for their programs using forms of the Energy Information Agency or using such other mechanism that the Secretary determines appropriate after an opportunity for notice and comment.

''(iii) CONFIDENTIALITY REQUIREMENTS.—The Secretary shall treat shipment data reported by manufacturers as confidential business information.

''(D) PUBLICATION OF INFORMATION.—

''(i) IN GENERAL.—In 2017 and 2019, the Secretary shall publish an analysis of the data collected under subparagraph (C) to assess the extent to which shipped products are put into use in demand response and thermal storage programs.

''(ii) PREVENTION OF PRODUCT DIVERSION.—If the Secretary determines that sales of grid-enabled water heaters exceed by 15 percent or greater the quantity of such products activated for use in demand response and thermal storage programs annually, the Secretary shall, after opportunity for notice and comment, establish procedures to prevent product diversion for non-program purposes.

''(E) COMPLIANCE.—

''(i) IN GENERAL.—Subparagraphs (A) through (D) shall remain in effect until the Secretary determines under this section that—

''(I) grid-enabled water heaters do not require a separate efficiency requirement; or

''(II) sales of grid-enabled water heaters exceed by 15 percent or greater the quantity of such products activated for use in demand

response and thermal storage programs annually and procedures to prevent product diversion for non-program purposes would not be adequate to prevent such product diversion.

''(ii) EFFECTIVE DATE.—If the Secretary exercises the authority described in clause (i) or amends the efficiency requirement for grid-enabled water heaters, that action will take effect on the date described in subsection (m)(4)(A)(ii).

''(iii) CONSIDERATION.—In carrying out this section with respect to electric water heaters, the Secretary shall consider the impact on thermal storage and demand response programs, including any impact on energy savings, electric bills, peak load reduction, electric reliability, integration of renewable resources, and the environment.

''(iv) REQUIREMENTS.—In carrying out this paragraph, the Secretary shall require that grid-enabled water heaters be equipped with communication capability to enable the grid-enabled water heaters to participate in ancillary services programs if the Secretary determines that the technology is available, practical, and cost-effective.'';

(2) in section 332(a) (42 U.S.C. 6302(a))—

(A) in paragraph (5), by striking ''or'' at the end;

(B) in the first paragraph (6), by striking the period at the end and inserting a semicolon;

(C) by redesignating the second paragraph (6) as paragraph (7);

(D) in subparagraph (B) of paragraph (7) (as so redesignated), by striking the period at the end and inserting ''; or''; and

(E) by adding at the end the following:

''(8) for any person—

''(A) to activate an activation lock for a grid-enabled water heater with knowledge that such water heater is not used as part of an electric thermal storage or demand response program;

''(B) to distribute an activation key for a grid-enabled water heater with knowledge that such activation key will be used to activate a grid-enabled water heater that is not used as part of an electric thermal storage or demand response program;

''(C) to otherwise enable a grid-enabled water heater to operate at its designed specification and capabilities with knowledge that such water heater is not used as part of an electric thermal storage or demand response program; or

''(D) to knowingly remove or render illegible the label of a grid-enabled water heater described in section 325(e)(6)(A)(ii)(V).'';

(3) in section 333(a) (42 U.S.C. 6303(a))—

(A) by striking ''section 332(a)(5)'' and inserting ''paragraph (5), (6), (7), or (8) of section 332(a)''; and

(B) by striking ''paragraph (1), (2), or (5) of section 332(a)'' and inserting ''paragraph (1), (2), (5), (6), (7), or (8) of section 332(a)''; and

(4) in section 334 (42 U.S.C. 6304)—

(A) by striking ''section 332(a)(5)'' and inserting ''paragraph (5), (6), (7), or (8) of section 332(a)''; and

(B) by striking ''section 332(a)(6)'' and inserting ''section 332(a)(7)''.

## TITLE III—ENERGY INFORMATION FOR COMMERCIAL BUILDINGS

### SEC. 301. ENERGY INFORMATION FOR COMMERCIAL BUILDINGS.

(a) REQUIREMENT OF BENCHMARKING AND DISCLOSURE FOR LEASING BUILDINGS WITHOUT ENERGY STAR LABELS.—Section 435(b)(2) of the Energy Independence and Security Act of 2007 (42 U.S.C. 17091(b)(2)) is amended—

(1) by striking ''paragraph (2)'' and inserting ''paragraph (1)''; and

(2) by striking ''signing the contract,'' and all that follows through the period at the end and inserting the following:

''signing the contract, the following requirements are met:

''(A) The space is renovated for all energy efficiency and conservation improvements that would be cost effective over the life of the lease, including improvements in lighting, windows, and heating, ventilation, and air conditioning systems.

''(B)(i) Subject to clause (ii), the space is benchmarked under a nationally recognized, online, free benchmarking program, with public disclosure, unless the space is a space for which owners cannot access whole building utility consumption data, including spaces—

''(I) that are located in States with privacy laws that provide that utilities shall not provide such aggregated information to multitenant building owners; and

''(II) for which tenants do not provide energy consumption information to the commercial building owner in response to a request from the building owner.

''(ii) A Federal agency that is a tenant of the space shall provide to the building owner, or authorize the owner to obtain from the utility, the energy consumption information of the space for the benchmarking and disclosure required by this subparagraph.''.

(b) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Energy, in collaboration with the Administrator of the Environmental Protection Agency, shall complete a study—

(A) on the impact of—

(i) State and local performance benchmarking and disclosure policies, and any associated building efficiency policies, for commercial and multifamily buildings; and

(ii) programs and systems in which utilities provide aggregated information regarding whole building energy consumption and usage information to owners of multitenant commercial, residential, and mixed-use buildings;

(B) that identifies best practice policy approaches studied under subparagraph (A) that have resulted in the greatest improvements in building energy efficiency; and

(C) that considers—

(i) compliance rates and the benefits and costs of the policies and programs on building owners, utilities, tenants, and other parties;

(ii) utility practices, programs, and systems that provide aggregated energy consumption information to multitenant building owners, and the impact of public utility commissions and State privacy laws on those practices, programs, and systems;

(iii) exceptions to compliance in existing laws where building owners are not able to gather or access whole building energy information from tenants or utilities;

(iv) the treatment of buildings with—

(I) multiple uses;

(II) uses for which baseline information is not available; and

(III) uses that require high levels of energy intensities, such as data centers, trading floors, and televisions studios;

(v) implementation practices, including disclosure methods and phase-in of compliance;

(vi) the safety and security of benchmarking tools offered by government agencies, and the resiliency of those tools against cyber attacks; and

(vii) international experiences with regard to building benchmarking and disclosure laws and data aggregation for multitenant buildings.

(2) SUBMISSION TO CONGRESS.—At the conclusion of the study, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives and Committee on Energy and Natural Resources of the Senate a report on the results of the study.

(c) CREATION AND MAINTENANCE OF DATABASE.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act and following opportunity for public notice and comment, the Secretary of Energy, in coordination with other relevant agencies, shall maintain, and if necessary create, a database for the purpose of storing and making available public energy-related information on commercial and multifamily buildings, including—

(A) data provided under Federal, State, local, and other laws or programs regarding building benchmarking and energy information disclosure;

(B) information on buildings that have disclosed energy ratings and certifications; and

(C) energy-related information on buildings provided voluntarily by the owners of the buildings, only in an anonymous form unless the owner provides otherwise.

(2) COMPLEMENTARY PROGRAMS.—The database maintained pursuant to paragraph (1) shall complement and not duplicate the functions of the Environmental Protection Agency's Energy Star Portfolio Manager tool.

(d) INPUT FROM STAKEHOLDERS.—The Secretary of Energy shall seek input from stakeholders to maximize the effectiveness of the actions taken under this section.

(e) REPORT.—Not later than 2 years after the date of enactment of this Act, and every 2 years thereafter, the Secretary of Energy shall submit to the Committee on Energy and Commerce of the House of Representatives and Committee on Energy and Natural Resources of the Senate a report on the progress made in complying with this section.

AMENDMENT NO. 13

Ms. MURKOWSKI. Mr. President, at this time I call for regular order with respect to Markey amendment No. 13.

The PRESIDING OFFICER. The amendment is now pending.

Ms. MURKOWSKI. Mr. President, I move to table the Markey amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. MARKEY. Mr. President, I ask unanimous consent to be recognized for 1 minute.

The PRESIDING OFFICER. Is there objection? There is a unanimous consent request. Is there objection?

The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I have a parliamentary inquiry.

Is there a request from the Senator from Massachusetts to speak to this amendment for 1 minute? What is the request?

The PRESIDING OFFICER. He asked unanimous consent to speak for 1 minute.

Mr. MARKEY. To this amendment.

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

The Senator from Massachusetts is recognized.

Mr. MARKEY. Mr. President, this is a motion to table the Markey amendment, which is an amendment to have every Member of the Senate be put on record as to whether or not the oil coming through the Keystone Pipeline

is then exported out of the United States. Each Member of the Senate should be recorded on that issue.

We import 5 million barrels of oil per day into the United States. We should not allow the Canadians to use the United States as a straw to be able to then go down to the Gulf of Mexico and send that oil out of the country. We export young men and women over to the Middle East in order to protect oil coming in from Saudi Arabia and Kuwait. This is a chance to keep oil in America so we don't have to export it.

I do not believe the appropriate vote for Members is to support a tabling of the Markey amendment so that we don't actually reach the heart of this substantive issue, which is that we should be working to have energy independence in America. When we are importing 5 million barrels of oil a day from Russia, Saudi Arabia, and Kuwait, we are in no way independent.

I thank the Presiding Officer for the opportunity to speak.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The yeas and nays have previously been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Nevada (Mr. REID) is necessarily absent.

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

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 4 Leg.]

YEAS—57

| | | |
|---|---|---|
| Alexander | Fischer | Murkowski |
| Ayotte | Flake | Paul |
| Barrasso | Gardner | Perdue |
| Blunt | Graham | Portman |
| Boozman | Grassley | Risch |
| Burr | Hatch | Roberts |
| Capito | Heitkamp | Rounds |
| Cassidy | Heller | Rubio |
| Coats | Hoeven | Sasse |
| Cochran | Inhofe | Scott |
| Collins | Isakson | Sessions |
| Corker | Johnson | Shelby |
| Cornyn | Kirk | Sullivan |
| Cotton | Lankford | Thune |
| Crapo | Lee | Tillis |
| Cruz | Manchin | Toomey |
| Daines | McCain | Vitter |
| Enzi | McConnell | Warner |
| Ernst | Moran | Wicker |

NAYS—42

| | | |
|---|---|---|
| Baldwin | Franken | Murray |
| Bennet | Gillibrand | Nelson |
| Blumenthal | Heinrich | Peters |
| Booker | Hirono | Reed |
| Boxer | Kaine | Sanders |
| Brown | King | Schatz |
| Cantwell | Klobuchar | Schumer |
| Cardin | Leahy | Shaheen |
| Carper | Markey | Stabenow |
| Casey | McCaskill | Tester |
| Coons | Menendez | Udall |
| Donnelly | Merkley | Warren |
| Durbin | Mikulski | Whitehouse |
| Feinstein | Murphy | Wyden |

NOT VOTING—1

Reid

The motion was agreed to.

Ms. MURKOWSKI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 17

Ms. MURKOWSKI. I now move to table the Franken amendment, No. 17, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Nevada (Mr. REID) is necessarily absent.

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

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 5 Leg.]

YEAS—53

| | | |
|---|---|---|
| Alexander | Fischer | Paul |
| Ayotte | Flake | Perdue |
| Barrasso | Gardner | Portman |
| Blunt | Graham | Risch |
| Boozman | Grassley | Roberts |
| Capito | Hatch | Rounds |
| Cassidy | Heller | Rubio |
| Coats | Hoeven | Sasse |
| Cochran | Inhofe | Scott |
| Collins | Isakson | Sessions |
| Corker | Johnson | Shelby |
| Cornyn | Kirk | Sullivan |
| Cotton | Lankford | Thune |
| Crapo | Lee | Tillis |
| Cruz | McCain | Toomey |
| Daines | McConnell | Vitter |
| Enzi | Moran | Wicker |
| Ernst | Murkowski | |

NAYS—46

| | | |
|---|---|---|
| Baldwin | Gillibrand | Nelson |
| Bennet | Heinrich | Peters |
| Blumenthal | Heitkamp | Reed |
| Booker | Hirono | Sanders |
| Boxer | Kaine | Schatz |
| Brown | King | Schumer |
| Burr | Klobuchar | Shaheen |
| Cantwell | Leahy | Stabenow |
| Cardin | Manchin | Tester |
| Carper | Markey | Udall |
| Casey | McCaskill | Warner |
| Coons | Menendez | Warren |
| Donnelly | Merkley | Whitehouse |
| Durbin | Mikulski | Wyden |
| Feinstein | Murphy | |
| Franken | Murray | |

NOT VOTING—1

Reid

The motion was agreed to.

Ms. MURKOWSKI. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 3, AS MODIFIED

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that Senator SHAHEEN be recognized to speak for 1 minute and that Senator PORTMAN be recognized to speak for 1 minute.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I join my colleague Senator PORTMAN from Ohio in a bipartisan amendment on energy efficiency. This is a very short version that passed overwhelmingly in the House last year. It doesn't pick favorites in terms of fuel sources, and it is good for every region of the country. This is something we all ought to be able to get behind. I am very pleased and hope we get a very strong vote in the Senate.

I am pleased to support this amendment, and I thank my colleague from Ohio, Senator PORTMAN, for his leadership.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. The Senator from New Hampshire said it well. This is a no-brainer. It is three relatively small provisions, one of which is very timely with regard to water heaters, about which we are very concerned. I ask that we move on this amendment in a bipartisan way. It has already passed the House, so it shouldn't be controversial over there either. We hope we will be able to bring the larger legislation to the floor in the future, but this is a good downpayment.

Ms. MURKOWSKI. I know of no further debate on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Nevada (Mr. REID) is necessarily absent.

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

The result was announced—yeas 94, nays 5, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—94

| | | |
|---|---|---|
| Alexander | Fischer | Murray |
| Ayotte | Flake | Nelson |
| Baldwin | Franken | Perdue |
| Barrasso | Gardner | Peters |
| Bennet | Gillibrand | Portman |
| Blumenthal | Graham | Reed |
| Blunt | Grassley | Risch |
| Booker | Hatch | Roberts |
| Boozman | Heinrich | Rounds |
| Boxer | Heitkamp | Rubio |
| Brown | Heller | Sanders |
| Burr | Hirono | Schatz |
| Cantwell | Hoeven | Schumer |
| Capito | Inhofe | Scott |
| Cardin | Isakson | Sessions |
| Carper | Johnson | Shaheen |
| Casey | Kaine | Shelby |
| Cassidy | King | Stabenow |
| Coats | Kirk | Sullivan |
| Cochran | Klobuchar | Tester |
| Collins | Leahy | Thune |
| Coons | Manchin | Tillis |
| Corker | Markey | Toomey |
| Cornyn | McCain | Udall |
| Cotton | McCaskill | Vitter |
| Crapo | McConnell | Warner |
| Daines | Menendez | Warren |
| Donnelly | Merkley | Whitehouse |
| Durbin | Mikulski | Wicker |
| Enzi | Moran | Wyden |
| Ernst | Murkowski | |
| Feinstein | Murphy | |

NAYS—5

| | | |
|---|---|---|
| Cruz | Lee | Sasse |
| Lankford | Paul | |

NOT VOTING—1

Reid

The amendment (No. 3), as modified, was agreed to.

Ms. MURKOWSKI. Mr. President, I move to reconsider the vote.

Mrs. FISCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. MURKOWSKI. Mr. President, we have disposed of three pending amendments that were before us. As we mentioned earlier, we are looking forward to Members coming down to the floor to offer their amendments. We have agreed to a process here this afternoon.

Today will be a somewhat truncated day on the Senate floor because of the State of the Union Address, but it is our hope that we will be able to get three amendments pending on our side and three amendments pending on the Democrats' side.

The Senator from Nebraska, Mrs. FISCHER, is prepared to speak to her amendment, and then we will move to the other side of the aisle. After that, I will be calling up an amendment from Senator LEE. We will then go to the Democratic side and come back here for a third round.

Just to give Members an idea of what we will have in front of us, we will not be having votes on these amendments today, but I do think it should be clear to Members that we will be looking forward to doing a similar series of votes tomorrow. So I would encourage folks to come to the floor, talk to us, and let's get this process moving.

With that, Mr. President, I yield to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 18 TO AMENDMENT NO. 2

Mrs. FISCHER. Mr. President, I call up my amendment No. 18.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mrs. FISCHER] proposes an amendment numbered 18 to amendment No. 2.

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

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

The amendment is as follows:

(Purpose: To provide limits on the designation of new federally protected land)

At the end of the bill, add the following:

**SEC. ___. LIMITATION ON DESIGNATION OF NEW FEDERALLY PROTECTED LAND.**

(a) DEFINITION OF FEDERALLY PROTECTED LAND.—In this section, the term ''federally protected land'' means any area designated or acquired by the Federal Government for the purpose of conserving historic, cultural, environmental, scenic, recreational, developmental, or biological resources.

(b) FINDINGS REQUIRED.—New federally protected land shall not be designated unless the Secretary, prior to the designation, publishes in the Federal Register—

(1) a finding that the addition of the new federally protected land would not have a negative impact on the administration of existing federally protected land; and

(2) a finding that, as of the date of the finding, sufficient resources are available to effectively implement management plans for existing units of federally protected land.

Mrs. FISCHER. Mr. President, this amendment would create limitations for new Federal land designations to ensure responsible management of our natural resources. These limitations are modeled on those in the National Marine Sanctuaries Act, which authorizes the protection of national marine sanctuaries. Under the act, the Commerce Secretary cannot designate a new sanctuary unless the Secretary publishes a finding that, No. 1, the addition of a new sanctuary will not have a negative impact on the overall system, and No. 2, sufficient resources were available in the fiscal year in which the finding is made to effectively implement management plans for each sanctuary in the system.

These are commonsense limitations that ensure the administration will not add more land to the Federal system without considering the impacts to the overall system and without sufficient funds to manage those resources effectively. At a time when the national park system has a $13 billion maintenance backlog, we need to consider the impacts to the overall system and whether there are sufficient resources to effectively manage additional land holdings.

In the context of energy policy, we should also consider our stewardship choices. American energy production on private and State-owned lands has increased significantly in recent years while decreasing on Federal lands. Through leasing restrictions and permitting delays, the Obama administration has tied up energy production on Federal lands in redtape. Since 2009 oil production on Federal lands is down by 6 percent, and natural gas production on Federal lands is down 28 percent. Meanwhile, oil production on non-Federal land has risen by 61 percent, and natural gas production on non-Federal land is up by 33 percent.

By limiting Federal land designations, more land should continue to be held privately or managed by States and local governments, increasing the opportunity for productive and beneficial use.

Thank you, Mr. President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, as we go back and forth on offering amendments, I wish to turn to the Senator from Hawaii for him to offer his amendment.

Mr. SCHATZ. I thank the Senator from Washington.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 58 TO AMENDMENT NO. 2

Mr. SCHATZ. Mr. President, I ask unanimous consent that the Senate set aside the pending amendment in order to call up amendment No. 58.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. SCHATZ] proposes an amendment numbered 58 to amendment No. 2.

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

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

The amendment is as follows:

(Purpose: To express the sense of Congress regarding climate change)

At the appropriate place, insert the following:

**SEC. ___. SENSE OF CONGRESS.**

(a) FINDINGS.—The environmental analysis contained in the Final Supplemental Environmental Impact Statement referred to in section 2(a) and deemed to satisfy the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as described in section 2(a), states that—

(1) ''[W]arming of the climate system is unequivocal and each of the last [3] decades has been successively warmer at the Earth's surface than any preceding decade since 1850.'';

(2) ''The [Intergovernmental Panel on Climate Change], in addition to other institutions, such as the National Research Council and the United States (U.S.) Global Change Research Program (USGCRP), have concluded that it is extremely likely that global increases in atmospheric [greenhouse gas] concentrations and global temperatures are caused by human activities.''; and

(3) ''A warmer planet causes large-scale changes that reverberate throughout the climate system of the Earth, including higher sea levels, changes in precipitation, and altered weather patterns (e.g. an increase in more extreme weather events).''.

(b) SENSE OF CONGRESS.—Consistent with the findings under subsection (a), it is the sense of Congress that—

(1) climate change is real; and

(2) human activity significantly contributes to climate change.

Mr. SCHATZ. This amendment affirms something very simple; that is, climate change is real and human activities significantly contribute to climate change. It also states that a warmer planet causes large-scale changes, including higher sea levels, changes in precipitation, and altered weather patterns, such as increases in more extreme weather events.

This amendment cites for its evidence the findings of national and international scientific institutions, including the IPCC, the National Research Council, and the U.S. Global Change Research Program. All of these organizations are cited and quoted in the State Department's final supplemental environmental impact statement on Keystone XL Pipeline. This is the same environmental review document that plays a prominent role in the text of the underlying bill, S. 1, and the substitute amendment.

The purpose of this amendment is simply to acknowledge and restate a set of observable facts. It is not intended to place a value judgment on those facts or to suggest a specific course of action in response to those facts. It is just a set of facts derived from decades of careful study of our land, air, and water.

I urge my colleagues to support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 33 TO AMENDMENT NO. 2

Ms. MURKOWSKI. Mr. President, I ask unanimous consent to set aside the pending amendment to call up Senator LEE's amendment No. 33.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Ms. MURKOWSKI], for Mr. LEE, proposes an amendment numbered 33 to amendment No. 2.

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

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

The amendment is as follows:

(Purpose: To conform citizen suits under the Endangered Species Act of 1973)

At the appropriate place, insert the following:

**SEC. _____. AWARD OF LITIGATION COSTS TO PREVAILING PARTIES IN ACCORDANCE WITH EXISTING LAW.**

Section 11(g)(4) of the Endangered Species Act of 1973 (16 U.S.C. 1540(g)(4)) is amended by striking ''to any'' and all that follows through the end of the sentence and inserting ''to any prevailing party in accordance with section 2412 of title 28, United States Code.''.

Ms. MURKOWSKI. Very briefly on Senator LEE's amendment—he will be here to speak to it—this is a measure which would ensure that the rate of legal fees that are paid in Endangered Species Act cases would be consistent with those in other cases that are eligible for lawyer's fee compensation. Right now there is no cap on the hourly rate lawyers can be paid in connection with lawsuits that are brought regarding violations under the ESA. So this amendment would standardize the award of attorney's fees to parties prevailing against the Federal Government by applying a $125-an-hour rate cap under the Equal Access to Justice Act requirement. This applies to small business-related claims, among other things, and this would apply the same standard to ESA cases.

This is a measure Senator LEE will come to the floor to speak to further, but I would just give a little preview of that.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. I would like to call on the Senator from Illinois to offer his amendment.

AMENDMENT NO. 69 TO AMENDMENT NO. 2

Mr. DURBIN. Mr. President, I ask unanimous consent to set aside the pending amendment to call up amendment No. 69.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 69 to amendment No. 2.

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

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

The amendment is as follows:

(Purpose: To ensure that the storage and transportation of petroleum coke is regulated in a manner that ensures the protection of public and ecological health)

At the appropriate place, insert the following:

**SEC. _____. REGULATION OF TRANSPORTATION AND STORAGE OF PETROLEUM COKE.**

This Act shall not take effect prior to the date that—

(1) the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, promulgates rules concerning the storage and transportation of petroleum coke that ensure the protection of public and ecological health; and

(2) petroleum coke is no longer exempt from regulation under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)), which may be established either by an Act of Congress or any regulations, rules, or guidance issued by the Administrator of the Environmental Protection Agency.

Mr. DURBIN. Mr. President, about 1 year ago I was invited to go to the southeast part of the city of Chicago. It is an area that used to be populated by steel mills and now there are a lot of struggling families. The manufacturing jobs were not replaced.

These are hard-working people—many are Mexican-American people. They sustain what you might expect—great parishes and churches and a great spirit among them, but now they are in a constant struggle. They live in a part of Chicago that has seen better days. They are doing their darndest for their families.

They invited me to see something. They wanted me to see what they were living next door to. I went down to that part of the city of Chicago—within the boundaries of the city of Chicago—and I could not believe what I saw. They live in little houses such as these, and across from them is a mountainous gathering of something called petcoke.

What is petcoke? If you take the Canadian tar sands that will move through the Keystone XL Pipeline to a refinery and put them through a process where you can end up with a viable product, such as gasoline, jet fuel, diesel fuel or whatever it might be, you have to clean out all of this petcoke that creates the tar sands composition that they are dealing with.

When it is all over with—and if the process has been successful—there is a lot of waste. In fact, there are 61 pounds of petcoke for every barrel of oil. Keep in mind that the Senator who is sponsoring the underlying legislation—we are dealing with moving hundreds of thousands of barrels a day through this pipeline.

Now take every one of those barrels and have 61 pounds of petcoke left over as a result of the refining process. What happens to it? This is what happened to it in Chicago. It was dumped in the neighborhood.

The people invited me to come to their homes, and I did. I walked into this woman's home, and she said: I have sealed the windows. I taped them shut because this black, sooty petcoke blows through my windows night and day. I cannot stop it. Is it something to worry about?

It turns out that the petcoke is not a benign material. We are not talking about dust in the air. We are talking about a composition that includes—according to those who have taken a close look at it—heavy metals. Would you want your baby in your home—or my home or my grandchildren—breathing in this filthy, petcoke-infested dust night and day? They are not making it up. They showed me the window sills, and you could see the black, sooty petcoke.

I will tell you the details of the story. The environmental review for the project of Keystone XL notes that communities throughout the Midwest have noticed large piles of petroleum coke—or petcoke—building up as more and more tar sands are processed.

This picture tells a story. This is near a body of water which is carrying this petcoke on the water. These poor folks deal with it as it blows through the air.

This type of crude oil is carried by the Keystone XL Pipeline, a pipeline which the Republican majority has decided is their No. 1 priority in the Senate. Under the new Republican majority it is S. 1. This pipeline, on behalf of a Canadian company, TransCanada, is the topic we are facing.

We just had a vote and unfortunately could not prevail with the notion that at least the oil that comes out of the pipeline ought to be for the benefit of American consumers. We lost that vote. I think the vote was 57 to 42. It was tabled.

Let's talk about the actual process itself. According to the EPA—as I mentioned, the environmental impact statement—every barrel of tar sands contains 61 pounds of petcoke. That means the Keystone XL Pipeline alone will produce 15,400 metric tons of petcoke every day—15,400 metric tons of petcoke every day. Would you like to live next door to that? That is what is happening in the city of Chicago, but it not the only one.

This petcoke comes from the BP, British Petroleum, refinery in Whiting, IN. It is on the very southern tip of Lake Michigan. We can see it from the city of Chicago. They went through a

$4 billion upgrade and put in new equipment so they could start processing the Canadian tar sands which will come down through the Keystone XL Pipeline.

Soon after they started this processing with $4 billion of new equipment, the people living in this part of Chicago looked out their windows to see the massive piles of petcoke building up, and as a consequence they got worried. They are worried for their children. On windy days—it is, in fact, the ''Windy City''—black clouds of this dust blow from piles into this working-class neighborhood.

It always seems to be the case, doesn't it? If somebody tried to put this on the North Shore of Chicago, they would scream bloody murder. But the company that owns this petcoke put it outside a poor neighborhood—a working-class neighborhood in Chicago. The petcoke dust settles on window sills and porches.

I met the kids running outside.

They are producing 6,000 tons of petcoke every single day at the British Petroleum refinery in Whiting, IN—6,000 tons a day. At that rate the plant only has room to store a few days' worth of production onsite. So they ended up selling the petcoke to a company called KCBX. It is a subsidiary company owned by the Koch brothers—yes, those Koch brothers.

Connect the dots. The highest priority of the Republican majority in the Senate was to call up a bill for a Canadian company to transport tar sands across the United States with no promise that the American consumers would ever be able to access it, and the process of refining the Canadian tar sands ends up inuring to the benefit of many companies, such as British Petroleum and KCBX, which again is owned by the Koch brothers. These are the same Koch brothers who are viable political players in our political campaigns.

This means the people in southeast Chicago are forced to breathe this dirty air that members of National Nurses United say causes severe health threats. Petcoke contains high levels of heavy metals, such as vanadium and nickel, and dust particles get trapped in residents' lungs, triggering asthma and exacerbating heart and lung conditions.

When I go to a school—whether it is rural or urban—I make a point to ask a very basic question: Does any student here know anyone with asthma? Half of the hands are up in every classroom. Our pages are starting to raise their hands, of course.

So here we have a national problem, a respiratory problem, which has been made dramatically worse by the byproduct, petcoke, of the Keystone XL Pipeline. That is a fact. What I have argued to you now so far is indisputable.

The community and members of the Southeast Environmental Task Force that I visited with in Chicago are fighting back with the help of the National Resources Defense Council. They worked with Mayor Emanuel and Chicago officials to put standards in place for petcoke storage sites that protect public and environmental health. They have come up with a radical notion—if you want to store this dangerous petcoke, then for goodness' sake put it inside a building so it doesn't blow all over the neighborhood.

They are suing KCBX and Koch Industries for the damages caused by petcoke piles after the Environmental Protection Agency issued a notice to the company of Clean Air Act violations.

The people who hate the EPA like the devil hates holy water do not want them to come in and look at something as outrageous as this and tell you the obvious. This is a public health danger. Petcoke from Canadian tar sands, and part of the Keystone XL Pipeline, is a public health hazard.

Unfortunately, petcoke just isn't an issue in Chicago or Illinois. My colleague from Michigan, Senator GARY PETERS, told me a story earlier. He can tell you what happened in Detroit when another Koch brothers-owned company decided to store large piles of petcoke on the Detroit River.

If you look online, you can still find the YouTube video of black clouds blowing off the piles of the Koch brothers' petcoke into the river. In fact, Senator PETERS said that at one point this black cloud was so dense it obscured the Ambassador Bridge between the United States and Canada. You could not see it.

It took years of complaints and lawsuits from local communities to get shipping ports in California to require piles of petcoke that was being stored there to be kept in enclosed facilities and covered at all times.

Other communities continue to fight, including my city of Chicago, which I am proud to represent. As the U.S. refines more and more tar sands—that is what this bill is all about, refining more and more Canadian tar sands. Every single day tons of this petcoke is produced with no end in sight and no way of protecting the people who live around that area from the damage it will cause to the lungs of children and other vulnerable people, such as elderly people with respiratory challenges.

Residents in Houston, TX, and the State of Ohio have complained about how these petcoke piles stored in their neighborhoods are damaging their homes and health, but many Americans affected by petcoke don't have the money or power to take on big companies, so it is up to Congress. It is up to us to ensure that every person in America—rich or poor, whether they live in a good neighborhood or a struggling neighborhood—has the protection against public health hazards.

There is a current exemption of petcoke from environmental laws. When you think of all of the things blowing in the air, how in the world did petcoke end up being treated like fairy dust? It is exempt from laws relating to basic things, such as the Superfund. It is exempt from laws relating to hazardous waste and materials. They must have had friends in high places to make sure this miserable source of respiratory problems would be exempt from Federal law.

My amendment would change that. It would end this exemption so they would be held to environmental and public health standards when it comes to this miserable byproduct of Canadian tar sands and the Keystone XL Pipeline.

My amendment goes on to require the EPA and the Department of Transportation to implement rules for petcoke storage and transportation to protect the public health and environment.

Is there anyone here who will tell you that the folks, TransCanada or those refining this, should not have that responsibility? I would not want to see this anywhere. I would not want to see it in Alaska, and I would not want to see it in Oklahoma. I sure don't want to even see it in the city of Chicago. But to think it goes unregulated—absolutely unregulated—is amazing, and that is what my amendment addresses.

The United States already produces millions of tons of petcoke each year. Building this pipeline is just going to add dramatically to that amount. By fixing the legal status of petcoke and making it subject to the same laws as all other dangerous materials, we can help ensure that clean air and clean water is something everyone enjoys, whether they are rich or poor and no matter what State they happen to live in.

I hope the Senate will have a chance to vote on my amendment to close this loophole for petcoke and establish reasonable guidelines for handling the material.

It is time we put the health and well-being of Americans ahead of the profits of any industry involved in the processing of Canadian tar sands because no community—especially the southeast side of Chicago—should be considered a dumping ground for companies to make money off the lungs and health of vulnerable children, elderly, and poor people.

No family should be forced to live next door to a three-story-high pile of petcoke, and that is what is going on. No kid should have to move from a ball field to play inside so they are not exposed to hazardous chemicals.

I know what will happen. Somebody is going to make a motion to table this amendment. We can run, but we can't hide, just as we can run, but we can't hide from blowing petcoke. If my colleagues won't allow a vote on this amendment to classify this as a material that should be regulated for the safety of the environment and public health, they will be on record if they vote to table this amendment.

I urge my colleagues—even if they dearly love the Keystone XL Pipeline

and even if they can't wait to bring in the Canadian tar sands—think about this as if this were your hometown, your neighborhood, and you lived in a house such as this and you looked across the road at that miserable pile, three stories high, of petcoke blowing in for your children and your grandchildren to breathe every day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 41 TO AMENDMENT NO. 2

Ms. MURKOWSKI. Mr. President, at this time I ask unanimous consent to set aside the pending amendment to call up the Toomey amendment No. 41.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska, [Ms. MURKOWSKI], for Mr. TOOMEY, for himself, Mr. CASEY, and Mr. HATCH, proposes an amendment numbered 41 to amendment No. 2.

Ms. MURKOWSKI. I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To continue cleaning up fields and streams while protecting neighborhoods, generating affordable energy, and creating jobs)

At the appropriate place, insert the following:

**SEC. ___. STANDARDS FOR COAL REFUSE POWER PLANTS.**

(a) FINDINGS.—Congress finds that—

(1) 19th-century mining operations left behind more than 2,000,000,000 tons of coal refuse on surface land in various coal mining regions of the United States;

(2) coal refuse piles—

(A) pose significant environmental risks;

(B) have contaminated more than 180,000 acres of land and streams; and

(C) are susceptible to fires that endanger public health and emit an estimated 9,000,000 tons of carbon dioxide each year, in addition to other uncontrolled pollutants;

(3) the Environmental Protection Agency, the Office of Surface Mining Reclamation and Enforcement, and the Department of Environmental Protection of the State of Pennsylvania recognize the significant public health benefits of power plants that use coal refuse as fuel;

(4) since the inception of coal refuse power plants, the plants have removed 210,000,000 tons of coal refuse and restored 8,200 acres of contaminated land; and

(5) due to the unique nature of coal refuse and the power plants that use coal refuse as a fuel, those plants face distinct economic and technical obstacles to achieving compliance with regulatory standards established for traditional coal-fired power plants.

(b) DEFINITION OF COAL REFUSE.—In this section, the term ''coal refuse'' means any byproduct of coal mining, physical coal cleaning, or coal preparation operations that contains coal, matrix material, clay, and other organic and inorganic material.

(c) EMISSION LIMITATIONS FOR CERTAIN ELECTRIC UTILITY STEAM GENERATING UNITS.—

(1) IN GENERAL.—The general emission limitations established by the Environmental Protection Agency in the final rule entitled ''Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals'' (76 Fed. Reg. 48208 (August 8, 2011)) (or a successor regulation) shall not apply to an electric utility steam generating unit described in paragraph (3).

(2) HYDROGEN CHLORIDE AND SULFUR DIOXIDE.—The emission limitations for hydrogen chloride and sulfur dioxide contained in table 2 of subpart UUUUU of part 63 of title 40, Code of Federal Regulations (or successor regulations), entitled ''Emission Limits for Existing EGUs'' shall not apply to an electric utility steam generating unit described in paragraph (3).

(3) DESCRIPTION OF ELECTRIC UTILITY STEAM GENERATING UNITS.—An electric utility steam generating unit referred to in paragraphs (1) and (2) is an electric utility steam generating unit that—

(A) is in operation as of the date of enactment of this Act;

(B) uses fluidized bed combustion technology to convert coal refuse into energy; and

(C) uses coal refuse as at least 50 percent of the annual fuel consumed, by weight, of the unit.

(d) EFFECTIVE DATE.—Notwithstanding any other provision of this Act, this section takes effect on the date of enactment of this Act.

Ms. MURKOWSKI. Mr. President, obviously, Senator TOOMEY will come to the floor to speak to his amendment.

I wish to follow up on the comments of the Senator from Illinois, who was referring to petcoke. Senator TOOMEY in his amendment is attempting to deal with a situation in specific parts of the country that are impacted by coal refuse. Coal refuse, as it is defined in his amendment, effectively comes about from some centuries-old, 19th century mining operations that left behind this coal refuse in certain parts of the coal mining regions around the country. They remain a legacy problem that is acknowledged, a legacy problem that creates environmental issues, including contamination of local streams with heavy metals, acid, and mine drainage, that, again, I think we all recognize there is a responsibility to address.

The good news is there is a solution to cleaning up this problem. Coal refuse powerplants take this coal and these waste piles and turn them into energy and heat for consumers, for businesses. They follow EPA regulations. This is not a situation where we are bypassing EPA regulations when it comes to the emissions issues. But remediating these mine sites, removing these waste piles, and at the same time generating electricity with the coal and applying the basic ash from the process reclaims the land at a lower cost. So we are able to do several things at the same time. We are dealing with an environmental issue that has been in place for far too long. We are generating electricity that can be used to the benefit of consumers and businesses, and we are also able to reclaim the land.

So it is viewed, clearly, as a win here. It also creates some jobs. It improves the environment and it boosts economic growth.

Burning these coal waste piles is basically a carbon-neutral process because the carbon in these piles is currently being emitted into the atmosphere through the slow chemical process that is at play there, and we also have fires that burn within these piles. So just sitting there is not an answer to a better environment and reduced emissions.

The plants that burn this waste coal cannot economically be as clean as plants using higher quality coal. But the side benefits of removing these waste piles, again, from the perspective of dealing with emissions, generating electricity, and reclaiming the land—the benefits do compensate for the differences that are out there.

Historically, environmental regulators have recognized these benefits. They have carved out the plants from regulatory standards that would cause them to shut down. There have been EPA regulations recently that have failed to sustain this approach and, thus there is the amendment of the Senator from Pennsylvania that would allow these coal waste plants to run.

I encourage my colleagues to look at this amendment in front of us and consider the merits as Senator TOOMEY has laid out.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Mr. President, I know we are running against a time clock here in getting ready for the State of the Union Address tonight. I appreciate my colleague from Alaska going back and forth on these amendments and allowing both sides of the aisle to set up some pending amendments. I will just say the Toomey amendment asks for an exemption of the Clean Air Act which I wouldn't support. I know we will have a chance later on to have that discussion.

Our colleague from Nebraska came to the floor and offered an amendment that would make it incredibly difficult without first proving there was negative management of Federal land to get any more national monuments. National monuments have been big economic drivers in a lot of communities and have preserved some very unique parts of our country. We will have a chance to talk about that a little bit later. But I wish to make sure we get our colleague recognized so he can offer his amendment. Then, I think we will probably, as my colleague from Alaska said, be finished for this afternoon as it relates to offering amendments back and forth. I wish to recognize the Senator from Rhode Island for his amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 29 TO AMENDMENT NO. 2

(Purpose: to express the sense of the Senate that climate change is real and not a hoax)

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent to lay aside the pending amendment so that I may call up my amendment No. 29.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. WHITEHOUSE] proposes an amendment numbered 29 to amendment No. 2.

On page 3, between lines 19 and 20, insert the following:

**SEC. ___. SENSE OF THE SENATE REGARDING CLIMATE CHANGE.**

It is the sense of the Senate that climate change is real and not a hoax.

Mr. WHITEHOUSE. Mr. President, I first wish to thank the distinguished chairman of the energy committee and her ranking member for allowing this process to go forward to the point where I am able to call up this amendment.

It is a convention here when amendments are called up to ask unanimous consent that the reading be dispensed with, but in this amendment, the effective language is only eight words: ''Climate change is real and not a hoax.'' So I went ahead and allowed the clerical staff to read the whole operative text of this amendment.

This is an extremely simple amendment. We are here in this remarkable body in which so much history has taken place and in which so many great achievements have been fought through, many of them with powerful interests and strong arguments on opposite sides. And through that conflict, here in this body, we have been able to generate some of the great compromises and some of the great resolutions that have defined the course of the history of this country. So what a wonderful place this is to have the opportunity to serve.

Now, in this great deliberative body, called by many the greatest deliberative body, we have a great issue before us—perhaps as many say, the issue of our time—and that is what our carbon pollution—the excess carbon that we burn when we burn fossil fuels—is doing to our atmosphere and what it is doing to our oceans. There is no factual debate about what it is doing to our atmosphere and our oceans. It is crystal clear, and the consequences are crystal clear as well.

If my colleagues don't believe me, fine, go ask the U.S. military. Ask Admiral Locklear. Ask the Secretary of the Navy. Ask the Joint Chiefs of Staff. If my colleagues don't want to believe in the military, ask our religious leaders. Ask the U.S. Conference of Catholic Bishops. If my colleagues only believe what corporations tell us, ask some of our biggest and most successful American corporations. Ask Walmart. Ask Coca-Cola. Ask Nike, ask Apple, ask Google. Go on through the corporate heraldry, and virtually every American corporation that is not actively involved in the fossil fuel industry will tell us this is a real and serious problem. And many of them are dedicating an enormous amount of internal effort to try to solve it within their corporate boundaries. Again, Walmart and Coca-Cola come right to the head of the list.

Of course, we don't have to ask our scientists any longer. They are pretty clear. They use words such as ''unequivocal'' and ''undeniable'' at every single scientific society that represents the major elements of the profession in this country. Every single one has made this a priority. If people just want to go out to farmers, foresters, and fishermen, they are already seeing the changes around them.

So here we are in this great deliberative body with this extraordinarily important issue that we have to face, and what do we see? Silence, virtually dead silence, because one side of this body won't even discuss the question. Many refuse to believe that climate change even exists, and for those who do, the political perils of using that phrase have now become so great that there is no serious conversation back and forth about climate change.

In the first week we debated the Keystone Pipeline, which the environmental impact statement said will have a dramatic effect on climate change—the equivalent of 6 million added cars on our highways for 50 years, not to mention the petcoke and the byproducts, and just the carbon effect of it—no mention. The only time it was mentioned was when our distinguished energy committee chairman mentioned the testimony of a witness in her committee. She was good enough to make sure that climate change was raised in her committee, and she mentioned that there had been a witness who in turn mentioned climate change. But there was no direct mention in all of the debate that we heard in that week about climate change. It is the word that cannot be said.

That is wrong. We cannot ignore this problem. It is too real for my fishermen in Rhode Island. It is to real for the people who are living near coasts and are seeing beaches they used to be able to play on eaten away. It is too real for the people whose homes have fallen into the sea. It is too real for us not to discuss it.

Now, it is not going to be easy, and we have to start somewhere. So this is a start. I am going to ask my colleagues to vote on such a simple question: Is climate change real or is it a hoax? Both points of view have been expressed in this body. Where do we come down? Let's actually find out if there are people on the Republican side of the aisle who are willing to say climate change is real. My moose up in New Hampshire, one could say, are suffering unprecedented infestations of ticks because there is no snow for them to fall off and die, and the moose are getting overwhelmed. We could say that in the University of Oklahoma, the leading dean is an IPCC member and led the establishment of Climate Central. One could go to the Carolina coasts and hear from the coastal agencies about sea level rise. One could go to Arizona and hear about the desertification and the drought. We can go all over the place and find these things, and they are real.

We have to have this conversation. It has to begin with as simple a proposition as this. Then, I hope if we can build off this if we can find a few Republican Senators who will say publicly that climate change is real. We can then go on to if it is real, let's have a conversation about what we do about it, because recklessly continuing to dump megatons of carbon into the atmosphere every year is not a solution. And I don't want to be a part of a generation of which our kids and our grandchildren look back and ask: Where were they? Why could they not address this question? There they were in this great deliberative body. There they were with this great issue of our time. Why would they not even discuss it?

So I hope this amendment gets the conversation under way. It is one I look forward to. I think there are very sensible ways to solve this problem, including ways that have been supported by everyone from Republican Secretaries of the Treasury to the lead economist for Ronald Reagan, the famous Mr. Laffer. There are ways we can make these adjustments. But we have to have the conversation, and I hope this begins it.

With that, I yield the floor. Again, I thank the distinguished chairman of the energy committee for her courtesy in allowing us to proceed.

The PRESIDING OFFICER. The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I thank my colleague. I think discussions we have had just in the past hour here since we have had the vote and the various amendments we now have pending before us—this is a good conversation. This is a good discussion and debate for us to be having as a body. We haven't had energy-related issues brought before this floor in some years now. We had a very limited debate on Keystone back in December, but I am hopeful that with the opportunity for amendments—and again, not just some amendments we on our side have handpicked and then decided what the Democrats might be able to move on their side—an opportunity for some real issues to be brought forward and to be debated on this floor.

The Senator from Rhode Island is very passionate on the issue of climate change. I think it is fair to say that he has singlehandedly raised the awareness not only in this body but for those loyal followers on C–SPAN.

When it comes to the issue of climate change, I think the Senator comes up once a week with his charts and a series of speeches that I think is meant to educate colleagues. I don't agree with all of it. I think that is a fair statement to say. But what is equally fair is that there is a care and concern for not only our country and our country's environment—truly the public

safety of our people, a care for our land, the stewardship we have as Americans—but it goes well beyond our borders to that of our entire globe, our entire planet, and how we care for planet Earth and how we move forward responsibly.

One aspect of the energy debate that I continue to advance is that we must ensure that if we are to make advances when it comes to caring for our environment and truly the whole issue of global climate, we have to be a nation that is economically secure in the sense that the technologies we will have to help us be cleaner in all that we do, do not come without cost. Here in this country, we have been the leaders, we have been the innovators when it comes to clean-energy technologies, and we should challenge ourselves every day to do more in that regard, to build out, to push out that R&D so that we are making—whether it is making clean coal truly clean, whether it is advancing those clean energy technologies.

I, for one, coming from a fossil fuel-producing State, am a huge proponent of nuclear-powered generation in this country because I believe very strongly that it is the cleanest energy source we have at this point in time.

So what are we doing in this country to make sure our energy is abundant, affordable, clean, diverse, and secure? These are the challenges I put out to my colleagues.

I clearly appreciate the need that we have in this body and in this country to be moving forward with technologies that allow us to have reduced emissions, to have a cleaner environment, but I also want to make sure we do so in a way that doesn't cripple our economy. So how we lead in this way, which I believe we must, while keeping our economy where it must be—in the front and moving forward all the time—is our great challenge.

Again, I look forward to the debate we will have. I am pleased we were able to process the amendments we had before us today. I look forward to advancing those that we have pending in front of us now and to good, continued, and robust discussion on this floor.

I note the majority leader is here, and I yield the floor.

The PRESIDING OFFICER. The majority leader.

## MORNING BUSINESS

Mr. MCCONNELL. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER (Ms. AYOTTE). Without objection, it is so ordered.

## TRIBUTE TO PHILIP M. PRO

Mr. REID. Madam President, I rise today to recognize the career of the Honorable Philip M. Pro, who is retiring from the U.S. District Court for the District of Nevada.

For more than 25 years, Judge Pro has sat on the district court. He was nominated by President Ronald Reagan, and he took office on July 23, 1987. From 2002 to 2007, he served as chief judge for the district court. Since being appointed to this distinguished position by President Reagan, his consistent leadership and responsiveness to the public and the court have not gone unnoticed. In October 1993, then U.S. Supreme Court Chief Justice William Rehnquist appointed Judge Pro as chair of the Committee on the Administration of the Magistrate Judges System of the Judicial Conference of the United States. In 2007, U.S. Supreme Court Chief Justice John Roberts appointed Judge Pro to the board of the Federal Judicial Center.

Beyond his remarkable career at the district court, Judge Pro has had a tremendous impact on the entire legal community. He served for several years on the Study Committee to Review the Nevada Rules of Civil Procedure. He was actively involved in numerous international rule-of-law programs in countries such as Hungary, Spain, Norway, Malawi, and South Africa. Judge Pro was integral in the establishment of the William S. Boyd School of Law at the University of Nevada, Las Vegas. He served on the Law Advisory Committee for the law school and the advisory board of the school's Saltman Center for Conflict Resolution.

In addition to his impressive work in the legal community, he has worked since 1987 to educate Nevada's youth about civic duties through his role with the We, the People . . . the Citizen and the Constitution Program.

On a personal basis, I was chairman of the Nevada Gaming Commission during tumultuous times, when it was discovered mob influences infiltrated Nevada's gaming establishments; Phil was one of my attorneys. We have joked, since then, that he was able to beat, on behalf of the State of Nevada and its gaming authorities, the best lawyers that the adverse interest could buy. He was then an advocate of the law. Phil understood the law, for which I will always be grateful. I would also be negligent if I did not announce to everyone within the sound of my voice my envy for his great voice. He has a deep baritone speaking ability, which sets him apart from almost everyone else. I thank Phil Pro for his friendship.

Through his years of professional and voluntary service, Judge Pro has become a fixture in the Nevada legal community. I congratulate him on his many successes and decades of dedicated public service. I wish him the best in all his future endeavors.

## COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

### RULES OF PROCEDURE

Mr. THUNE. Madam President, the Committee on Commerce, Science, and Transportation has adopted rules governing its procedures for the 114th Congress. Pursuant to rule XXVI, paragraph 2, of the Standing Rules of the Senate, I ask unanimous consent that the accompanying rules for the Senate Committee on Commerce, Science, and Transportation be printed in the RECORD.

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

**RULES OF THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**

114TH CONGRESS

RULE I—MEETINGS OF THE COMMITTEE

1. IN GENERAL.—The regular meeting dates of the Committee shall be the first and third Wednesdays of each month. Additional meetings may be called by the Chairman as the Chairman may deem necessary, or pursuant to the provisions of paragraph 3 of rule XXVI of the Standing Rules of the Senate.

2. OPEN MEETINGS.—Meetings of the Committee, or any subcommittee, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee, or any subcommittee, on the same subject for a period of no more than 14 calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in subparagraphs (A) through (F) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the Committee, or any subcommittee, when it is determined that the matter to be discussed or the testimony to be taken at such meeting or meetings—

(A) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(B) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(C) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(D) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interest of effective law enforcement;

(E) will disclose information relating to the trade secrets of, or financial or commercial information pertaining specifically to, a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or