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House of Representatives

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

Senate

WEDNESDAY, MAY 18, 2011

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

PRAYER

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

Let us pray.

Ever loving and eternal God, source of light that never dims and of love that never fails, draw near to our Senators as You teach and lead them nearer to You. Make them children of faith and heirs of peace. May they tackle each challenge with integrity and faithfulness, cheerfulness and kindness, optimism and civility. Lord, keep them ever mindful of life's brevity and of the importance of being faithful even in little things. Give them the wisdom to be patient with others, ever lenient to their faults, and ever prompt to praise their virtues. May they bear with one another's burdens and so fulfill Your law.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable KIRSTEN E. GILLIBRAND led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 18, 2011.

To the Senate:

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

DANIEL K. INOUYE,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Madam President, following any leader remarks, the Senate will be in morning business until 10:30 this morning. At 10:30, the Senate will resume consideration of the motion to proceed to S. 953. There will be 4 hours of debate. At approximately 2:30 p.m., there will be a rollcall vote on the motion to proceed to that legislation, with a 60-vote threshold. I filed cloture last night on the nomination of Goodwin Liu to be a U.S. circuit judge for the Ninth Circuit. The cloture vote on his nomination will be tomorrow.

RECOGNITION OF THE MINORITY LEADER

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

OFFSHORE PRODUCTION AND SAFETY ACT

Mr. MCCONNELL. Madam President, last night, Senate Democrats put forth a plan to raise taxes on American energy that, in their words, would have done nothing to lower the price of gas at the pump. As the chairman of the Finance Committee put it: ''That's not the issue.''

I think for most Americans, high gas prices actually are the issue.

According to a Gallup poll that came out this week, nearly 7 out of 10 Americans say the high cost of gas at the pump is causing financial hardship for their families. More than half of Americans say they have made major changes to compensate for it. More than 1 in 5 say high gas prices are jeopardizing their standard of living.

Americans are struggling. My constituents in Kentucky are hurting. They want relief, and all they are getting from Democrats in Washington is a dog and pony show. Their own Members admit their legislative proposals are gimmicks. They spent a week vilifying the energy industry and another week trying to punish them.

The legislation they proposed yesterday would have done three things: destroy jobs, send American jobs overseas, and make us more dependent on foreign sources of oil. That is what yesterday's bill would have done.

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

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Democrats themselves admit it would not lower gas prices by a penny. So it is a fair question: What in the world are they doing? Once again, Democrats have been faced with a crisis and have done their best to turn it into a political exercise rather than doing something to actually help people and create jobs.

They pushed a tax on energy because evidently some of their leaders think it polls well. So does Mother's Day. I would suggest Democrats spend a little more time looking at the price of gas at their local gas stations than at the latest polling numbers about class warfare rhetoric.

At a time when Americans are genuinely struggling out there, the Democrats have chosen to waste 2 weeks making a political statement rather than in trying to make a difference.

The American people deserve a lot better than that, and that is why Republicans have offered the Offshore Production and Safety Act of 2011, which we will vote on later today.

Our plan has basically three objectives; first, to restore American offshore production; second, to improve safety; third, to require bureaucrats in Washington to get to work on the permitting process to make a decision one way or the other.

It would have three corresponding effects. First, and most important, our plan would help reduce the price of gas at the pump. By unlocking our own domestic resources and speeding up the permitting process, our plan would actually do something to increase supply, putting downward pressure on price. As the Democratic Senator from Missouri said yesterday: ''The more supply, the less the price.''

It would also help alleviate our dependence on foreign sources of oil, and it would create thousands of energy jobs right here in America instead of sending them overseas, which is why this bill has the support of both the National Association of Manufacturers and the U.S. Chamber of Commerce.

I have indicated what our bill does in general. Here are the specifics.

In order to restore American offshore production, our plan directs the Secretary of the Interior to conduct previously scheduled offshore lease sales in the western and central Gulf of Mexico, Virginia, and Alaska. In addition, the plan will extend lease terms by 1 year for gulf leases which were suspended under the 2010 Obama moratorium.

After the devastating oilspill we had last year in the gulf, improving safety is one of our highest priorities. That is why our bill amends the Outer Continental Shelf Lands Act to require all lessees to develop spill response and containment plans, establishes a public-private task force on oilspill response and mitigation, and orders a study on Federal response to oilspills by the Comptroller General to examine capabilities and legal authorities related to spill prevention and response to clarify appropriate Federal roles.

Finally, it is imperative we put in place a process that makes bureaucrats operate more efficiently on the crucial issuance of permits. That is why our plan puts time limits on the review of and decision on drilling permits, providing for 30 days of application review, with two opportunities for the Interior Department to extend the time period. Beyond that, it provides for a default approval if Interior does not reject the application within 60 days, and it directs the Interior Department to provide rationale for rejection of permits.

This bill is not our last on this crisis. We could do a lot more to increase production here at home, and we should. But it offers solutions, and every provision in this bill has bipartisan support.

At a time of near record gas prices, this is a modest approach, a good first step that takes everyone's concerns into account so we can actually achieve a practical result.

That is what Americans want. It is time to stop pointing fingers. It is time to stop picking winners and losers. It is time to stop telling Americans what is best for them.

It is time to stop holding Americans back with moratoriums, fees, bureaucratic roadblocks, and the ever-expanding reach of a President who seems to think business owners in this country need to get his permission first if they want to create jobs.

Every single American is feeling the pain at the pump, Democrats and Republicans alike. It is time for the two parties to come together and get serious about results. I urge all my colleagues to support the Offshore Production and Safety Act of 2011.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business for debate only until 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees.

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

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

The legislative clerk proceeded to call the roll.

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

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

OIL SUBSIDIES

Mr. COONS. Madam President, I rise this morning to commemorate National Police Week and to speak to the service of the brave men and women in local law enforcement. But, first, I feel compelled to make a comment in response to the exchange between the majority leader and the Republican leader, to simply speak, if I could, briefly about the ongoing pain each and every working American family feels when they go to the gas station.

With the price of gasoline at an alltime high, with the price of gasoline flirting with $4 a gallon, with the price of oil retreating from an alltime high, and with, most importantly, oil company profits gushing through the roof and hitting an alltime high, Members of our party, Members of this body came forward yesterday with a bill which got more than 50 votes but failed to hit the 60 needed in this body to make for cloture, which would have made significant progress on dealing with our deficit.

We just heard a comment on the floor that we need to stop picking winners and losers and need to move forward in helping America end its dependence on foreign energy. I could not agree more because the expenditures through our Tax Code—the billions and billions of dollars in needless expenditures through our Tax Code—that continue to subsidize some of the most wildly profitable corporations in American history is exactly that, picking winners, and the losers are the American people.

When I go home to my State—I know, Madam President, when you go home to your State—I hear people day in and day out say: Why can't you do more to help create decent jobs, to deal with the deficit and, more than anything, to stop the oil companies, which are despoiling our natural resources and picking our pockets at the pump.

This is not picking on one particular industry. This is rationally looking at our immense tax expenditures through the code and saying: There is a time here for us to stop. We would save literally $21 billion by fiscal year 2021; that is, over the next decade, $21 billion in deficit reduction. That does not solve the problem we need to come together and address as a body—both parties, both Chambers of this great Congress—but it is a significant downpayment.

I am from a State where we produce very little in the way of oil or coal or gas but where we consume a lot of energy and where we have lots of opportunities to invest in alternative energy—investments that would create new jobs, a competitive platform for the United States as we enter this new century and that could, frankly, help sustain our economy going forward.

The votes cast yesterday to sustain these senseless tax breaks and credits, to help keep afloat the most profitable companies in American history, strike me as doing exactly what we were just urged not to do—picking winners, where the average American is, in fact, the loser.

It is my hope we will continue to look, with a sharp and clear eye, at the billions of dollars, the more than $35 billion in first-quarter profits made by the five largest American oil firms. I have nothing against corporations making profits. In fact, that is what helps propel our economy. As we try to recover from this terrible recession, having a profitable private sector is the best way forward to help create jobs and to help grow our economy and to help deal with Federal revenues.

But the spending through our Tax Code—something that has accumulated on the underside of the American economy over the last decade—has to be stopped. We have to find ways to plug the holes through which billions in potential Federal revenue are leaking. I frankly think it is time for us to have a sensible national energy policy. And continuing to defend decades-old, needless tax breaks for major oil companies so that they can engage in manufacturing by extracting oil from the ground, for example—one of the five that would have been ended by this bill—is just senseless.

So it is my hope that we will reconsider; that as we move forward and try to find a way together to create jobs, to reduce spending and deal with our deficits, we will look hard at some of these outdated tax breaks that make it possible for bloated oil companies to make billions of dollars of profit off working Americans who pay too much at the pump.

NATIONAL POLICE WEEK

Mr. COONS. Mr. President, this week we are honoring the service and sacrifice of Americans who serve us as police.

May 15 to May 21 is National Police Week, and Americans all across this country will be recognizing those who serve and have served in police departments in communities from coast to coast. Law enforcement personnel and their families will also be coming together to hold memorials for those who have made the ultimate sacrifice and lost their lives in the line of duty.

National Police Week holds special significance to me because for the 6 years I served as county executive in New Castle County, DE, I was responsible for a police force that worked hard day and night to keep our community safe. Every year in May, I would gather with our law enforcement officers, with the Fraternal Order of Police, which so ably represented them, with the families of those who had served, and with the families of the one member of our law enforcement community, the New Castle County Police, who had been killed in the line of duty.

I often had differences with the Fraternal Order of Police in my 6 years of leadership, but I will tell you, they were great and tireless partners in standing up for the working men and woman who kept us safe each and every day. They kept us focused on officer safety, and they kept us focused on providing for them the equipment and the training and the support they so richly deserve.

I will tell you that each and every week that I would have a tough week, when we had difficult times dealing with local budgets or coming to compromise and making reasonable progress in the county, if I ever for a moment felt sorry for myself as I drove home from the county government center, all I needed to do was to turn on my police radio in my county car and listen to dispatch. There was always something going on. As every patrol car went out, as every squad responded to crises, I was reminded day-in and day-out of the incredible selfless service of the men and women of local law enforcement all over this country, these dedicated men and women who sacrifice time away from their families to put themselves daily in harm's way. And sadly, too often, it finds them.

Since the beginning of 2009, 122 American police officers have lost their lives in service to their local community. Today, I wish to focus on one—Patrolman Chad Spicer of Georgetown, DE. A Georgetown native, Chad attended the Sussex Central High School and graduated from Del Tech in 1999. Following 4 years with our State department of corrections, he began service with the police department in Bridgeville, later in the town of Laurel. In 2008, Chad joined the force in his hometown, fulfilling his greatest childhood dream.

On September 1, 2009, Chad and his partner, Corporal Shawn Brittingham, were in pursuit of a vehicle containing suspects in a robbery. The car abruptly stopped. Before the two officers had a chance to get out, a suspect fired a single gunshot at close range, killing Chad and, in a ricochet, seriously wounded his partner. The suspects were eventually apprehended and have been brought to trial.

Patrolman Chad Spicer was only 29 years old when he was murdered doing his job. He is survived by his fiancee, his beautiful young daughter Aubrey, his parents Ruth Ann and Norman, a brother, two sisters, and a family of fellow officers in Georgetown and across our State of Delaware.

His funeral service was one of the most moving experiences I have had in my adult life. Thousands of law enforcement professionals, men and women, and family members from literally all across our country gathered to pay tribute to this brave, likeable, dedicated young man who gave his life in the protection of our community.

Earlier this month, the people of Georgetown, DE, erected a memorial to Chad and his courage and the sacrifice he made for all of us. Georgetown Chief of Police Topping noted that: Everyone in town knew and liked Chad, even those from the roughest part of town, even those who were on the receiving end of his service to our community. Chad died protecting the community where he was born and raised, and losing him to senseless violence like that had a devastating impact on the people of Georgetown and on our whole State.

Chad was the first Delaware police officer to die from wounds received in the line of duty since 1993. His loss is a constant reminder that law enforcement officers all over our country live with the daily reality that each time they go out on patrol, every time they report for duty, their lives may be put on the line as they serve their communities and our country.

This is why I think it is so important that the Federal Government continue to strengthen local police department capacities through things such as the Federal vest grant program that helps local law enforcement purchase bulletproof vests and other critical police supplies. It is so important to me that when law enforcement—Federal, State, and local—work together, we can succeed in keeping Americans safe. There is always more we can do. This is why the Judiciary Committee will be holding a field hearing later next month in Wilmington, DE, to explore ways we can better improve the collaboration and cooperation between Federal and local law enforcement.

While we honor our men and women of law enforcement every day and every year, during National Police Week, we celebrate their service and sacrifice and thank them for being forever on watch.

In memory of Patrolman Chad Spicer and all of the other law enforcement professionals who have made the ultimate sacrifice, I today stand in memory of their service.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. THUNE. Madam President, I ask unanimous consent that speakers on the Republican side be allocated up to 10 minutes each.

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

ENTITLEMENT REFORM

Mr. THUNE. Last Friday, the Social Security trustees' report and the Medicare trustees' report were both released. They showed that as large as our debt and deficits are now, without tackling these two entitlements, our future debts and deficits will dwarf current levels. In fact, this year alone, Medicare is running a cashflow deficit of more than $32 billion. This is the largest deficit ever for this program. Likewise, Social Security will run a cashflow deficit of $46 billion this year. This requires the Treasury to finance

these programs through additional borrowing, adding even more to our deficit.

In total, Social Security faces a $6.5 trillion unfunded liability. The reason for this, according to the report, is the aging of our society. As we live longer and as the size of families has decreased, the number of workers financing benefits has steadily decreased. For example, in 1950 there were 16½ workers for every Social Security recipient and life expectancy was 69 years old. By 1960, the number of workers supporting each recipient was just half of what it was 10 years before. Now there are fewer than three workers for each beneficiary. By 2040, it will be just over two.

Around the same time, in 2036, Social Security's trust fund will run out of all of the IOUs the government has issued to it. After this point, Social Security will be able to pay just over 75 percent of the current benefits. That is an important point because some say Social Security does not need to be reformed because these benefits are still going to be able to be paid. I think we have to remind ourselves of how this will work.

But you can see the demographic trend here, what is happening. Going back to the 1950s when you had a life expectancy that was shorter, you had more people paying in—16.5 for every 1 who was drawing out. Now we are looking at three people paying in for every one drawing out. And, of course, the life expectancy now is up to about 78 years average. In 2040, as I said earlier, there will be two people paying in for every one drawing out. So the crunch is coming. We all know that. We can predict it. We see it coming.

Of course, the expectation is that because the Social Security trust fund will be able to pay benefits until sometime in the 2037 timeframe, everything is OK; we do not need to take steps to rectify this situation today. The problem with that is the so-called IOUs in the Social Security trust fund are just more borrowing. When we get to that year, when we get to the 2036–2037 timeframe, there will only be about 75 cents coming in for every dollar that will have to be paid out. So you will have people who literally will take a huge cut in benefits or we would have to undergo a massive payroll tax increase in order to make that up or dramatically increase the borrowing of the Federal Government because, in fact, those IOUs in the trust funds are not an economic asset that can be used to pay a cash benefit. It is simply borrowing. We all know that. And I think the important date—in my mind, at least—is the date at which the amount we receive coming in to the Social Security trust fund in the form of payroll taxes no longer exceeds the amount we are paying out in the form of benefits. That happened this year to the tune of $45 billion.

Many of us have committed to preserving these programs for existing retirees and for those who are about to retire soon. If we do not reform Social Security, these cuts of nearly 25 percent would be instant and automatic, giving retirees no time to make other arrangements.

Working back from the 2036 date to ensure that the program remains solvent and can pay out benefits to future generations requires us to take action today. We do not have the luxury of time. We cannot afford to wait. The sooner we take action, the more time the current generation has to prepare for a realistic level of benefits and not be blindsided when their benefits are dramatically cut. Without reform, Americans aged 42 and younger will not see full Social Security benefits when they retire.

In addition to the aging population, the rapidly rising cost of health care is placing enormous pressure on the Medicare system. Despite the recently enacted health care reform legislation, health care costs rose by over 7 percent in 2010 compared to about a 1-percent increase in all other goods and services in the economy. The Medicare trustees reported that the program has an unfunded liability of nearly $36.8 trillion and that the Medicare hospital insurance trust fund will be completely insolvent by the year 2024. Medicare spending is expected to rise from 3.6 percent of our entire economy—of our gross domestic product—in 2010, which is where it is today, to 10.7 percent in 2085. That means the amount of money the government spends on health care is going to triple over the next 75 years.

Now that, unbelievably, is the rosy picture of what will happen. Due to the double counting that occurred in unrealistic savings and targets that were included in the health care reform bill that was passed last year, these numbers are going to be invariably worse if further action is not taken.

Finally, the Medicaid system also faces nearly all the same increases in costs and funding challenges as the Medicare system, while also failing to provide States with the flexibility they need to provide quality care for beneficiaries.

Unfortunately, this administration and the last Congress made these problems even worse. Instead of reforming these entitlement programs, they created yet another new entitlement program called the CLASS Act, which even the Democratic chairman of the Senate Budget Committee has called a Ponzi scheme.

Included in the same health care bill passed last year was a massive expansion of Medicaid and the creation of new credits for individuals to buy insurance, all of which adds to the budget burdens we are already experiencing.

If these programs are not reformed, we know what we will face. Under the Congressional Budget Office's ''alternative fiscal scenario'' which makes realistic assumptions about the growth of these programs, spending in 2020 would comprise 25.9 percent of GDP, more than 25 percent above the historical average. It would continue to grow, and in 2035 spending would comprise 35.2 percent of GDP or nearly 60 percent more than the historical average.

In that same year, deficits would comprise nearly 16 percent of the GDP of our entire economy, and debt would be 185 percent of GDP.

I want to illustrate that in the form of a chart and show you what this would look like. The historical average for deficits—3 percent, as I said. Look at what we faced in the last 40 to 50 years, roughly, and where that is headed in these outyears. As you look at 2010, how this thing spiked up in the last couple of years, we have added massively to the debt, the stimulus spending, the massive health care, the entitlement programs, all of which will make this worse. But we are on a trend to follow the trajectory where we will get to where the deficit is literally going to represent 61 percent of our entire economy.

That is a stunning path to be on—why it cries out for us to take the necessary steps to get back on the right fiscal track. Interest on the debt would comprise nearly 9 percent of our economy, half of which is paid to foreign debtors. We all talk about the impact of carrying this amount of debt. Today, we have so much debt that, in a few years, the amount we pay for interest will exceed the amount we spend on national security. In other words, we will spend more financing our debt and simply making the interest payments than we do defending the country.

Think about that. Think about where we have gotten to. Think about the fact too that if we saw even a 1-percent increase in interest rates, if interest rates went up 1 percent and we had to pay more to borrow money from those creditors, some of which are foreign countries, it would increase the interest we pay annually by $140 billion. That is how sensitive we are to a slight increase in interest rates because of this massive debt. We passed, yesterday or the day before, the $14.3 trillion level, the debt limit. We are going to have to raise the debt limit here. We don't know exactly when—sometime in July or August. But that is coming. We have maxed out our credit card, our borrowing authority, we have hit the limit, and in order to keep our economy functioning we have to increase the amount our country borrows.

If we follow the President's budget, we would double that in the next decade. We will go from $14.3 trillion to literally over $26 trillion in the next decade under the President's budget. Why? Because the President didn't make any attempt in his budget to reduce spending or reform entitlements—Social Security, Medicare, and Medicaid—which are the big drivers of Federal spending. If we don't take steps to reform those entitlement programs, this picture gets worse and worse over time.

I want to illustrate this with a chart. This is where we are today. This is debt as a share of the economy. As I said before, if you look at historical averages, what we have carried in the form of debt, in World War II, obviously, there was a big ramp-up because we had to finance the war and coming out of the war. As the economy started to expand and we got spending under control, the debt, as a percentage of our economy, started to come down to historical averages, which is where it stayed for about 40 to 50 years. It started to spike in the last couple of years, as we have seen spending increases. The reason is because the amount we spend as a percentage of our total economy has continued to tick up.

I mentioned earlier that we are looking at—what was the number—25.9 percent of GDP is what we will spend on the Federal Government in 2020, according to the CBO's alternative fiscal scenario. If you think about that, the amount we have spent historically as a percent of our economy on the Federal Government is 20.6 percent. That has been the 40-year average. We are going from 20.6 spending as a percent of our economy—the amount the Federal Government spends for our entire economic output—to 25.9 percent a decade from now. It continues to spike up. Because we are having to finance so much spending with borrowing, the borrowing level will increase dramatically, to the point where we are looking at debt to GDP—if we don't take steps to change, this is what we are looking at on this chart. It is a straight up spike in the amount of borrowing to GDP. This is pointed out too by where we are currently; right now, we are running somewhere in the $1.4 trillion to $1.6 trillion in annual deficits on $3.8 trillion in total spending, which means that out of every dollar the Federal Government is spending, we are borrowing over 40 cents.

Can you imagine any family or business in this country that could continue to get by borrowing literally over 40 cents out of every dollar they spend? You cannot do it. That would be like the average family in this country having an annual income of about $60,000 and spending $110,000. You cannot do that. The Federal Government has been doing that for way too long. That is why we have to take on this issue of spending and debt.

Some people argue that we don't have enough revenue, we need to raise taxes, and that is the way to deal with this fiscal crisis to get more revenue coming into the Federal Government. I argue that, based upon these facts, this is not a revenue problem, this is a spending problem. The reason we are where we are is not because we don't have enough revenue, it is because we are spending dramatically more as a percentage of our economy than we have in the last 40 to 50 years. The historical average is 20.6 percent over the last 40 years—what we have spent on the Federal Government as a percentage of our entire economy—and today that is 24 percent, and by 2020 we are looking at over 25 percent—an increase of 25 percent in the amount we are spending on the Federal Government as a percentage of our entire economy. That is a spending problem, not a revenue problem.

We need to address this and recognize it, and we need to understand that the only way we can fix it is to deal with what is driving that spending. It is Social Security, Medicare, and Medicaid. Those programs comprise 55 to 60 percent of all of government spending. Absent reforms to those programs, this is what we will end up with; this is where we will be as a nation. That is certainly someplace I don't think most Americans want to go.

The other reason is critically important. I have said this before, and I will say it again. It has implications not only for future generations but in the here and now. One is that when you are carrying this kind of debt to GDP, sustaining this kind of debt level, it impacts your economy's ability to create jobs, because you are crowding out private investment that otherwise would be allocated to more productive uses, and you are spending it on the government. You are also impacting interest rates and inflation in ways that could be counter to the economic expansion, growth, and job creation in this country. There has been a great amount of research and study that has gone into at what level does that start to take away from economic growth, economic expansion, and job creation?

Two people who have recently put out a book; Carmen Reinhart and Kenneth Rogoff have suggested, from their study of developed countries over the last half century, that when your debt to GDP reaches 90 percent, it is costing you about 1 percentage point of economic growth every year. In this country, losing 1 percentage point of economic growth costs us about a million jobs. If we say we are serious about job creation, one of the problems we ought to focus on is getting spending and debt under control. If we sustain and carry this kind of debt level for the foreseeable future, we are going to cost the economy 1 percent of economic growth and, therefore, a significant amount of jobs that might have been created by that economy. That is one reason we need to rein it in.

The statement has been made repeatedly by ADM Mike Mullen that the greatest threat to our national security is our national debt. I would say that the national security implications are very real as well. When you have the highest ranking military official saying the greatest threat to America's national security is our national debt, that is a stunning statement. I think it speaks volumes about why it is important to get this issue under control.

One of the reasons he says that, obviously, is that so much of the debt is held by foreign countries, all of which have additional leverage on us because we owe them so much money. We need to get spending under control and get the debt dealt with. That starts with entitlement reform. I hope the discussions currently occurring between the White House and some of the leaders here in the Congress will come to a result where we can work together and use this as an opportunity to, once and for all, put this country back on a fiscal track that will ensure that future generations are not burdened and saddled with an enormous amount of debt and an economy that is saddled with that weight and not able to create the jobs to get people back to work and to grow and prosper and create a higher quality of living and standard of living for the next generation.

I ask unanimous consent that the time of the quorum call be divided equally on both sides, and I suggest the absence of a quorum.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. Madam President, I ask unanimous consent to speak as in morning business.

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

OFFSHORE DRILLING

Mr. DURBIN. Madam President, today the Senate is going to consider a bill to increase offshore drilling. This is the Republican response to the Nation's need for a national energy policy and to rising gasoline prices. I believe the Republican approach to this will be unsuccessful. I believe it overlooks some very fundamental and basic facts, and the facts are these: We cannot drill our way out of our problem. If we take a look at all the known oil reserves in the United States offshore and onshore—all of them—they comprise 2 percent of the known oil reserves in the world—2 percent. Now take a look at how much oil the United States consumes each year: 25 percent of the world oil production.

The Republican answer is drill, baby, drill. Honestly, that is not going to solve the problem, and it is going to invite some dangerous activities that we should know better than to engage in. It has not been that long ago that 170 million gallons of oil poured out of a well that was improperly drilled by BP in the Gulf of Mexico. The devastation that followed to the local economy and to the environment is virtually incalculable. Have we learned a lesson—a lesson that safety should be the hallmark when it comes to drilling; that we ought to make certain that before

we go into an environment which is precious, where an accident could create some unknown hazard or danger, that we thoroughly investigate that in advance. That is not too much to ask. We know what is going on in the Gulf of Mexico today as the economy is still trying to recover.

My colleagues on the other side of the aisle who produced the McConnell approach—the drill, baby, drill approach—want to just forget the spill. They want us to rush into drilling with the same reckless practices that led to the spill in the first place. This is not going to solve the problem. In fact, it may create more problems.

If passed, the Republican bill would require the Secretary of the Interior to evaluate a permit application in 60 days regardless of its complexity—60 days. If the Secretary cannot make a decision within 60 days, the permit is automatically approved even if it contains potential environmental and safety risks. This arbitrary deadline makes it impossible for regulators to do the in-depth scientific analysis needed to accurately evaluate the risks and safety requirements for every application.

The bill also mandates the sale of offshore oil and gas leases in the Gulf of Mexico, off the coast of Virginia, and the Arctic Ocean—sales that were postponed in order to investigate the potential environmental impact.

Not only does the Republican bill not add any new protocols to ensure that increased drilling will be safe, it revokes some of the additional requirements that were instituted following the BP spill. They have not learned any lesson from what happened in the Gulf of Mexico. Essentially, this bill would lead to more offshore drilling, with less safety and regulation of the industry. One would think that the BP oilspill never happened, if we consider this bill, which will be on the floor later today.

There is really no reason to rush to begin new drilling projects in such an irresponsible manner because under President Obama, domestic oil production has grown to its highest level in the last 7 years. That is right, it has grown to its highest level in the last 7 years. If one listened to the other side, one would think the opposite was true—that we cut back or stopped drilling. Since February, 34 permits for 14 unique deepwater wells have been issued under the new safety requirements since the BP spill. Oil production in Federal waters has increased in both of the last 2 years.

Last weekend, the President announced several steps the administration would take to expand further responsible development of domestic energy resources. The Department of the Interior will hold lease sales in the Gulf of Mexico and Alaska by mid-2012, once additional analyses have been completed. Extensions will be granted to all leases offered by the deepwater suspension, as well as delayed leases in Alaska. Annual oil and gas lease sales will be held in Alaska's National Petroleum Reserve. And the mid-Atlantic and South Atlantic coast will undergo an expedited review for fuel resources. The President's actions show we are continuing to expand our domestic resources responsibly.

This careless Republican bill is unnecessary. It is bad policy. The bill proposed by Senator MCCONNELL would force us to disregard all the lessons we learned from the tragic oilspill in the Gulf of Mexico a year ago.

It has been many years back when I was up in Alaska when the Exxon Valdez ran aground in the Prince William Sound and dumped tens of thousands of barrels of crude oil into this beautiful place in our world. I was up there, and we had workers out. They were literally swabbing up the oil off the rocks as it washed up on the shore. They wore these yellow slickers, which in no time at all were covered with this black crude oil. People with cameras were running around taking photos of the workers.

I went over to an old fellow in one of those yellow slickers who had these big swaddling cloths, mopping up the crude oil that had been dumped into this beautiful place of Prince William Sound. I said to him after the cameras left: Do you think this is helping? He said: Well, I think if we didn't do anything, God would take care of this in about 10 years. By taking extra effort, maybe it will be 9 years and 6 months.

The point I am making is this: Once the spill has taken place, it takes time for nature to restore itself, if it can. In Prince William Sound, some species of fish never returned. I do not know what will happen in the Gulf of Mexico. Perhaps over time nature will heal this wound. I hope it does.

Do we not have a special responsibility as stewards of this planet Earth and of this Nation to be careful? Is it too much to ask that we engage in fuel efficiency and thoughtful energy policy rather than recklessly drill in every direction without asking the hard questions, without taking the time for an honest analysis? Not only did the BP oilspill despoil that area, it claimed human lives. When it comes to safety and environmental responsibility, we should not be cutting corners such as the Republican bill would do.

At the end of the day, even if they could drill every place they wanted to drill with no questions asked, it would have virtually no impact on gasoline prices. Oil prices are set in the global market, and we cannot change them simply by attempting to increase oil production when it comes to only 2 percent of the known oil reserves.

Given the President's recent action and steady increase of production, this bill is pointless and dangerous. For this reason, I urge my colleagues not to support it and to vote against this measure that will be offered later today.

BELARUS

Mr. DURBIN. Madam President, it was last February that I went to Belarus. I had been invited to go to Lithuania to speak to the Parliament on the 20th anniversary of their independence from the Soviet Union, and I took a second trip into Minsk, Belarus, a neighbor nation, because there was a political crisis. It was February, and since the Presidential election in the December before, there had been a wholesale effort by Lukashenko, the leader of Belarus, to imprison his political opponents.

With so many significant events going on in the Middle East, there is an understandable risk that we lose sight of events happening in countries such as Belarus. In Belarus, under Aleksandr Lukashenko, if you have the temerity to run for President or protest a fraudulent election, you will find yourself thrown in a KGB jail where you are likely to face torture and harsh prison sentences. If this sounds like a throwback to the Cold War in the Soviet Union, that is exactly what it is. Not only is Belarus a throwback to the worst political abuses of the old Soviet era, but the government's enforcers of this bankrupt system still call their police the KGB.

On Saturday, the Lukashenko regime continued its nightmare of totalitarian rule when it convicted one of the country's opposition Presidential candidates and former Foreign Minister Andrei Sannikov to 5 years in prison. You see, Mr. Sannikov had the temerity to run against the dictator of Europe, Lukashenko. Because of that, even having lost the election, he is going to pay for it by spending 5 years in prison.

This photograph shows Mr. Sannikov in the defendant's cage during his trial in the Belarusian capital of Minsk. They put him in a cage. Can anyone think of a more telling symbol of Lukashenko's tyranny than a sham court proceeding with a KGB cage? His crime? This man ran for President of his country.

In December last year, after nearly two decades of unchecked power, Lukashenko decided he would have an open election—in his words, an open election. Many took him at his word and decided they would run for President. Apparently, Lukashenko did not care for that idea. His idea of an election is that no one runs against you. So he staged a sham election and then arrested 5 of the 6 Presidential candidates and more than 600 peaceful demonstrators after the election.

I visited Belarus some weeks afterward. I met with the family members of these brave candidates and activists. I have to tell you, it was a moving experience. The meeting included members of Mr. Sannikov's family. This is a photo we took in the office of the U.S. consulate in Minsk, in Belarus. It shows Kanstantsin Sannikov, Ala Sannikava, and Lyutsina Khalip. Kanstantsin and Ala are Mr. Sannikov's son and mother.

Ala told me in tears that her son's arrest led to no contact between him and his family for weeks, and they denied him a lawyer. After he was sentenced to 5 years in prison, she told Radio Liberty that she was proud of her son and that ''he suffered so much for the sake of Belarus . . . The judicial system has steamrolled our family.''

Lyutsina is the grandmother of the candidate's 3-year-old son Danil. I wanted to put this photo up because Lukashenko decided it was not enough to throw this boy's father into prison; he basically said he was going to remove this boy from the family as part of the punishment they were going to impose on him for running for President in that country. You see, not only did they arrest Sannikov, but they arrested his wife too. She was a journalist—automatically suspect in Belarus. Even more despicable, they tried to take custody of this little boy, who was staying with his grandmother. What kind of cruel mind is so afraid of the free expression of ideas that they would go after this little boy to further punish the parents—the father who had the nerve to run for President and the mother who had the nerve to publish in some underground publication an article critical of Lukashenko.

President Lukashenko's repression and totalitarian regime have been condemned around the world. Asset freezes and travel bans have been placed on his enablers and police state enforcers. This Senate and the European Parliament both have passed sweeping resolutions condemning the regime and calling for new legitimate elections and the release of all political prisoners. The families of the detained, the Senate, the European Parliament, and National Hockey League Hall of Famer Peter Stastny have called on the International Ice Hockey Federation to suspend its Belarus-hosted 2014 Ice Hockey Championship until all political prisoners are unconditionally released. A dictator such as Lukashenko should not be awarded the international prestige of an event while prisoners languish in prison for simply exercising their human rights. I think it is time for the International Criminal Court prosecutor to look into Lukashenko's regime, most notably for the allegations of torture.

I conclude by simply saying that I want Mr. Sannikov and his many brave colleagues in Belarus and their families to know that the United States will stand by them in their effort to bring a peaceful democracy to this great nation of Belarus. We commend their bravery and let them know they are not forgotten.

Madam President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

OFFSHORE PRODUCTION AND SAFETY ACT OF 2011—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 953, which the clerk will report.

The legislative clerk read as follows:

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

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 4 hours of debate equally divided and controlled between the two leaders or their designees.

The Senator from Tennessee.

Mr. ALEXANDER. Madam President, we have been debating tax subsidies to the big oil companies. The bill proposed by the Senator from New Jersey would have limited it to just the big five oil companies even though many of the tax breaks or tax credits or deductions they receive are the same tax credits that every other company may take—Starbucks, Microsoft, Caterpillar, Google, and Hollywood film producers for example. Many of the other credits look a lot like the R&D tax credit or other tax credits all American businesses may receive. Well, I am one Senator who is very intrigued with the idea of looking at all of the tax breaks in the Tax Code. There are currently about $1.2 trillion a year in what we call tax expenditures, and those are intended to be for tax breaks we think are desirable. I am ready to look at all of them and use the money to reduce the tax rate and/or reduce the Federal debt. But if we are going to talk about energy subsidies—tax subsidies—we ought to talk about all energy subsidies. Senator JOHN CORNYN of Texas has asked the Congressional Research Service to do just this. It is an excellent study, and I commend Senator CORNYN for asking for it. This is some of what it finds.

According to the report, fossil fuels contributed about 78 percent of our energy production in 2009 and received about 13 percent of the Federal tax support for energy. However, during that same time 10.6 percent of our energy production was from renewables and 77.4 percent of our energy tax subsidies went to renewables. So if we are to compare the subsidy per unit of energy, the estimated Federal support per million Btu's of fossil fuels was 4 cents, while support for renewables was $1.97 per million Btu's.

So Federal subsidies for renewables are almost 50 times as great per unit of energy as Federal subsidies for fossil fuels. This would be distorted because included within renewables is hydroelectric power. Most people think of renewables as ethanol, solar, or wind and those are the renewables that actually get the subsidies while hydroelectric does not.

So at least 50 times as great per unit of energy is the Federal taxpayer support for renewable energy compared with fossil fuel energy. So why aren't we including in our debate subsidies for all renewables? Specifically, if we are talking about Big Oil, why don't we talk about Big Wind? The Senate seems an appropriate place to talk about Big Wind.

The Energy Policy Act of 1992 created what is called the production tax credit for energy produced using renewable resources. Most of this money has gone to subsidize Big Wind. It is a policy that was supposed to last a few years. It has lasted two decades.

Today, the production tax credit for wind gives 2.1 cents for every kilowatt hour of wind electricity produced by a wind turbine during the first 10 years of operation. Let's put this into a context that is current. The new Shepherd's Flat Wind Farm in Oregon will have 338 of these huge wind turbines, producing enough power to run approximately 250,000 homes and will cost the American taxpayer about $57 million a year in subsidies for that electricity produced. If we allocated the tax credit per home, taxpayers will be paying $2,300 over the next 10 years for each of the homes served by the Shepherd's Flat Wind Farm in Oregon.

This doesn't even take into account the fact that $1.3 billion in Federal loan guarantees to this project means Big Wind will have its risk of default also financed by the taxpayer. Fossil fuel companies don't have that advantage. Nuclear power companies don't have that advantage, even though their electricity is completely clean—no sulfur, no nitrogen, no mercury, no carbon. If, like nuclear or fossil loan guarantees do, the wind farm in Oregon had to pay the risk of default up front as a fee, it would cost another $130 million. That is money out of the pockets of taxpayers.

The total cost of the wind production tax credit over the next 10 years will cost the American taxpayers more than $26 billion. Let me say that again. American taxpayers are subsidizing big wind over the next 10 years by more than $26 billion with one tax credit. In fact, the tax breaks for the five big oil companies we have been debating on the Senate floor this week actually cost less than all of the money we give to big wind. The tax breaks for the five big oil companies amount to about $21 billion over 10 years.

According to the Energy Information Administration in 2007, big wind received an $18.82 subsidy per megawatt hour—25 times as much per megawatt hour as subsidies for all other forms of electricity combined. But wind is about the least efficient means of energy production we have. It accounts for just about 2 percent of our electricity. It is available only when the wind blows, which is about one-third of the time. The Tennessee Valley Authority says it is reliable even less than that, meaning we can have it when we need it only about 12–15 percent of the time.

Wind farms take up a huge amount of space. Turbines are 50 stories high. Their flashing lights can be seen for 20 miles. An unbroken line of turbines along the 2,178-mile Appalachian Trail would produce no more electricity than four nuclear reactors on 4 square miles of land.

Wind is generally the strongest and land is available where the electricity isn't actually needed. So we have thousands of miles of new transmission lines proposed to get the energy from where it is produced to where it needs to go. Those often go through conservation areas, and according to the National Academy of Sciences wind power is more expensive than other forms of electricity, such as coal, nuclear, biomass, geothermal, and natural gas.

We haven't even talked about the fact these wind turbines only last about 25 years. The question is, Who is going to take them down? Wind farms also kill as many as 275,000 birds each year, according to the American Bird Conservancy. They can interfere with radar systems, and many who live near them say they are very noisy.

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

I believe there are appropriate uses of temporary incentives and subsidies to help jump-start innovation and the development of new technology—such as jump-starting electric cars or natural gas fleets of trucks or loan guarantees for nuclear powerplants and other forms of clean energy—as long as these are short term. I believe research and development is an appropriate role for the Federal Government whether it is in recycling used nuclear fuel or finding alternative biofuels made from crops we don't eat. I believe it is entirely appropriate for there to be research for offshore wind farms, which we don't know as much about and which might actually prove to be a useful supplement in the Northeast. But my point is, if we are going to debate subsidies to Big Oil, we ought to be debating all the energy subsidies including those to Big Wind.

There is a difference between the Republican plan and the Democratic plan for $4 gasoline and high energy prices. The Democratic cure for high prices is basically to raise the price. They want to tax energy more, but that makes energy cost more. Republicans want to find more American energy and use less energy. We might sum it up this way: Republicans want to find more and use less; Democrats want to find less and tax more.

The Democratic plan, according to Senator SCHUMER of New York, was never intended to talk about lowering gas prices. Senator REID agreed, Senator BAUCUS agreed, Senator LANDRIEU agreed, and Senator BEGICH agreed, but why aren't we talking about trying to find a way to lower gasoline prices when it is $4 a gallon and going up?

The Republican plan is very specific: Find more American oil and more American natural gas. We can find that offshore where 30 percent of our domestic oil and 25 percent of our natural gas is produced. We can find it on Federal lands, and we can find it in Alaska.

The other part of our equation is to use less. We have some agreement with the Obama administration on some of these ideas. There are a number of them: jump-start electric cars. Senator MERKLEY and I have a bill that is before the Energy Committee tomorrow to do just that. I believe electrifying our cars and trucks is the single best way to reduce our dependence on foreign oil. There is legislation to jump-start natural gas for trucks, biofuels from crops we don't eat, and fuel efficiency. All these are various ways to use less.

Senators THUNE and BARRASSO have performed a service by setting the record straight to show that the United States produces a lot of oil. We are actually the third largest oil producer in the world. So I ask this question: If less Libyan oil can raise gasoline prices—which it did—then more American oil should help lower gasoline prices. At least for every dollar of American oil we produce, it is one less dollar we have to send overseas for foreign oil.

So, Madam President, the Republican plan is to find more American oil and natural gas and to use less. My suggestion is, if we are going to be talking about tax subsidies for Big Oil, let's talk about tax subsidies for all energy. The Senate floor seems an especially appropriate place, if we are going to talk about Big Oil, to also talk about tax subsidies for Big Wind.

Madam President, I commend to my colleagues a report of the Congressional Research Service sent to Senator JOHN CORNYN of Texas dated May 16 entitled ''Energy Production by Source and Energy Tax Incentives'' from Molly Sherlock.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. Madam President, I see the Senator from Kansas is here, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mr. ROBERTS. Madam President, I rise today to speak in favor of the legislation that has been introduced by my friend and our Republican leader, Senator MCCONNELL, that would take our country in the direction of greater domestic energy production, and certainly robust job creation, as opposed to taxing—or trying to—the very people who provide our energy.

Madam President, as every American knows, few issues today are more critical to the American taxpayer than the price of energy. Whether it is powering our homes or fueling farm equipment or filling up our cars at the pump, the price of energy directly impacts the cost of goods and operating expenses for our American producers.

Now, while there is a multitude of variables that impact the cost of gasoline, it is important we don't overlook the main factor in impacting prices at the pump—and one more time, for my colleagues across the aisle, that is the global supply and demand of crude.

With roughly 70 percent of the price of gasoline and diesel contingent on the price of crude, it should be easy to understand that any fluctuations in global supply and demand is the most important factor determining what consumers pay at the pump. Considering in my State alone the oil and gas industry supports over 119,000 jobs and annually contributes $14 billion to the Kansas economy, it is not hard to understand that much of our concerns regarding the U.S. economy and rising unemployment could be addressed—could be addressed—if we stopped hindering the ability of American energy businesses to grow and to produce.

I am sure most Americans wonder why Washington is even considering a policy that is counter to an industry solely capable—solely capable—and responsible for this type of job creation. Sadly, this is exactly the proposal floated by some of my colleagues and friends in Congress and by the President.

In the President's 2012 budget proposal, he proposed almost $90 billion worth of tax increases on the oil and gas industry—taxes the nonpartisan Congressional Research Service has stated could make oil and natural gas more expensive for U.S. consumers and likely increase foreign dependence. Well, that didn't work in regards to the budget, so they are back. Complementing the President's troublesome budget proposal last week, a number of my colleagues introduced legislation singling out U.S.-owned integrated oil and gas companies by removing tax expenditures these companies rely on to hire more American workers, developing greater amounts of needed energy, and—hello—to support the millions of American investors whose IRAs and pension funds invest significantly in energy stocks.

What is even worse, at least six of my colleagues across the aisle are on record admitting this legislation will do nothing to reduce prices at the pump. It is sort of a ''gotcha'' piece of legislation. So to address American concerns about rising gas prices, my friends across the aisle have introduced

legislation they readily know will not ease the price at the pump. This doesn't make any sense. In addition to the fact the Democratic energy bill will not help reduce gas prices, I want to further highlight the negative impacts it would have on American investors. This is important.

Probably the biggest distortion repeated in the media and by some of my friends here on Capitol Hill is the notion that a few select corporate executives are the sole benefactors of record high profits enjoyed by these energy companies. It makes good politics today to beat up on these people and that is what happened in regard to the Finance Committee—a lot of press there—when in reality it is the millions of middle-class American investors whose retirement plans benefit greatly from healthy profits. Because these companies are publicly traded, they are owned largely by individuals and institutional investors responsible for managing the mutual funds and IRA and pension plans for millions of Americans whose future economic security depends on the success of these companies.

For example, in Kansas alone there are over 18,000 shareholders of ExxonMobil—that is 18,000 of my constituents—who will be hurt, angry, frustrated when they find out that legislation that targets citizens, investors who actually own these companies, could be passed.

Beyond individual shareholders, many teachers, State government employees, rely on strong returns on their investments in these companies. One example is the New Jersey Public Employee Pension Fund. Its holdings of U.S.-based integrated oil and gas companies make over 4 percent of its total portfolio.

Realizing the likelihood of a strong return on their investment, it is no wonder why so many public employee pension funds throughout the country invest heavily in energy companies. The good news is that the energy tax increase proposal was defeated last night, as its passage would have done absolutely nothing toward reducing energy prices or helping the economic security of millions of middle-class American investors. Unfortunately, the problems facing true economic growth and energy security do not end with misguided tax policy. In addition to making it more costly to produce domestic energy, the administration is working to close off some of our Nation's most abundant sources.

For example, under the current administration, the Department of the Interior canceled seven oil development leases in Utah that were located within the larger formation covering three States that the Bureau of Land Management has estimated contains around 800 billion barrels of oil—more than three times the proven reserves in Saudi Arabia. This of course is in addition to the Gulf of Mexico deep water drilling moratorium imposed last summer which has had a lasting negative effect on gulf coast economies. I know the President said we are going to permit these and they can drill, but somehow or other you never get the permit finalized.

In closing, I want to reiterate my point about the underlying economic factors which, like it or not, despite the politics, are not the driving forces behind the price of gas at the pump. As global demand rises, prices will also rise. As global demand is potentially disrupted, as we see in the Middle East today, then market instability follows. If we can allow greater access to our own domestic resources and provide industry the necessary tools to expand—which is exactly what Leader MCCONNELL's energy bill would do—then we will be able to put more Americans back to work and add to the global supply of crude which, over time, undoubtedly will help stabilize prices.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HATCH. Madam President, I rise today as a cosponsor of the Republican leader's Offshore Production and Safety Act, S. 953. I have to say it is a breath of fresh air to be discussing a substantive energy policy proposal.

Last week in the Senate Finance Committee and yesterday on the Senate floor, we witnessed a cynical charade as some of my colleagues attempted to exploit high gas prices as an excuse to, once again, raise taxes. It is no secret the liberals in Congress have an answer to every problem but unfortunately it has been the same answer for every problem. Whether the problem is health care costs, out-of-control spending, unemployment, or high gas prices, their answer in every case is to raise taxes. The American people have caught on to the uninspired monotony of that particular message.

In the last election they sent us their own message: enough with the spending and enough with the taxing. Apparently, though, that message was not loud enough or clear enough because the worn-out big government approach remains the only option being offered by my friends on the other side. Americans are fed up with lame excuses to expand the size of government. What Americans want, need, and deserve is real solutions to real problems. Those problems are real. High gas prices are an indicator of a much deeper problem facing our Nation's energy security. It is a problem that runs deep but it is not too difficult to understand.

Our problem is a President who would rather buy foreign oil than produce it here in America. In fact, he not only wants to buy foreign oil, he is willing to subsidize it. These are Brazilian workers, Brazilian oil workers. I hope Americans were watching the news as President Obama handed over more than $2 billion to Brazil's government-owned oil company to produce Brazilian oil. It was a nice gesture, I am sure. But why aren't we spending it here at home? And why aren't we able to drill here at home? Why aren't we, the third largest oil producer in the world, able to go after our own oil to bring these prices down.

Liberals spent this last week calling basic tax deductions for American companies ''subsidies.'' Funny thing, because those same liberals appear to have no problem with this gigantic handout of taxpayer dollars to a foreign competitor.

I like Brazil, and I am happy they are doing as well as they are, so this is not a knock at Brazil. It is basically a criticism of our President for giving $2 billion to help them with their oil exploration when they seem to be doing just fine by themselves. At least I am assuming the liberals have no problem with it because they have been deathly silent on this subject during this entire debate.

I hope Americans were watching because that was their money our President was sending out of our country, out of our economy, and out of the reach of tens of thousands of unemployed American energy workers whom this administration has helped to put out of work.

Let me put up another chart. These are our workers. These guys are out of work. These men and women who can develop our own oil are out of work because of this administration.

We all know about the President's artificially broad moratorium on drilling in the gulf and how it has devastated that already crippled region. But the President's anti-Midas touch has reached out to kill oil production in other regions of the country as well.

Since taking office, President Obama has cut Federal energy lease offerings by 67 percent in the Rockies alone and a whopping 87 percent in my home State of Utah. Is it any wonder we are becoming more dependent on foreign oil? Is it any wonder our jobless rate remains at historic levels? Is it any wonder government revenues are down? Let's not forget that this is the same President using our tax dollars to subsidize Brazilian oil production to the tune of $2 billion.

After taking office, one of President Obama's earliest actions was to withdraw 77 energy leases in Utah. These leases had been through almost a decade of environmental studies. They had jumped through every environmental hoop there was and had already been auctioned off and paid for by goodstanding energy companies. We know we are dealing with a very aggressive anti-energy agenda when we see leases pulled back that have already been

paid for. The energy companies are not blind; they see it too.

A recent survey of the energy industry in the Rockies tells us the tragic and unnecessary story. Due to the hostile atmosphere created by the Obama administration, $1.1 billion of capital investment was shifted from the Rockies to other areas, including overseas. If it were not for the anti-energy efforts of this administration, the companies surveyed stated they would invest an additional $2.8 billion in the region in the future. Eighty-nine of the energy companies surveyed said they would continue to divert investment from the Rockies until the current policies become less hostile, and 71 percent of the industry respondents stated that dissatisfaction with the Federal permitting process is the general variable driving investment right out of our Nation.

When are we going to wake up? When is this administration going to wake up?

Some of my friends on the other side have an extremely difficult time understanding this, but when we deter energy companies, we kill real jobs and we kill domestic energy production, and we make America weaker. These aren't just jobs, these are highly paid jobs. Yet we are willing to subsidize the Brazilian oil workers. I like those workers. I think they are finding oil for their country. I think their country is energy efficient because of their work offshore. Some of those rigs used to be in the gulf but no longer can be there because of the stupid anti-energy policies of this administration.

Here we have American companies willing to spend more than $2 billion of their own money to create American jobs and American oil, but President Obama says no—or at least the people around him who advise him tell him to say no. Yet our President does not hesitate to give more than $2 billion in taxpayer funds to Brazil to create foreign jobs. Just wait, because this story actually gets worse. The President then hopes taxpayers will send even more money overseas as we buy Brazil's oil—oil we already have subsidized in the first place.

But the President saved the best for last. He now proposes raising taxes on American energy production.

This deserves repeating. The President says no to American energy companies wanting to use their own profits to make more American jobs and more American oil, but he then gives away taxpayer money to subsidize foreign jobs and create more dependency on foreign oil. While he is at it, he may as well tax American energy production for good measure. That is what they want to do to us. It doesn't make sense.

Look, I like the President. I personally am a friend of the President. I can't believe he is doing this on his own. He has to have these dumbbells down there at the White House feeding him this stuff. But he is bright enough to look through it and see it doesn't work or is it just that their supporters are demanding—the Democratic supporters are demanding—this type of harm to our country and to our people?

Well, I said it twice, and it makes less sense the more I think about it. He may as well tax American energy production for good measure.

The whole farce would be comical if it weren't so incredibly harmful to our Nation, our economy, and to our American families who have dedicated their lives to providing the United States with the domestic oil and gas we so desperately need.

I wish to read an excerpt from a letter I received from Cindy and Bruce of Uintah County, UT, an oil-rich county, if we were allowed to get the permit and go out and find it.

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

Mr. HATCH. I ask unanimous consent to be permitted to continue my statement.

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

Mr. HATCH. Cindy and Bruce write:

> Our family returned to the Vernal, Utah, area . . . after being absent for 10 years. We realized we loved the area and wanted to be back with our families. . . . At that point we decided we wanted to do more than just get by in life working for someone else. . . . Since things looked very promising for the oilfield industry, we started a small oilfield trucking company. We struggled to make all this work and to establish a reputable and trusted company with a good customer base. In February of 2009, as the new presidential administration and new head of the Department of the Interior took over, the oil and gas production companies slowed their drilling and production programs drastically. The RAPID economic change was shocking. Overnight, we went from being a prospering business to a business that is just hoping we can pay our bills. . . . Our story is not unique. It is the same story for many of our friends, neighbors and family members. Our lives and the economy here are in shambles. It is not because we did not work hard, spend wisely, follow all the government rules, or that we made irresponsible decisions. It is because of sudden changes in our government.

This was no naturally occurring economic downturn that killed Bruce and Cindy's business. It was hostile government policies intent on slowing domestic energy production on Federal lands.

This point is made again and again to me in letters from Utahans from this region. One letter states:

> As I talk with many people each day at work, there is one common thread: The policies of the current administration have made it a very risky business for companies trying to produce oil in this area. Leases have been canceled, then resold, and then suspended. The confidence of the oil producers has been undermined by these actions. They have lost a lot of money on the bids for these leases.

These experiences are duplicated wherever Federal energy leases are offered. I can say I have never seen a more anti-energy administration than the current one, and all Americans are feeling the pain of President Obama's suicidal energy policies.

Today, we are talking about a real solid energy proposal. It is a proposal that will create American jobs in the gulf and throughout America's energy industry. The Offshore Production and Safety Act is a proposal that will strengthen our Nation, not weaken it. It will get us producing American oil again in the gulf, and that is a critically important goal.

If I had my choice, we would be discussing a more comprehensive energy bill that would also be reopening oil production on onshore and offshore leases. I am an original cosponsor of a bill with my colleague, Senator DAVID VITTER, called the 3–D Bill. The Ds stand for domestic jobs, domestic energy, and deficit reduction. This bill deserves full consideration. It is a bill that would increase jobs, reduce energy costs, and generate significant revenue to State and Federal Governments. In short, the bill would reverse the Obama administration's onerous new constraints on domestic oil and gas production. The 3–D bill would reverse bans of some offshore Federal leases in each Outer Continental Shelf planning area, it would open ANWR to oil production, directing some of the resulting revenues toward renewable energy production, and it would reverse President Obama's recent moves against commercial oil shale production.

Unfortunately, we are not discussing that bill today and here is why. Republicans have had to force the Democrats' hand to allow a debate on even a limited proposal such as the one introduced by our Republican leader—and well done. But this issue is not going away, and I will continue to push the issue of onshore and offshore Federal leases and advocate for the 3–D bill.

The bill we voted on yesterday had nothing to do with gas prices or energy policy or getting more energy. As we heard from Member after Member on the other side, that bill was about raising taxes for more government spending. The bill we are voting on today is a serious energy proposal. It is a smart proposal that, if passed, would create real jobs, produce real domestic oil and gas, and leave the deficit-busting revenues for the government. As such, I strongly support it. I urge my colleagues to do the same.

I hope our friends on the other side will see this. It is time we stand and start changing this, regardless of what this administration is doing to America.

Thank you. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Nebraska.

Mr. JOHANNS. Madam President, I rise to discuss our Nation's energy policy. I was very disappointed by last night's vote. Actually, as one of my colleagues pointed out, it was more political theater instead of a serious attempt at addressing this Nation's energy needs.

Instead of investing time on votes that will not bring gas prices down, we need to do what Americans expect us

to do; that is, adopt a careful, all-inclusive, comprehensive approach. Put simply, we need to consider our assets and we need to develop those assets in a responsible way. That sounds very simple to the average person but, unfortunately, it seems to allude us here.

Last night's vote on a narrow tax issue, that in a very bipartisan way was recognized not to reduce the price of gas, doesn't get us headed in the right direction. If anything, it was a step backward. So I wish to take a more serious look at the energy resources we have in the United States to lay the foundation for the argument that we need to develop these resources—energy that could help address our Nation's security as well as our economic security.

Unfortunately, we are a victim of misperception that somehow the United States is running out of energy and that our own resources are not sufficient. But that is not true. In fact, the data tells us that the United States can be a dominant energy power. Let me say that again. The United States can be a dominant energy player—a power—in the global marketplace. With the proper Federal policies in place, the United States can step into a dominating position.

This isn't something I dreamed up last night. This is not something MIKE JOHANNS just invented. This comes directly from the Congressional Research Service, the nonpartisan research arm of Congress.

So let's go through what the CRS said to us in a recent report. They say the United States is No. 3 in global oil production. In 2009, the United States produced about 9.1 million barrels per day. By comparison, Saudi Arabia produced about 500,000 more than the United States per day at 9.8 million, and Russia leads all countries at 9.9 million barrels per day. So today we are No. 3 in global production of oil, behind Saudi Arabia and Russia.

For an additional perspective, consider this: The United States produces more than double what Iran produces and produces more than Iran and China combined.

Looking beyond oil production, let's consider our existing assets. According to the CRS, the United States has 163 billion barrels of oil that is technically recoverable. That is a lot, and that is more than six times what the administration suggests in its favorite talking points.

Let's compare our oil assets to what we import from Saudi Arabia, a major U.S. supplier. In 2009, we imported about 1 million barrels per day from Saudi Arabia, for a total of 365 million barrels per year. So every 3 years, at 2009 import rates, we will import just over 1 billion barrels of oil from Saudi Arabia. So the United States has enough oil to entirely replace imports from Saudi Arabia for a long time—more than 400 years.

If we shift the focus to natural gas, the United States has enough natural gas reserves to meet U.S. demand for 90 years.

Let's turn to coal. Again, based on CRS analysis, our domestic coal resources are huge. In fact, the United States is No. 1 in world coal resources. The United States has 28 percent of the world's coal. American recoverable coal reserves are 262 billion tons of coal.

To put that in perspective, the United States consumes about 1.2 billion short tons per year—simply extraordinary. What I am saying is, that is over 200 years' worth.

Then, CRS did something else interesting. They consolidated the energy resources, and then ranked the United States against the rest of the world. The United States came in at No. 1. This does not include oil shale or methane hydrates.

CRS concluded that total fossil fuels within the United States, in barrels of oil equivalent, are 972.6 billion.

So considering the United States leads the world in total energy resources, we need to evaluate any energy policy on whether it makes strides to use those resources in a responsible way or whether it keeps those resources on the sidelines.

The Congressional Research Service has debunked the myth that we are energy poor, that we have somehow consumed our resources. In fact, our Nation is No. 1. We are rich with resources: oil, natural gas, coal, and other resources—and lots of it.

Yet the President, for whatever reason, keeps using a dramatically different talking point, and it creates the wrong impression. Just recently, on May 6, 2011, he said:

> The challenge is we've got about two to three percent of the world's oil reserves and we use 25 percent of the world's oil.

The impression I think he is trying to create is that we have virtually no reserves. Yet we are trying to grab all the resources. This statement seriously, if not intentionally, underestimates America's energy resources because it only relies upon proven reserves. That would be like a millionaire complaining he cannot afford a $10 dinner because he has only $5 in his pocket.

Here is what CRS says about proven reserves:

> Proved reserves are oil, natural gas, or coal that have been discovered and defined, typically by drilling wells or other exploratory measures.

In other words, unless you drill or otherwise explore, proven reserves never expand and our country stays neutral.

So the President's talking point completely ignores what they call undiscovered technically recoverable—the estimated American resources in those areas where exploration has not yet occurred. Thus, it is no surprise what happens when we do not issue permits to explore and drill. Proven reserves would never expand if you did not issue the permits.

That is the problem with this administration's approach to energy policy. They have gone out of their way to oppose utilization of American energy sources and then they claim that somehow we have used them up.

Most famously, the administration supported a national energy tax called cap and trade—a bill that was intentionally designed to increase costs for consumers on everything from oil to gasoline we put in our cars, to coal, to the electricity we use. In fact, the President even admitted his policy was designed to make the prices for American consumers ''necessarily sky-rocket.'' Unfortunately, if not remarkably, if not completely unbelievably, that is a direct quote.

The ACTING PRESIDENT pro tempore. The Senator has consumed 10 minutes.

Mr. JOHANNS. I ask unanimous consent that I may have an additional 3 minutes.

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

Mr. JOHANNS. Today, even after this policy has been repudiated on a bipartisan basis by Congress, the administration continues to march ahead with similar proposals at the administrative level.

The administration has canceled leases across the Rocky Mountain West. They have blocked permits in the Gulf of Mexico. They have blocked permits in Alaska.

While the President's announcement this weekend would appear to be a welcome recognition that oil and gas leasing matters, it disregards the virtual lack of permits to explore. No doubt, leasing is necessary, but if you do not have the permits, leasing means nothing. Supply stays the same, world demand continues to increase, and no one should be surprised by the economics.

No one should be surprised that this administration's policy has a direct correlation to the price of gasoline you pump into your vehicle. That is why today we are debating legislation that is enormously important. This bill requires the issuance of permits. It emphasizes safety and environmental responsibility. It does require spill response and containment plans, and it requires we do everything we can to try to improve supply. It says we can develop our natural resources expeditiously but in a responsible and prudent way. It is a responsible step in the right direction.

Let me put this another way: We, the United States, do not need to beg the rest of the world for energy resources. We do not have to go with cup in hand. Energy is too important to our growth, to job creation. It is too big an issue to outsource to another country, especially to countries that do not like our policies.

It is critical we get energy policy right. Gasoline prices are now over $4 a gallon. That is hurting every American. It is hurting job creation. Heating

and cooling bills are going up. Farmers see their fertilizer, their natural gas bills expand. Their input costs are going through the roof.

Our people deserve better, and that is why I encourage my colleagues to support this important legislation.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

TRIBUTE TO ROBERT HARRIS

Mr. WARNER. Madam President, I rise, as I try to do on a regular basis, to honor another one of our great Federal employees. I know in the great Empire State of New York there are literally thousands of folks who oftentimes work anonymously to make sure, day in and day out, our Federal Government functions. This is a recognition I took over from our colleague, Senator Ted Kaufman, after he served in the Senate, and I am proud to continue this tradition where, on a regular basis, we come forward and honor one of those Federal employees who contributes to making our Nation safer, making our Nation more efficient, allowing many of us in America to enjoy the benefits of our country, oftentimes, again, without a lot of recognition.

The individual I am recognizing is Robert Harris, who is the Deputy Legal Advisor at the U.S. State Department.

Mr. Harris has played a critical role in advancing American foreign policy around the world. He has served as the lead negotiator on several important bilateral and multilateral agreements on antiterrorism, extradition, and global environmental protection. He also provides advice on issues ranging from treaties to law enforcement and intelligence.

But it is Mr. Harris's work to advance human rights around the world that sets him apart. In recent years, the United States had fallen out of compliance with five global human rights treaties, making it difficult for our Nation's diplomats to press other nations to fulfill their human rights obligations—something I know the Acting President pro tempore has a particular interest in. Mr. HARRIS oversaw five major reports documenting U.S. human rights activities and got our country back on track with the rest of the world.

Mr. Harris is also leading the U.S. delegation in the U.S.-China Legal Experts Dialogue, which provides an opportunity for both countries to exchange expertise and discuss reforms on a variety of issues.

Mr. Harris has successfully engaged the Chinese to implement an existing law—an existing Chinese law—that reduces prison terms and to more frequently grant parole to individuals serving for nonviolent offenses—again, advancing human rights in China.

Michael Kozak, a senior aide at the State Department, commented that Mr. Harris's negotiations have ''done more for concrete advancement of Chinese human rights than any previous human rights dialogue that I've ever seen.''

Mr. Harris also supervised the legal team that supported the President's signature on the U.N. Convention on the Rights of Persons with Disabilities in 2009 and guided the administration's legal approach to handling a U.N. conference on racism. More recently, he led U.S. and international efforts at the United Nations to prosecute pirates engaged off the coast of Somalia.

As a 25-year veteran of the State Department, Robert Harris's contributions have gone a long way to advance American foreign policy and preserve our Nation's record as a leader in human rights. I hope my colleagues will join me in thanking him for his service.

(Mr. FRANKEN assumed the chair.)

Mr. WARNER. Again, Mr. President, as you see me on this floor—and I know you share this commitment to those Federal employees who work in the great State of Minnesota—too often, when we have our political dialogs here, we get closed and sometimes cavalier attitudes toward shutting down our Nation's government and the economic consequences it would have on our overall economy and the private sector and also the immediate consequences it would have on the literally hundreds of thousands of great Americans who serve us as Federal employees. Today we take a moment to celebrate Mr. Harris's service, particularly in the area of human rights.

I think it is a record of service of which we can all be proud. We sometimes come down here and have tendencies to trash the Federal Government. I sometimes believe we do that at the expense of these people who work oftentimes for less pay, longer hours, and without a lot of recognition. This is some small way we are trying to recognize Mr. Harris and countless others who serve our Nation day in and day out.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. MURKOWSKI. Mr. President, last night the Senate defeated a misguided attempt to raise taxes on the five largest energy companies that are operating in our country. That bill, as we discussed, would have done nothing to reduce our gas prices, nothing to create jobs in America, and nothing to increase domestic energy production.

Furthermore, it would have hardly made a dent in our spiraling debt. Put another way, last night's effort would have done nothing to address the problems that most Americans care about, that most Americans are talking about, as they discuss things around the dinner table.

This morning we are here to debate a very different bill, called the Offshore Production and Safety Act. It was recently introduced by the minority leader, myself, and 16 other Senators. There is a very clear contrast, without a doubt, between this and what was brought up yesterday.

Instead of punishing a handful of companies within the oil and gas industry, we provide new opportunities to put Americans back to work. Instead of merely attempting to assign blame for our Nation's energy challenges, we develop a policy that we are proposing that will start to work right now and yield real benefits in the years ahead. And instead of raising taxes regardless of the consequences, we ensure that a far larger source of revenues, those that are derived from new offshore production, will be generated in the years ahead.

The bottom line is that our legislation is both common sense and long overdue. It will move our energy policy forward, not backward, and it would do so by addressing three pressing needs: We provide a boost to offshore energy production; we improve the safety of those operations; and we streamline our notoriously slow Federal bureaucracy.

Before I describe these sections in greater detail, I think it is important to explain why we focus on offshore production while at the same time we are focusing on offshore safety. The answer to the first part of that question is that our Outer Continental Shelf contains huge quantities, vast quantities of undiscovered oil and gas, some 86 billion barrels of oil, and 420 trillion cubic feet of natural gas.

The answer then to the second part is we all remember—we all remember and we should not forget—what happened last summer. We are committed to improving the safety of offshore production activities so it does not happen again.

As I mentioned, we call our bill the Offshore Production and Safety Act, because we understand that those terms—both production and safety—should be part and parcel of the same policy. We want our offshore industry to be working. But we need it to be working safely.

Those were words I used yesterday in the committee hearing on energy when we focused on the OCS reform bill. We want our offshore industry to be working, but we want to have that safety component. We know our Nation will need oil for decades to come, even under the most optimistic scenario we have out there.

We know offshore production will create thousands of badly needed jobs, not just on the offshore rigs themselves, but all across America, and that it will simultaneously generate tremendous revenue for our government at a time when we are looking for those revenues. We know that for every barrel of oil we produce here, that is one less barrel we have to purchase from someone else, typically from somebody else that could care less

about our situation here in this country.

It is not just me, not LISA MURKOWSKI from a producing State. It is not just Republicans who understand these benefits. Clearly President Obama and his team acknowledge these benefits as well. I do want to take an aside and recognize and commend the President for announcing that he will hold annual leases in Alaska's Natural Petroleum Reserve, the NPRA, establishing a permitting office in Alaska, and pursuing developmental opportunities in the Mid-Atlantic and South Atlantic.

I have routinely criticized this administration on certain aspects of their energy policy. But the President deserves credit for taking these steps and I acknowledge them. I will look forward to seeing those actually carried out, to see that followed through.

The Offshore Production and Safety Act offers us a chance to make even greater profits. To boost offshore production, the first part of the bill would require lease sales in the Gulf of Mexico, Alaska, and Virginia to be put back on the schedule. Those are areas that are projected to contain billions of barrels of oil. But if we refuse to even offer up the leases, then that energy is never going to be brought to market. We would also extend for 1 year all of the leases that were held back from production because of the administration's moratorium.

The second part of the bill relates to the safety, the safety of offshore production. Again it is pretty straightforward. It is pretty simple. We require that each leaseholder develop a spill response and containment plan to make sure if an accident does occur, immediate action can be taken to contain it and to protect the environment. This is critical. This is what we are all hoping for and waiting for after the Deepwater Horizon last year.

To further increase our Nation's response capacity, we would establish a public-private task force on spill response and mitigation measures. We would also require the Comptroller General to identify any gap in the legal authority or spill response capability that would need to be resolved.

This bill we have before us and that we will move to today, with the vote this afternoon, will actually mark the first time any safety legislation has been voted on in the Senate since the Deepwater Horizon incident. So this Republican proposal is the first time. We did not see that happen last Congress. I know Chairman BINGAMAN and I certainly hoped we would see it. But it was not moved through last year. It was not part of the proposal we took up yesterday.

The third and final part of our bill addresses our notoriously slow Federal bureaucracy. Oil and gas projects are routinely delayed, not because of the technological limits, or even the regulatory requirements, but because the Federal Government is simply too slow in making decisions. To remedy the situation, we would limit the amount of time that Interior can take to decide on drilling permits. We do allow for some flexibility here, but when delays do occur, we require an explanation as to why. What happened? What is holding it up? Because litigation is increasingly used to halt new development, we provide expedited consideration of those cases in a specific court.

We know this bill does not contain every pro-production piece every Member may wish. I wish to see an ANWR provision in here, but it is not in here. There are additional items I clearly wish to advance, most notably, revenue sharing, critically important for a coastal State such as Alaska, and for my friend and colleague from Louisiana.

I am going to be working to advance this bill and, if it advances, offer amendments. If the bill does not advance, I am going to be working within the committee to continue to push revenue sharing and other issues that speak to the pro-production piece. But for purposes of this bill before us, I realize that with the revenue-sharing issue, this does present a scoring issue which we need to resolve. So clearly more discussion needs to come for that to happen. But, regardless, I urge every Member who realizes the critical need for increased domestic production to join together to advance this modest and very responsible start.

The purpose of this bill, the reason why we are ready to take it up, move it today, is it really is so simple. We are not asking for that much: a handful of lease sales to be put back on the schedule, basic safety measures be implemented, and permitting decisions be made on time. Our goal—pretty simply—is to put offshore production back on track closer to where it should be and closer to where we need it to be.

If there is one word that should be used to describe this bill, it would be modest. Everything within it is straightforward. Nothing is outlandish. Nothing goes too far. There are no poison pills in it. Since its introduction, the President has very explicitly endorsed several of the provisions that are contained within it. Our proposal is fair, it is sensible, and I believe it is time for the Senate to send it on to the House of Representatives.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BLUMENTHAL. Mr. President, I ask unanimous consent to speak as in morning business.

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

GOODWIN LIU NOMINATION

Mr. BLUMENTHAL. Mr. President, I rise today to support the nomination of Professor Goodwin Liu's nomination to the Ninth Circuit Court of Appeals.

Very simply, America deserves and needs the best of our legal profession on the bench, the best Americans on the bench. Goodwin Liu is an extraordinary American and an exceptional lawyer, and he will serve with distinction on the Ninth Circuit Court of Appeals if he is confirmed by the Senate, as I urge he should be.

He is qualified by reason not only of his remarkable intellect but also his professional experience, his life experiences, which are important to anyone who serves on the Federal bench. As demonstrating his intellect, he graduated with honors from Stanford University in 1991. He was a Rhodes scholar, graduating with honors also from Oxford. He then went to the Yale Law School, where he was editor of the Yale Law Journal, and clerked for two distinguished Federal judges, including Supreme Court Justice Ruth Bader Ginsburg.

He has been a professor and a dean at the University of California-Berkeley School of Law. He has worked in private practice, including serving as a special assistant to the Deputy Secretary of Education. But his life has been about public service. Indeed, he served for 2 years at the Corporation for National Service, helping to begin the AmeriCorps National Service Program.

He has dedicated immense amounts of time to representing and serving the disadvantaged, including minority and low-income children in public schools, and he has received numerous awards, not only for his academic performance but also for that public service.

He brings to the bench potentially also life experience and diversity as an Asian American. There is no Asian-American member at present on the Ninth Circuit Court of Appeals. There should be and Professor Liu ought to be that judge.

He has been endorsed by jurists across the political spectrum. Ken Starr, the former Watergate prosecutor, said about him that he has ''obvious intellect and legal talent.''

Ken Starr also highlighted Professor Liu's ''independence and openness to diverse viewpoints, as well as his ability to follow the facts and the law to their logical conclusion, whatever its political balance may be.''

That is a quality that is priceless in a jurist. It is to be valued on the Federal bench, it is to be sought, and it is the reason he has been endorsed, as well, by Clint Bolick, Bob Barr, Tom Campbell, John Hu, Richard Painter—the list could go on. But that list is simply reflective of that quality of the open-mindedness and willingness to listen that the Federal bench, and any bench, needs today.

He is supported by business leaders and law enforcement officials, including a bipartisan group of 27 former judges and prosecutors and the California Correctional Peace Officers Association. Again, endorsements reflect quality.

I want to finish by talking about a couple of qualities that I think are particularly important. One of them is the willingness to admit error and recognize the need for acknowledging error,

as Professor Liu did in the hearing I attended. By the way, he has had numerous hearings—an extensive review by this body. In that hearing most recently, he acknowledged statements that perhaps should have been said differently, could have been said better. We all, from time to time, commit those kinds of errors, but rarely do people have the courage to acknowledge them. Professor Liu is the kind of human being who searches for the best in himself, as well as in others. He has a quality of integrity I think is perhaps most important in a Federal judge, or any jurist, and I hope across the political spectrum in this body there will be support for Professor Liu when his nomination comes to a vote within the next couple of days.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. WICKER. Mr. President, I rise today in support of the Offshore Production and Safety Act, a measure to increase domestic production of oil and natural gas in this country.

There are any number of things that make the United States the great Nation it is. Three of these things relate directly to the debate on the legislation that we will vote on this afternoon. They include our bountiful natural resources, the freedoms established by our Founding Fathers, and the determination of the American people.

The measure offered by the majority yesterday would have worked to stifle these very characteristics by discouraging economic activity, taxing industriousness, and putting more of our resources off-limits for development. From the oil wealth of the gulf coast, to the coal reserves of Appalachia, from the hydroelectric power that characterizes much of the American West, to the oilfields of Alaska, America is blessed with an almost boundless supply of energy wealth. From the time of this Nation's founding, Americans have sought to explore and develop this bounty. I am pleased to note that in recent decades we have become more responsible stewards of this endowment.

Last night, I held a telephone townhall meeting with many of my constituents, and the issues of gasoline prices and energy independence were raised repeatedly. It is certainly not surprising in light of the high gasoline prices we are facing today. As I told Mississippians again last night during this townhall meeting that I favor an all-of-the-above approach to addressing America's energy needs. I have supported, and continue to support, innovation in the area of biofuels, geothermal power, wind, and solar energy.

At the same time, however, we need to address current needs with currently available domestic energy resources, such as oil and natural gas. The measure we debate today, the Offshore Production and Safety Act, is a balanced one that offers a timely way forward by presenting a path toward lower fuel prices, job creation, and energy independence.

This legislation is responsive to the needs of the American people, not at some uncertain date in the future but now, making use of the resources and technology available today.

The specifics of the legislation before us are straightforward and commonsense. This bill would require proposed lease sales in the Gulf of Mexico, in the Mid-Atlantic, and those off of Alaska to be completed. It would cut bureaucratic redtape while speeding up the approval of drilling permits. Energy activities suspended during the administration's moratorium on offshore drilling would be extended by 1 year. Safety considerations are also taken into account under this bill, taking lessons that we learned from last year's Deepwater Horizon tragedy, to make deepwater drilling safer than before.

Energy independence—a goal we all share—can only be achieved through conservation, innovation, and domestic exploration, but domestic exploration must be a part of this in order for us to obtain independence.

According to a 2009 report by the CRS, America's combined recoverable natural gas, oil, and coal endowment is the largest on Earth. It is far larger than the reserves of Saudi Arabia, China, and Canada. We have the resources to meet our energy needs. I point out again that this is the independent Congressional Research Service that tells us this.

Closely related to this issue is the one of job creation in America—one that we should all be interested in with the unemployment rate currently at 9 percent. America's oil and natural gas industry is responsible for 9.2 million jobs in this country. I know the people who have those jobs are proud to have them. I know the families who are supported by those jobs are proud of their family members who work in this industry. Wouldn't it be great if we can expand that 9.2 million to a higher figure?

There was much discussion yesterday about taxation and budget considerations. Oil and natural gas production in the Gulf of Mexico raised over $67 million in revenues for the Federal and State governments in fiscal years 2008 through 2010. That is according to the Department of the Interior. Millions more went to land and water conservation. But because of the administration's moratorium, energy production in the Gulf of Mexico is expected to decrease by 13 percent this year, as estimated by the Energy Information Administration. Again, that is an official organ of this government. Overall, U.S. production is projected to drop by 110,000 barrels per day this year. This is not progress.

The fact is, the United States is dangerously dependent on foreign sources for our energy needs. We import 60 percent of our petroleum needs in the United States. This is hardly a revelation. Yet the proposed bill offered by my friends in the majority would have led to increased dependence on the importation of energy from foreign countries, many of which are not supportive of American interests, to put it mildly.

Furthermore, the suggestion that the appropriate response to soaring prices of gasoline is greater taxation on the companies that produce gasoline simply runs counter to common sense. In the larger picture, the administration's energy policy is not comprehensive in nature because it fails to promote the utilization of proven domestic resources, and the traditional domestic production it allows comes wrapped in bureaucratic redtape. If our goal is to increase our energy independence in the near term, the White House seems to want to lead us in the opposite direction. We do not encourage the increased production of any good by raising taxes and imposing more regulations on it.

The McConnell alternative, which we will vote on this afternoon, takes a different strategy—one that would increase access to domestic oil and natural gas. It is a strategy that would create jobs and spur economic growth, while increasing government revenues and improving industry safety.

Oil and natural gas reserves are abundant and accessible in the United States today. Tapping these domestic resources is integral to lowering energy prices and making us more energy independent.

I urge my colleagues to support the Offshore Production and Safety Act as a logical, prudent step in the right direction for U.S. energy policy.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, yesterday the Senate debated a bill to increase taxes on the production of oil and gas in the United States, as well as the tens of thousands of Americans that industry employs and really the millions of Americans it serves. We should have been debating a budget. In fact, the Senate has not passed a budget for 749 days.

The majority decided to bring their bill to the floor yesterday in an effort, I think, to change some of the conversation from the problem at hand, which is our spending problem in Washington. Today we borrow 40 cents of every dollar we spend. Spending on domestic government agencies domestic

nondefense government agencies in the past 2 years increased 24 percent. That does not count the $700 billion, almost $800 billion stimulus package. It was much more than that added to it. The Medicare trust fund will go bankrupt in 2024. The Social Security trust fund will be insolvent in 2036. In the past decade, our Nation's debt has increased from $5 trillion to $14 trillion.

Despite the gravity of our situation, the majority has chosen to debate a bill to increase taxes on oil and gas, an industry that employs 170,000 Americans and a number in my State and added this past year 11,000 new jobs. Mr. President, $1.9 trillion in taxes has been generated by the industry since 1981. The Reid-Menendez bill would not have decreased prices at the pump but would have shipped more jobs overseas and resulted in the importation of more oil and gas. Whenever you tax something, you get less of it. Whenever you tax a refining process, you drive up the cost. It is just that simple.

We are all aware that gas prices have doubled in the President's first 2 years in office. Raising taxes on energy companies operating in America would do nothing to help that situation. The real solution is for America to enact legislation that increases domestic American energy production from a variety of sources—oil, natural gas, nuclear—we need to do more on nuclear—hydroelectric, biofuels, coal and other sources of reliable energy that Americans can put to good use—our energy.

Conservation is a very important factor and should play a very important role. America needs an energy policy that strengthens our national security, fosters economic growth, and protects the environment in a reasonable and cost-effective manner. Americans need affordable domestic energy. Regrettably, the Senate majority plan does not seem to be interested in that kind of energy policy.

In April of this year—just last month, the United States imported 344 million barrels of oil from foreign sources. That is over 60 percent of the oil consumed in America. That means we sent $42.5 billion overseas in April alone to purchase the oil we import.

Stated differently, last month alone the United States spent over $980,000 per minute on oil from foreign sources. That is almost $1 million a minute. This presents a significant risk to our national security, as so many have told us, as many of these dollars are going to nations that are not friendly to us.

This also further exacerbates our Nation's trade balance. We import far more than we export, and our exports now are beginning to rise a little bit, but those gains are being more than offset by the importation of oil and the price of oil.

The Reid-Menendez bill would have increased the price of energy in America, which, I have to say, seems to be the objective of the administration and some in this Senate. In September of 2008, Steven Chu told the Wall Street Journal in an interview:

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

Dr. Chu is now the Secretary of Energy for the United States of America. He needs to be thinking about how to get the costs down and serve the constituency of America. I do not know what idea he has that we ought to be raising the cost of energy to the level in Europe.

The Environmental Protection Agency, in fact, is enacting new regulations that will also drive up the cost of energy in a way that should never have happened, in my view. We have had some close votes on that issue. Hopefully, we will soon be able to pull back that effort. A study by the Affordable Power Alliance concluded that EPA's greenhouse gas regulations could increase the cost of gasoline by 50 percent, electricity by 50 percent, and natural gas by 75 percent over the next 20 years. That is a stunning figure. There is no doubt it will drive it up. The majority has yet to recognize the negative impact these tax increases and new EPA regulations will have on the economy.

With gas prices up to $4 a gallon, from $2.75 in September—$4 from $2.75—this translates into a 5-percent cut in the average American's discretionary income just for the same amount of gas they are buying. This means less spending on home improvements, furniture, clothes, vacations—things people and families need. All that is eaten up by increased energy costs. In a way, it is a form of a stealth tax on the American people.

Furthermore, increasing energy taxes will make doing business in the United States more expensive. As a result, jobs will go overseas.

The rise in gas prices over the past two years has meant that a family paying $100 a month for gasoline will now pay over $140 a month for gasoline. If someone is paying $200 a month—and many are—they would pay $280 a month just because of a change in the gasoline price. Add it up. That is what it amounts to—$80 for a family who uses $200 a month in gasoline.

Some argue raising taxes will help reduce our deficit, but the tax increases in the Reid-Menendez bill would have raised approximately $1.2 billion in 2012. With a projected deficit of over $1.6 trillion this year, the revenue produced from these taxes would be a drop in the bucket. Don't think it is going to balance our budget, that is for sure.

Furthermore, the bill's sponsors claim the money would be used to reduce the deficit, but there is nothing in the bill that does that. Although the language sounds good, the language is essentially what we call a sense of the Senate and has no binding power. In the end, nothing in the bill could have been construed as mandating deficit reduction. It is simply a tax increase, plain and simple—tax and spend.

As the majority tried yesterday to increase taxes on the energy industry, they ignored the convoluted tax system that is increasing and inhibiting job growth in America. The United States has the second highest corporate tax rate in the world—39.5 percent. All the developed nations have been reducing their taxes. Only Japan has as high a corporate tax rate as we do, and they are reducing theirs. The Canadian Finance Minister, whom I had the chance to meet with last week, says Canada is bringing its tax rate down to below 15 percent. And we are taxing at 39.5 percent? Will that not cause a business to decide maybe to build their factory in Canada rather than in the United States and cost us much needed time?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. Mr. President, I ask unanimous consent to speak for 1 additional minute.

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

Mr. SESSIONS. I thank the Chair.

Mr. President, I believe the McConnell legislation, which has three components—one aimed at restoring American offshore production in the wake of the moratorium that has been imposed, a safety component aimed at preventing future incidents like the Deepwater Horizon, and an efficiency component aimed at streamlining the issuing of permits—is the right way to go. More production of American energy will help our country, our economy, and our people.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I have come to the floor to talk about the Republican bill to expand coastal drilling without environmental review, without the normal planning process, and without important safety measures. But before I do, I just have to respond to the remarks of my distinguished colleague from Alabama about our bill debated on the floor yesterday.

Only in Washington—only in Washington—could taking $21 billion from the oil companies' tax breaks, which the legislation clearly stated would go to deficit reduction, at a time that oil companies are making anywhere between $125 billion and $144 billion in profits—not revenue but profits—would that be not reducing the deficit. Only in Washington could you say taking $21 billion from the oil industry and the tax breaks they get, with record profits—and the law said very clearly that was going directly to deficit reduction—only that could be viewed a different way. And to suggest the oil companies cannot do without that $21 billion of the taxpayers' money when they are making $125 billion to $144 billion in profits is pretty outrageous.

But I know what today's legislation is about. Yesterday, the Republicans were standing up for Big Oil and today they are standing up for Big Oil again because this is not about reducing gas prices.

Haven't we learned anything from the tragic death of 11 men aboard the Deepwater Horizon rig a little over a year ago? Haven't we learned anything about the families who lost livelihoods and the gulf economy that will take decades to finally rebuild? Just over a year ago, I came to the floor to speak about this human and environmental catastrophe, a spill that many in this Chamber said was inconceivable—well, inconceivable despite the fact that a remarkably similar spill had happened a year before off of Australia's coast. Two hundred thirty miles of coastline in Louisiana, Mississippi, Alabama, and Florida was spoiled by toxic oil, and countless families who made their living on the coast had their lives turned upside down. This chart reflects the oilspill in Australia, but this is similar to what happened in the gulf.

Despite that sobering reality, my colleagues on the other side of the aisle have introduced a bill that would open new areas to coastal drilling and put millions more families at risk of losing everything. And at the same time they are calling on coastal communities, such as my home State of New Jersey, to risk everything, they have blocked efforts to address the fundamental safety concerns raised by the Deepwater Horizon blowout and the results of what the commission said. This reckless bill would allow drilling in sensitive coastal areas even though current safety and oversight laws have been deemed to be inadequate to prevent a repeat of the gulf disaster.

So I ask, have we learned nothing? My home State of New Jersey would face a risk of drilling along Virginia's coast, less than 100 miles from the Jersey shore. If the gulf spill happened in Virginia waters, many New Jersey families and much of our coastal economy would be ruined. We have magnificent pristine beaches. The dunes along the coast are breathtaking, wildlife is abundant, and tourism depends on it. It would all be in jeopardy. This is the second major driver in billions of dollars for our economy. And for what?

This photo shows what happens to wildlife when coastal drilling goes wrong. It shows a risk we cannot take. A spill similar to the one in the gulf could quickly travel to Cape May and blanket the entire Jersey shore in a sheen of toxic oil. This would not only be an environmental disaster but also an economic disaster for New Jersey. If our coast was covered in oil and our wildlife disappeared, tourists wading into the ocean would be replaced by cleanup crews in biohazard suits. That is not what I want for the people of the coastal communities of my State or any other State.

With approximately 60 percent of New Jersey's $38 billion tourism industry generated by the Jersey shore, we cannot afford to let this happen. And when we add the effect a spill would have on my State's multibillion-dollar fishing industry, the economic consequences are unimaginable. It simply does not make sense to play Russian roulette with an asset that generates thousands of jobs and tens of billions of dollars per year for drilling assets that could never generate even one-tenth of that.

My colleagues argue that we must risk our coastal economies in order to bring down the price of gas; that what we need is more production domestically. But here is the problem. As this chart shows, we now have greater production than at any time since 2005. Yet what do we see? Gas prices haven't gone down. So how does that theory play out? We have greater production domestically than ever before, but gas prices haven't gone down.

What does the Department of Energy tell us? It estimates that opening all the shores—all shores—to drilling would reduce gas prices by—how much, Mr. President?—one, two, three cents in the year 2030. That is from the Department of Energy of the United States. Drill everywhere and a 3-cent reduction in 2030. I don't think that is about providing relief right now. Three cents per gallon in 20 years, and yet we would risk tens of billions of dollars in damage to our coastal economies?

So instead of doubling down on 19th-century fuels, we should be investing in a new 21st-century green economy that will create thousands of new jobs, billions in new wealth, and will help protect our air and water from pollution. It is time for this country to move forward and embrace the future rather than clutch at the ways of the past.

Over the last 2 days, we had two bills presenting clear choices—my bill to cut oil tax breaks and this bill to recklessly expand oil drilling. Neither bill will do anything to gasoline prices. And despite rhetoric on the other side of the aisle, neither bill is about gasoline prices.

I said it very clearly. My bill to cut oil subsidies was about lowering the deficit and doing so by cutting wasteful subsidies. It is hard enough to be paying nearly $4 a gallon for gas, but then to have the taxpayers reach into their pockets and give more money to Big Oil to have them make bigger profits is pretty outrageous. The Republican leader's bill is about enriching oil companies by granting them new areas to drill without normal safety or environmental review. My bill was designed to help taxpayers, and their bill is designed to help oil companies.

When it is all said and done, this is what we are deciding today: Are you with the working, middle-class Americans or are you with Big Oil? I think there is only one fair answer, only one answer that makes sense for American families, and only one answer for ourselves as a country looking to future generations.

If we learned nothing from the tragedy of a year ago, then that is a sad commentary. But if we have learned, yes, we can pursue drilling in certain areas, but it must be done safely or else we spend billions afterward cleaning up the mess. I don't want to clean up the oil companies' messes. I don't want to put future generations of Americans at risk in terms of the conservation of their environment. And I certainly do not want to wait for 2030, to take all of that risk, to risk all of the billions of dollars in our coastal economies for three cents.

Mr. President, let's vote no on this suggestion, and let's move forward to a green energy future that finally breaks our addiction to foreign oil and breaks our addiction to those gas prices we suffer with today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BLUNT. Mr. President, I hear talk about gas prices and the economy, the effect on the economy and our future. We need to work hard to be sure we are producing more American jobs. Frankly, I can't think of a better way to do that than to produce more American energy. We use about the same amount of energy in a good economy as we do in a weak economy. It is the place to go where we know the consumers are, whether it is the electric bill or the gasoline at the gas pump, and we ought to be doing all we can to produce those jobs.

Certainly there are many factors that affect the price of oil, things such as the value of the dollar, supply and demand, and the global events that affect oil, such as the problems now in Libya and other oil-producing countries, or even the weather. I live in a State bounded by the Mississippi River, and the flooding down the Mississippi has had some impact on the north-south movement of refined products in the country. All those things have impact on gas prices.

One thing that will come up this summer and that I have worked hard on and on which many of my colleagues have joined me is looking into what we can do to be sure our efforts to have clean air don't needlessly restrict the supply of gasoline. As we get into the summer months, too many cities have their own unique blends of fuel. That means we turn the refineries into profit centers making these unique blends of fuel instead of places that process oil into gasoline and different blends of gasoline only when necessary as opposed to whenever someone has convinced a city that a unique blend of fuel is the only one they can possibly use.

In my State of Missouri we have one blend of fuel in the summer in St. Louis, another blend of fuel across the State in Kansas City, and a third blend of fuel in between. All those have to be blended separately, trucked separately, sold, obviously, separately. The Gas Act, which I hope we can talk about more in the next few weeks, is one of the ways we can bring as much common sense into the system as we can. Let's take the supply that we have available and use it in the way that makes the most sense.

In fact, right before Katrina in 2009, the President was given new authority in cases of natural disaster to suspend these fuel blends if there is a restriction of supply, and the President did that. I don't think he had the authority a month before Katrina hit. The President did that, and in the 6 months that authority was used, gas prices did not go up in any significant way at all, as I recall, because for that 6-month period of time gasoline became a commodity again.

If one could get gasoline, one could sell gasoline. If somebody had gasoline, one could buy gasoline. It did not matter whether it was the unique blend that one had become convinced that in their community that was the only one right for them, and we set some standards on those blends at the time, in the Gas Act, with 38 of my colleagues who cosponsored it. We will set more standards. That is one way to try to use the supply we have in a way that makes the most sense.

Another way, clearly, is to go out and find more. Our approach to energy needs to be threefold: to use energy more efficiently so we use less, to find more, and to invest in the future to find out what those things are that we need to be looking at as we transition the system.

I am not at all of the opinion we will not have a system, a fleet of cars that is powered in different ways at some date in the foreseeable future. But the foreseeable future would be 25, 30, 40 years. I am equally convinced that no matter what direction we go for fueling automobiles, 25 years from now the majority of cars on the highway are still going to be using gasoline. That means we need to find more of it here. That is what the Offshore Producing and Safety Act that Senator MCCONNELL introduced does and what I am cosponsoring along with my colleagues.

This bill tries to restore our offshore exploration of energy. Thirty percent of our domestic energy supply has come from the gulf in recent years. We want to be sure that number continues to remain at that level.

Since April of 2010, the administration has only approved 53 shallow-water and 14 deepwater permits—most of those underway before the Deepwater Horizon spill a year ago. In fact, the moratorium has, for all practical purposes, become what some people are describing as a permatorium. We permanently decided we were not going to look at the gulf for the kind of oil that it can, should, and needs to produce. In fact, offshore energy production is projected to fall by 210,000 barrels per day this year. That means in the gulf we would be getting 210,000 fewer barrels of oil every day this year than we got last year.

Surely, that is no solution, to become more dependent on other countries that are recipients of the jobs that follow our energy future. We need those jobs to be here. The estimate is, we would be down 190,000 barrels per day in 2012 because we have not been pursuing the drilling permits.

It is possible that 2011 could be the first year since 1958 that the Federal Government will not hold an offshore lease sale—the first time since 1958. Does that mean we are less dependent on oil and gasoline than we were in 1958 or 1959 or 1969? No, it does not mean that. We are more dependent, and we need to move forward with looking at the resources we have.

Recently—recently meaning Saturday, in his Saturday speech—the President appears to have reversed course on this issue and has called for Alaska and Gulf of Mexico leases to be reinstated and for an extension of leases impacted by the moratorium. I think this bill actually helps what the President called for on Saturday. It would be lightening speed for the Senate to pass a bill on Wednesday or Thursday that the President asked for on Saturday. I think this is very much in line with what I would admit is a new position for the President to take, but it is one he seemed to take firmly on Saturday. This legislation would help him.

The number of lease sales is undetermined by the President's address, but we could help by pursuing leasing and permitting with this act. This act directs the Interior Department to conduct the offshore lease sales that the administration canceled in December of 2010. These were lease sales that were underway, the process was well along, and the administration canceled those lease sales in December of last year.

These were lease sales in the western and central gulf and on the Virginia Outer Continental Shelf and the Alaska Outer Continental Shelf. Let's go back to that point: Let those lease sales move forward as they were doing before they were canceled. The President just said Saturday: Let's do this. Let's do it, and let's give him the tools and encouragement he needs to do it right now.

This would end the permanent moratorium that occurred last year in the gulf. It includes a 30-day time limit for the Interior Department to review and decide on drilling permits. If rejected, the Interior Department has to disclose why it rejected the permits. There should not be anything wrong with that. If a permit should be rejected, everybody ought to be told why, and it ought to be part of the record. It also provides for default approval if the Interior Department does not make a decision within 60 days.

Finally, it improves safety procedures by adding additional requirements for a spill response plan and a containment response plan to see that was done.

This would mean we would have more American energy, and more American energy has two impacts. No. 1, it would inject more supply in the marketplace, putting price pressure on the worldwide marketplace. If we fully pursue our own resources, that does have an impact on the short-term response of the industry because they know America is going after its resources.

I urge we approve this bill. I intend to vote for it.

I yield the floor.

The PRESIDING OFFICER (Mr. UDALL of New Mexico). The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, first, let me say I will be supporting the bill that we have before us today. It did not go far enough, though. What we ought to do is open everything. I am talking about the Pacific, the Atlantic, the gulf, the North Slope, the public lands. That is what we really need to be doing.

I know there are some reasons they are confining it to the gulf in terms of this legislation. While I respect that, again it does not go far enough.

Let me make one comment about yesterday's vote. Right now the single issue people have in terms of energy is the price of gas at the pump. I know it is not just my wife, they are all that way. I can see that. But when the Democrats came up with their bill last night, I hope people remember who was voting for this. That was for a major tax increase on what they call Big Oil.

Big oil is the five biggest oil companies. I hate to say this, but sometimes you walk on the floor with half truths and get by with it, and people will assume that is true. As much as I love my fellows on the other side, some of the things that were stated were actually just totally inaccurate.

To say the big five don't pay taxes—they pay huge taxes. I don't know where they come up with some of these numbers. I am going to single out one company, ExxonMobil, and tell my colleagues something they are not aware of because it has not been said on the Senate floor yet.

In 2010, ExxonMobil's total tax expenses in the United States were $9.8 billion. That is what they paid in taxes in 2010. That includes income tax expense of more than $1.9 billion. That $9.8 billion in taxes exceeded the 2010 U.S. operating earnings of $7.5 billion.

What we are saying is, they paid $9.8 billion in taxes. They only received $7.5 billion in terms of earnings from the United States. Why is that? It is because about 80 percent of their operations are in other countries. They are in 100 different countries. Not one of the other countries charges taxes when they go offshore. I believe we are the only country that charges a U.S. tax on production that takes place in some other country.

For that reason, if we tax them like most people do it would have been a tax credit and not a tax at all. Nonetheless, they were accountable for paying taxes that year of $9.8 billion. Look at this year. That was 2010. During the first quarter of this year, our U.S. operating earnings of this particular company were $2.8 billion—that is the first quarter of 2011. The rest of their earnings, more than $8 billion, came

from operations in more than 100 countries worldwide.

Here is a number we will not hear in Washington. During the first quarter on those earnings, U.S. earnings of $2.6 billion, they incurred a tax expense and paid a tax of $3.1 billion. They are paying more than they are getting out of this country. I think sooner or later we have to come up and just tell the truth of what is happening. It is all class warfare. I think we know that: Big, bad oil. They are all bad.

We have a lot of production in my State of Oklahoma. We have companies such as Devon and Anadarko and others that are doing a lot to relieve this problem. I know what is going to happen. It did not pass, obviously, and is not going to pass, but if it had the next target would be some of the smaller domestic companies.

I remember coming down to the floor last year when the good Senator from Vermont had a bill and was bringing it up by unanimous consent, and I just happened to get here in time to stop it and debate it and defeat it. In that bill they even held up a picture of a check from ExxonMobil as to what their tax liabilities were—totally wrong, in my opinion, and apparently in the opinion of 61 of the 100 Senators because they joined me in opposing that particular legislation.

We have a solution to the problem. This is not rocket science. Right now we have the data. It just happened in the last 8 months that the Congressional Research Service—nobody has stood on the Senate floor and questioned the fact that they are nonpartisan; they are objective. They looked at our recoverable reserves in coal, oil, and gas and found they are greater in America than any other country in the world. We have those recoverable reserves.

The problem is, we have a political problem where the liberals here, along with liberals in the White House, including the President, will not exploit our own resources. We have all the oil and gas and coal that is out there. We could be totally independent of the Middle East in a very short period of time if we would just go offshore on all three coasts, along with the North Slope, ANWR, and with our public lands. As I say, every other country does it.

So we have to wonder: Why don't we do it? Why is it we don't care about supplying ourselves with homegrown oil, gas and coal and taking care of our own energy needs? We have the ability, but the politicians will not let us do it.

There is one reason. That is—and this is disturbing—that in the case of this administration, they don't want to do it. This administration has said many times they are not interested. Listen to what Alan Krueger, Assistant Secretary of Treasury, said:

> The tax subsidies that are currently provided to the oil and gas industry lead to inefficiency by encouraging an over investment of domestic resources in industry.

Secondly, he says:

> The administration believes that it is no longer sufficient to address our nation's energy needs by finding more fossil fuels. . . .

Look, I am all for coal, gas, oil. I am for nuclear. I am for all of the above. I am for all of the renewables: Sun, wind, and everything else. But we have to run this machine today, tomorrow, and the next 5 and 10 years. We can't do that without fossil fuels.

Further, they stated:

> The administration's goal is to have resources invested in ways which yield the highest social return.

Social return, that is a totally different thing—not an economic return, not the ability to run our country ourselves but some kind of a social engineering that is going on.

The best quote and the most telling is the one that came from Secretary Chu, the Energy Secretary for President Obama. Listen to this:

> We are going to have to get some sort of regulatory thing going on that [hydraulic fracturing].

He said:

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

This is our administration saying this. This is the Secretary of Energy:

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

They are intentionally raising the price of gas and it is by their own admission.

We were warned way back during the campaign when President Barack Obama was a Senator. He said:

> Under my plan of a cap and trade system, electricity rates would necessarily skyrocket.

So we have an effort by them. I would just warn my good friends on the Democratic side of the aisle to watch this pretty closely because just because the President wants to increase the price of oil doesn't mean that your constituents do. In fact, I can assure you your constituents do not, unless there is something unusual about my State of Oklahoma.

Let's see what the CRS report said a little bit more specifically. They said, in the updated report, America's combined recoverable oil, natural gas, and coal endowment is the largest on Earth. America's recoverable resources are far larger than those of Saudi Arabia, China, and Canada combined. That is the resources we have in oil, coal, and gas.

America is the world's third largest oil producer and is endowed with 163 billion barrels of recoverable oil which will run the United States of America for 50 years. We can run it. All the oil we will need for 50 years, we have it. We just have to get the politicians out of the way so we can produce it.

Natural gas, in terms of trillions of cubic feet, America's future supply of natural gas is over 2,000 trillion cubic feet, an increase of more than 25 percent just since the committee's 2006 estimate. At today's rate of use, this is enough natural gas to meet America's demand for 90 years.

Keep in mind natural gas is not just natural gas to develop energy, but also natural gas is something we are going to be using in our cars today. It is available. They are working on technology. We are working on the certification of engines that will burn natural gas. When we are, it is going to relieve that tension also. Right now, the price of a comparable gallon of natural gas to run an automobile is $1.60 gallon—$1.60 as opposed to $4, so it is out there.

I have to say this. The President made a speech, and I responded on a couple of TV stations. This was probably 3 weeks ago. It was on energy. He said in that speech: We have an abundant supply of good, clean natural gas. We need to be using it. Then, at the end of that speech, he said: However, we have to be very careful what we are going to be doing because we don't want to contaminate our drinking water with hydraulic fracturing.

I happen to come from Oklahoma. The first hydraulic fracturing job in Oklahoma was done in 1948. We have not had one documented case of groundwater contamination ever since 1948, 60 years. Yet, right now, they are going to stop us from going after natural gas by taking away hydraulic fracturing. In these tight formations, the shale formations, you can't develop a cubic foot of natural gas without using hydraulic fracturing. It is a way of inserting liquids in to force the gas out so we can develop it. So it is there. So the President is saying we need to use natural gas, but we don't want to use hydraulic fracturing.

There is an effort right now by many Members to try to take that over as a Federal function, the regulation of hydraulic fracturing. Right now, there has never been a problem with it. It is regulated differently in different States. For example, in my State of Oklahoma, in the Anadarko Basin, we are talking about depths of some 35,000 feet. If you go just north in Kansas, it is between 3,000 and 4,000 feet. So it is different in different States. It needs different regulation. It is not broken and we don't need to fix it.

What has the President done? He has put Secretary Chu in charge of determining what we are going to do with hydraulic fracturing. Secretary Chu is the same guy who said we have to raise the price of our gasoline to be comparable to the gasoline price in Europe. So that is the wrong guy for that kind of a study.

Besides that, I would remind my colleagues we actually have a study that is going on right now by the Environmental Protection Agency on hydraulic fracturing that isn't through yet. It would seem to me we ought to at least finish and get this study before we rush in and try to pass something that will stop us from being able to develop our natural gas.

I can say the same thing for coal. America is No. 1 in coal reserves. Right now—people aren't aware of it—we are reliant upon coal for 50 percent of the power it takes to run this machine called America. America is No. 1 in coal resources, accounting for more than 28 percent of the world's coal.

So we have it here. We have gas. We have coal. We have oil. All we have to do is develop them.

How many people in America who have gone through elementary school don't remember supply and demand? We have a huge supply and there is a great demand for it, but we have our politicians who will not let us develop our supply. As long as that holds, it is going to be very difficult for us to do it.

So I would just say this. This is a wakeup call for the American people. We have a vote this afternoon. It is not good enough. I am going to vote for it. But we ought to be opening our exploration and production all over America. To do that, we have to go beyond this bill. This is a start and it is a start that is worthwhile.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CHAMBLISS. Mr. President, I rise today to speak about our Nation's energy policy, or, frankly, our lack thereof.

Georgians, as well as folks all across America, are shocked every time they pull up to a gas pump, both at the price of gas per gallon and at the jaw-dropping cost each time they fill up their tanks.

With rising food prices and a stagnant economy, skyrocketing gas prices could not come at a worse time. This situation illustrates why it is imperative for Congress to focus on creating a policy to expand and diversify our energy sources so the American people are no longer held hostage by prices at the pump.

The necessity of congressional action has become all too clear as we watch gas prices climb and unrest spread throughout the Middle East, potentially threatening major sources of energy we import.

It highlights the fact that we cannot afford to keep sending hundreds of billions of dollars per year to foreign countries—many of which are not America's friends—to meet our energy needs. It poses a threat to our national security and further harms our Nation's struggling economy.

This week we are considering two pieces of legislation that both deal with domestic production of oil and gas: the Reid proposal that aimed to stifle it, and one introduced by Leader MCCONNELL that increases offshore production while improving the safety of offshore drilling operations.

Unfortunately, the Reid proposal would have increased taxes on domestic production of oil and gas, which would have discouraged domestic drilling and resulted in the loss of many American jobs associated with the oil and gas industry.

Without incentives to produce oil and gas in the United States, there is real risk that energy companies will take many of their drilling operations overseas. This goes directly against goals I know many of my Democratic colleagues share of reducing our dependence on foreign sources of oil and encouraging job growth. Moreover, as we watch gas prices rise, why would anyone want to impose new taxes on energy which will only further increase prices Americans pay at the pump?

My colleagues across the aisle who support this legislation portray their proposal as a deficit-cutting measure. As much as anyone here, I recognize the importance of reducing our Federal deficit. But I do not support targeting one industry to bear the brunt of the deficit-cutting measures while others enjoy tax incentives.

Rather than hindering domestic production of oil and gas, we must encourage the development of abundant energy resources we have right here inside the United States, and we must do so in an environmentally responsible manner.

I was pleased the Reid proposal did not pass yesterday. As a cosponsor of Leader MCCONNELL's Offshore Production and Safety Act, I will continue to support domestic oil and gas exploration and production. It is an essential component of a comprehensive energy policy that will enable America to become more energy independent.

As I hear more reports of new oil and natural gas deposits found within our borders and off America's shores, I am stunned we are not doing more to encourage the development of these resources. I cannot think of a better means of improving our economy by both reducing America's energy imports and encouraging job growth.

After the oilspill last year, the Obama administration reviewed its drilling and permitting process for domestic oil and gas production, and is still in the process of revising it. While changes clearly needed to be made, the Department of the Interior continues to hold up and unnecessarily delay approval of drilling leases and permits. Now is not the time to tie up valuable and much-needed American energy production in bureaucratic redtape. Senator MCCONNELL's bill would actually streamline the permitting process while improving safety.

A responsible energy policy that will make gas prices reasonable, lessen our dependence on foreign oil, and strengthen our economy will also result in increased domestic energy production, improved energy efficiency through technology, increased conservation, and a diversified energy supply through the use of renewable fuel sources.

Along with supporting America's oil and gas development, we must also focus on other domestic energy sources—including nuclear energy, wind, clean coal, and solar power—that will allow us to achieve sustainable energy independence.

I am hopeful that in the 112th Congress we will take on some form of comprehensive energy legislation. For the sake of our national security and our economy, we need to take this issue on now instead of kicking it down the road for others to handle.

I encourage my colleagues to support the McConnell proposal.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HOEVEN. Mr. President, I rise to speak on behalf of S. 953. Today I wish again to speak about gas prices in our country and the pressing need to increase domestic supply. In a nutshell, the way you reduce prices at the pump for American consumers is by increasing supply, particularly domestic supply. More supply will not only help bring down the price of gasoline at the pump for American consumers, but it will also help create good American jobs for our workers across the country.

It is important to remember that government does not create jobs, but government can create the environment, the legal, tax, and regulatory environment that will stimulate private investment, and that private investment will stimulate the deployment of new technologies, new companies, and, of course, create jobs to help grow and sustain our economy.

I want to start out by giving you some examples close to my home in the great State of North Dakota. In North Dakota, we launched a comprehensive energy plan about 10 years ago. At that time oil companies had either left the Williston Basin, which is the energy patch in our State, or they were leaving. You might ask: Well, why was that? First, it was because they were getting better returns elsewhere. The technology was lacking to produce oil and gas economically from new formations in our State. Companies were going to other places in the world where they could extract that oil more cost effectively.

Second, the data on confirmed reserves was also lacking, and the technology to produce oil from shale was not sufficiently developed.

Third, our workforce was aging.

And, fourth, transportation constraints limited production. In other

words, there were better places for those companies to go, better places than our State, to invest their dollars, to get a return for shareholders.

To turn that around, we worked very hard to build a climate for investment and growth. I wish to tell you about some of what we worked to put in place. First, we put tax incentives in place that made it worthwhile to invest. Second, we established an oil and gas research fund. Third, we initiated studies of the Bakken formation, not only through the North Dakota Geological Survey, but also through the U.S. Geological Survey. We asked for updates to those studies now as well.

We improved infrastructure, including four-laning some of our major highways. We established a pipeline authority to expand transportation capacity, to move product out of the Williston Basin to market, and we also established a center of excellence for petroleum safety and technology at Williston State College, to train workers in oil production and recovery methods.

Up until that time, we had to send our workers to States such as Colorado or Wyoming or maybe Oklahoma for that education and training in oil field technologies, and sometimes they did not always come back to our State. So we established that training there at home.

As a result of our advanced business environment, we drew investment capital technology and ingenuity to the Williston Basin, and those efforts unlocked the potential not only of the Bakken formation but also the Three Forms formation.

This year, North Dakota will produce more than 120 million barrels of oil, the fourth most amongst all 50 States. We passed other States now such as Oklahoma and Louisiana, and our production continues to grow. What is more, the private investment that funded and deployed those new technologies to produce more oil most cost effectively and more dependably also funded the development and deployment of new technologies that helped us produce that oil and gas in more environmentally sound ways.

New technologies such as directional drilling, and the way we do hydraulic fracking, enabled companies to recover as much or more oil from one well bore than they had formerly recovered from up to a dozen well bores. That means more domestic production, less environmental impact, and better results for the American people.

Bear in mind that most of these measures I am talking about, most of these measures we implemented to enhance our business climate, were not about government spending. They were about creating an environment that attracted private investment.

Increased economic growth not only generated revenues for our State and broadened our economic base but also actually enabled us to reduce taxes for our citizens. It also has a national impact. Increased North Dakota oil production is also helping to reduce our dependence on foreign imports, and increase the domestic supply of oil in this country.

As I mentioned in my remarks last week, between 1985 and 2005, domestic oil production in this country was going down—it was shrinking—and foreign imports were growing. In 2005, we were importing 12.4 billion barrels of oil a day into this country, 60 percent of what we consumed.

By 2010, however, our imports had fallen to 9.4 million barrels a day, a reduction of about 3 million barrels a day over 2005. So over the last 5 years, we have actually reduced our daily imports of oil into this country by 3 million barrels a day.

Our dependence on foreign oil has been reduced from 60 percent down to about 49 percent. So what changed? Well, in part, we are using less. But the fact is, we have increased domestic production. We have increased our domestic supply. Increased supplies from onshore production in the lower 48 States such as North Dakota, also from natural gas liquids throughout the country, and from offshore drilling, have all raised domestic output by 1.5 million barrels a day in this country.

That is what today's vote on S. 953 is all about. The bill before us, which was introduced by Senator MCCONNELL—and I am pleased to be one of his cosponsors, is about more offshore domestic production, more offshore domestic production from off our coasts, and, hence, more domestic supply.

Like our approach in North Dakota, onshore production, S. 953, the Offshore Production and Safety Act will encourage more domestic production with better environmental stewardship. It will open areas in the Gulf of Mexico, in Alaska's Outer Continental Shelf, and parts of coastal Virginia to new exploration and production. At the same time, it will help to expedite the approval or denial of growing permits to a reasonable period of time—in this case 60 days—thereby allowing projects to move forward in a timely fashion.

But it does not just speed up the clock. This bill is also about safety. It requires companies drilling offshore to have safety plans that must be certified by the Secretary of Interior. To further improve safety, it also requires ongoing preview and research into spill prevention procedures and methods.

This legislation, the Offshore Production and Safety Act, is the kind of energy policy that will help to attract investment and increase production in this country. That means not only more supply to help bring down the cost of gasoline at the pump for American families, but it also means more jobs for American workers. It is a good piece of legislation and we ought to pass it.

Although it is a step in the right direction, no single piece of legislation will do it all. Congress has not passed a comprehensive energy policy in years. But, frankly, we can no longer wait for that single sweeping master plan that will do it all at once.

Again referring to my home State, we built Empower North Dakota over a decade piece by piece, and saw firsthand the power of energy development in our State. The bill before us today is one piece, a piece that can become part of a comprehensive national energy plan.

To build a comprehensive plan we need other legislation as well, other legislation such as the Boutique Fuel Reduction Act of 2011, which would simplify our Nation's fuel standards and make more fuel available to American consumers. My esteemed colleague, Senator ROY BLUNT from Missouri, was on the floor a few minutes ago talking about that piece of legislation, and also legislation such as the Regulatory Responsibility for our Economy Act, which would actually work with a directive from President Obama to review and remove outmoded or excessively burdensome rules that may be impeding economic development and job growth across our country.

We need to work in a bipartisan way, because high gas prices, high unemployment, and low economic growth are not a Republican or a Democratic issue, they are an American issue. That is why we also need legislation such as the EPA Fair Play Act, which will prevent the Environmental Protection Agency from rescinding previously approved 404 permits. I am pleased to be cosponsoring that legislation with my colleague, Senator JOE MANCHIN from West Virginia. Collectively, all of these pieces of legislation and more are the bricks and mortar out of which we can build a comprehensive national energy policy. But we need to get going, and we need to get going today. Let's get going with S. 953, and let's build a brighter energy future for ourselves and for future generations.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. COONS. Mr. President, I ask unanimous consent to speak as in morning business.

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

GOODWIN LIU NOMINATION

Mr. COONS. Mr. President, I rise today to support Goodwin Liu's nomination to the United States Court of Appeals for the Ninth Circuit. Years ago, in the early 1990s when I was working for the national I Have a Dream Foundation, I first crossed paths with Goodwin Liu, who was then a senior program officer with the Corporation for National Service. An issue

had arisen with regard to the corporation's support of one of our foundation's programs. We were running an AmeriCorps program. Mr. Liu very quickly distinguished himself through his competence and obvious commitment to education and national service. In fact, my interactions with him were so positive and memorable that 18 years later, when I had joined this body and heard of his nomination, I immediately remembered him and was anxious to find out what he had been up to in the intervening years.

The opportunity to reconnect with Goodwin Liu as part of his confirmation process has turned out to be one of the real pleasures of this job. It is readily apparent to me, as well as to so many Senators on both sides of the aisle who have had the opportunity to meet with him, to question him, and get to know him better, that Professor Goodwin Liu is a good, decent, bright, and engaging man.

His career, in my view, is marked by a profound commitment to service, from his time working at the Corporation for National Service, the organization of our Federal Government that supports VISTA and AmeriCorps, and all sorts of different commitments to national service across our country, to his later work as a clinical and summer associate while in law school, to his work for the Department of Education as a young attorney, to his service as a judicial clerk, and then his scholarship in support of opportunities for all Americans.

Professor Liu has been guided by a desire to leave the world a better place than he found it. Despite these many positive personal qualities to recommend him, it is, perhaps, something of an understatement to say that Goodwin Liu's has been controversial.

First nominated in February of 2010, and then after a searching and difficult nomination hearing, and a vote here, a renomination in January of this year, a second confirmation hearing in front of the Judiciary Committee, in which I was able to participate, we now stand on the verge of a cloture vote required for us to even get to the consideration of his nomination.

Professor Liu is a prolific scholar, who has written on a number of topics relating to educational rights and public schooling, among others.

When I heard the attacks against Professor Liu, I was shocked, but concerned. The charges that are being leveled against Professor Liu—that he is a radical who would use the bench to engage in judicial activism—are serious. So I took it upon myself to meet with Professor Liu, to review his record, and to come to my own conclusions.

I can say with certainty that Professor Liu will be a first-rate judge in the finest traditions of the legal profession. Professor Liu knows the difference between lecturing and judging. He knows that the role of a judge is not to advocate but to follow the Constitution and the precedents of the Supreme Court. Goodwin Liu will obey the law. We can and should ask no more.

If we take a step back from the partisan rhetoric, I think we can find broad agreement across the aisle that a judicial candidate ought to be evaluated according to his legal ability and experience, his standing within the legal profession, his integrity, and his temperament. Professor Liu rates extraordinarily highly in all of these areas.

Professor Liu's academic and professional qualifications demonstrate that he is a lawyer of the utmost ability with a broad range of experience. He was a Rhodes scholar and holds a law degree from Yale University, where he was editor of the Yale Law Journal. He went on to clerk for one of the great intellects on the DC Circuit, Judge David Tatel. After that, he clerked for Justice Ginsburg on the U.S. Supreme Court. Since that time, he has worked in private practice and earned a tenured professorship at the University of California, Berkeley School of Law. At Berkeley, he has been a prolific scholar of exceptionally high regard.

In addition to a sterling resume, Professor Liu enjoys the highest esteem of his colleagues. Noted conservative scholar John Yoo has spoken out in support of his nomination, as has Kenneth Starr. He is the recipient of the University of California's highest teaching award. Clint Bolick, director of the Goldwater Institute, has said that Professor Liu's writings ''exhibit fresh, independent thinking and intellectual honesty.'' This high opinion of Professor Liu is broadly shared. In giving Professor Liu its highest rating of ''Unanimously Well Qualified,'' the American Bar Association interviewed scores of attorneys and judges who have worked with Professor Liu and, evidently, found that his reputation is one of impartiality, integrity, and great ability. For nominees to our circuit courts of appeal, we could ask no less.

Professor Liu's activity as a noted legal and policy scholar is, in my view, being used unfairly to impugn his judicial temperament. In meeting with Professor Liu, he explained to me that he understands and respects the difference between scholarship and jurisprudence. Academics explore the contours and limits of the law, often advocating for policy outcomes. Judges, on the other hand, apply legal precedent to come to the conclusion that the law compels, without prejudice or a policy agenda.

When Professor Liu has been asked to apply the law, as would a judge, any criticism that he allows policy preferences to cloud his judgment does not pass muster. As an example, though Professor Liu has said that his personal views are that individuals should be treated equally, regardless of sexual orientation. Even so, he testified before the California State Senate in 2008 that California's controversial Proposition 8, which banned same-sex marriages, would pass muster under the California constitution. This is a concrete example, from before his nomination to public office, that Professor Liu is capable and willing to set aside personal preferences and views when called upon to render a legal judgement.

I also examined Professor Liu's scholarship on the topics of education and welfare, to which his opponents claim he would create a constitutional right if confirmed to the bench. I would be concerned if these charges have merit, but they do not. Rather, they reflect a distortion of what he has actually written. Professor Liu has repeatedly clarified his unexceptional belief that Congress, and not the courts, have the power to create new fundamental rights through amendment to our Constitution.

An objective review of Professor Liu's qualifications, temperament, and intellect lead to the conclusion that he is an outstanding nominee and should be confirmed to the bench. Former Representative Tom Campbell, a five-term Republican Member of the House, agrees. In urging his swift confirmation, Representative Campbell specifically praised Professor Liu's reputation for, quote ''integrity, fair-mindedness, and collegiality.''

I call upon all of my colleagues to take a fresh look at Professor Liu and to come to their own conclusions about him. In my opinion, Professor Liu is a dedicated public servant who has undergone intense scrutiny over the past 15 months at great personal sacrifice. Too often, it is easy to lose sight of the fact that judicial and executive nominees are also people, with families, careers, and other responsibilities in their lives. The confirmation process can exact a steep cost and, as a result, many qualified and decent individuals either withdraw or decline to submit to it in the first place.

Professor Liu is an exceptional nominee to the Circuit Court. He has borne the challenges of confirmation with grace and dignity, as is in keeping with his character and dedication to public service. In voting on the petition to invoke cloture, I ask my colleagues to consider the content of Professor Liu's character. Listen to those who know him above the interest groups who have sensationalized his nomination. I ask them to consider his bipartisan support from those who work with him and those who know him best.

I know Goodwin Liu. I trust him and know he will make a fine judge. I urge my colleagues to support his confirmation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I rise to speak in favor of Senator MCCONNELL's production bill. The bill might be too much for some, too little for some, and maybe it is not perfect, but we must take a step in the direction of adding production of our Nation's natural resources if we are going

to bring down the cost of gasoline, bring down the cost of fuel, bring down the cost of all the elements we have that are providing for our electricity, natural gas, and other forms of energy.

I hope we can pass Senator MCCONNELL's bill. Oil is, today, slightly under $100 per barrel, and with the summer driving season approaching, we know the price could go up. It is graduation season and people are driving to their graduation ceremonies, and they are having to pay these enormous prices at the pump. It is over $4 in many places. I recently read a story about a constituent who was going to College Station for a Texas A&M graduation, and he complained, rightfully, that he had a diesel truck and it cost him $74.41 to get his truck half full. That is a lot for a half tank of fuel. I think we can do something about it.

Over the past 2 years, the Obama administration has put up barriers to increasing our domestic energy potential. We must stop that policy and go in the other direction and open our natural resources and use our natural resources, so we can bring down the cost of fuel and try to help our small businesses and families by providing opportunities to lower fuel.

The McConnell legislation gets the ball rolling. Supporters of the bill agree that long-term energy solutions involve removing the anti-energy barriers to safely produce energy for Americans by Americans. On March 30, the President stated that producing more oil in America can help lower oil prices, create jobs, and enhance our energy security. But what is happening is our regulatory agencies are going in the opposite direction. They are stopping the production of oil and gas in our country.

Let me read excerpts from a FOX News article, by Dan Springer, in April of this year:

Shell Oil Company has announced it must scrap efforts to drill for oil this summer in the Arctic Ocean off the northern coast of Alaska. The decision comes following a ruling by the EPA's Environmental Appeals Board to withhold critical air permits. . . .

Shell has spent five years and nearly $4 billion on plans to explore for oil in the Beaufort and Chukchi Seas. The leases alone cost $2.2 billion. . . .

The closest village to where Shell proposed to drill is Kaktovik, Alaska. It is one of the most remote places in the United States. According to the latest census, the population is 245, and nearly all of them are Alaska natives. The village, which is 1 square mile, sits right along the shores of the Beaufort Sea, 70 miles away from the proposed offshore drill site.

The EPA's appeals board ruled that Shell had not taken into consideration emissions from an ice-breaking vessel when calculating overall greenhouse gas emissions from the project. . . .

At stake is an estimated 27 billion barrels of oil. That's how much the U.S. Geological Survey believes is in the U.S. portion of the Arctic Ocean. For perspective, that represents two and a half times more oil than has flowed down the Trans Alaska Pipeline throughout its 30-year history. The pipeline is getting dangerously low on oil. At 660,000 barrels a day, it's carrying only one-third of its capacity.

So we hear what the President is saying, but his own agencies are going in the opposite direction.

Here is another example: We are approaching June. The Department of the Interior has not conducted an offshore lease sale in the Gulf of Mexico. Lease sales usually occur twice a year. If a lease sale doesn't occur by the end of the year, 2011 would be the first year since 1958 which we have not conducted an offshore lease sale.

Because of the President's moratorium and lack of permitting in the Gulf of Mexico, offshore energy production is expected to decrease by 13 percent in 2011. Senator MCCONNELL's bill addresses the need for increased domestic production by reinstating the oil and gas leases in the Gulf of Mexico, Alaska, and the Atlantic, which President Obama canceled.

This legislation also tackles the permitting delays companies in the gulf have experienced. Since October, the Department of the Interior has only issued 53 shallow water permits and 14 deepwater permits. The monthly approval rate before the moratorium was approximately 10 shallow water and 8 deepwater permits.

This legislation eliminates the bureaucratic delays which have burdened operators and have taken away their ability to raise capital to do the exploration in the Gulf of Mexico. In the bill, it says the Department of the Interior will approve or reject permit applications within 30 days. It doesn't require approval of every application, but it puts a limit of 30 days on the approval process, so people will not be hung out, as they have been since last October. They are still paying the costs, but they cannot explore. So they are sitting idle. This has caused the bankruptcy of at least one company I know in Texas, Seahawk Drilling. This is not good policy when we are talking, as the President is, about increasing production in our country and then doing the opposite by enacting proposals that do not make sense, such as a moratorium in the Gulf of Mexico.

On March 9 of this year, Senator LANDRIEU and I introduced S. 516, the Lease Extension and Security Act, known as the LEASE Act. All this does is simply extend for 1 year the leases that have had a moratorium, but the people are still paying the costs of those leases when they have been prohibited from using them. The leaseholder continues to pay the Treasury for all expenses associated with maintaining a lease, but they have been prohibited from exploring the lands the lease is on.

It is very important that we pass this legislation. In the bill before us, the McConnell bill, we have a variation of the LEASE Act. It extends the leases for those that are going to come to an end at the end of this year. If they come to an end at the end of this year, they will get a 1-year lease. That is a right step in the right direction.

Senator LANDRIEU and I believe every leaseholder—even if their lease does not run out this year—should have the full opportunity for their lease exploration capabilities in order to make it fair for the price they have paid in the open bidding process for those leases.

The President has said he approves the extension of some leases. We agree. Why not all of them? They have been paid for. In many instances, the companies are still paying the employees, even though the employees are not able to do the work. This year alone, over 350 leases will expire and many of them are in moratorium.

The bill before us would help those people to use the next year for determining if it is worth drilling for more of the oil on the leases they have purchased.

I think it is very important that we pass this legislation that we will vote on very shortly today if we are serious about increasing the production of our own natural resources for the benefit of our people. It seems to me we need to back up the words of the President with actions that will be positive, proactive, and productive in getting the price of gasoline down at the pump. If we can start now, I hope the President would take some of the steps, for instance, to allow Shell, with the investment it has made, to drill for oil in the Arctic Ocean. That is a place where there are vast reserves that have not been tapped. The people of Alaska support it.

If we would use our natural resources, we could put people in America to work. We could stop the heavy importation of foreign oil, which is what we depend on now for over 50 percent of our fuel, and certainly we would like to add to our economy in this precarious economic time. We can do it with our own natural resources.

I urge my colleagues to vote for the McConnell bill, and maybe then we can open it for amendments and get started in doing the right thing for our country.

Mr. ENZI. Mr. President, I rise today to discuss high gas prices and the direct impact they are having on every American. Every day, we see the impact of high gasoline and diesel prices on our constituents and their pocketbooks. Some wonder if they will be able to put food on the table when they cannot afford the gas it takes to get them to work. Others see skyrocketing food prices caused by the increased fuel costs and wonder if they can afford a healthy meal for their children. Others wonder if they can take a vacation or cool their houses this coming summer.

Today, gas prices hover around $4 per gallon. According to a recent USA Today/Gallup poll, nearly 7 in 10 Americans say that the cost of fuel is causing a financial hardship for their families. That same poll suggested that 21 percent of Americans say the impact of high gasoline prices is so dramatic that their standard of living is jeopardized.

This is a serious problem and it needs immediate action. Unfortunately, rather than taking action to address the problem, I am concerned that Congress will once again punt on doing what we need to do to bring prices down now. To bring prices down, we need to address the fact that the United States imports too much oil from foreign nations. We need to increase supply at the same time we work to reduce demand.

There are two approaches that have been considered in recent weeks. My Republican colleagues and I have offered legislation that will increase production in the Gulf of Mexico. It will allow for the development of more American energy, which will decrease the amount of oil we import. With unrest in the Middle East, it will start the process of giving America a more stable source of domestic energy, and it will create American jobs at a time when the unemployment rate is 9 percent. Our bill looks at the problem—an unstable supply of energy—and provides a solution that will make our country more energy independent today.

The other approach being considered is that of my Democratic colleagues. Their bill, which failed to move forward yesterday, sought to increase taxes on five companies in the oil industry. Whether or not those tax benefits should exist is worth debating in the context of overall corporate tax reform, but that is not what we are debating today. We all know that their approach to energy policy won't do anything to improve the current situation. In fact, their legislation might make matters worse by leading to less domestic production and a larger increase in gasoline prices.

The contrast couldn't be greater. Republicans have put forth thoughtful legislation that will begin to address the problem and help lower gasoline prices. Democrats have put forth punitive legislation that might make some feel good now because it punishes ''Big Oil,'' but ultimately it will not do anything to lower gas prices. Republicans support legislation that will create American jobs. Democrats support legislation that will drive American jobs overseas.

Some suggest that our bill will not do anything to lower prices because it will take too long to implement to have a real effect. That is the same argument I have heard since I came to the Senate over 14 years ago. Opponents of domestic production always say that it will not do anything to lower prices today. If we had taken action to open up areas like the Arctic National Wildlife Refuge when I came to the Senate in 1997, we would be producing approximately 1 million more barrels of domestic oil today. If we had stopped efforts to lock up the gulf coast 10 years ago as many Republicans suggested, we might not be having this conversation today. And, if we do not do anything today, Senators will still be asking these same questions 10 years from now. And, it might not take 10 years for oil to come online if agencies are not delayed from issuing permits by frivolous lawsuits. The 2006 highway bill included a provision that prohibited lawsuits from being filed more than 180 days after publication of the final permit in the Federal Register. Such a provision should be included in future legislative efforts to move forward with American energy development in a timely manner. With high oil prices, we have an opportunity to act today and we should not let this opportunity pass without action.

In addition to lowering gasoline prices, we have the ability to increase revenues to the Federal Treasury today without raising taxes in a punitive manner on one industry. By passing legislation that allows for more domestic production, we will increase revenues to the Federal Treasury at the same time it creates good paying American jobs. In 2008 and 2009, the oil and gas industry paid over $30 billion in rents, royalties, and fees. The industry is estimated to generate approximately $100 million in revenue each day this year to the Federal Government. This amount will only increase as we allow for the production of more domestic energy.

With Americans hurting, we need to do something—anything to reduce gasoline prices. But, instead of working on solutions for one of the single most important issues confronting the American people, my colleagues in the majority loudly sings campaign rhetoric chorus and verse. They say, ''let's punish big oil for making big profits'' and ''let's not allow these energy companies to dupe us when Americans are paying record high prices.'' What they do not say is that their approach will do nothing to help the situation and will likely make the situation worse. They do not admit that their proposal is good politics, but bad policy. This is not the way we should legislate when Americans cannot afford to fill up their tanks. We need to do something about energy and we need to do it now.

Like most of my colleagues, I support developing more alternative energy. I support the use of wind energy and the development of better solar energy technologies. Wyoming is the perfect place for much of that development to happen. While we need to develop these technologies for the long term, we need of the energy we can get today. We need more American oil from American soil. We need more domestic natural gas. We need more nuclear energy and we definitely need more clean coal.

Republicans stand ready to have a serious debate about our country's energy policy. We have offered a proposal that looks at the supply and demand challenges we face and addresses them head on. Republicans stand ready to pass legislation that will lower gasoline prices and will increase domestic production. Those actions will, in turn, create American jobs and will increase revenues to the Federal Treasury at a time when we see record deficits.

For too long, we have talked about the need to have a comprehensive energy policy. We have talked about the need to decrease our dependence on foreign energy sources. It is time for us to stop talking and to act. The upcoming vote on S. 953, the Offshore Production and Safety Act, is our first opportunity to act, and I hope my colleagues will join me in working to lower gas prices by passing this measure.

● Mr. BAUCUS. Mr. President, I understand the wealth and opportunity represented by our Federal offshore petroleum and natural gas resources. We are blessed in this country with an abundant public estate. Montana, too, is abundant with natural resources and relies heavily on these resources for jobs and economic stability. I support efforts to develop these resources with commonsense safeguards that reduce our exposure to volatile foreign energy resources. I have supported onshore and offshore drilling in the past, and will continue to do so long as it is done responsibly.●

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. MANCHIN. Mr. President, I rise this afternoon to address the Offshore Production and Safety Act. It is legislation that attempts to address the regulation and the critical need to drill for oil in this country.

Let me tell you, I understand the frustration from my colleagues who are upset about the bureaucratic agencies that really do not understand the urgent need to review permits in a timely and responsible manner. Mining in West Virginia has long been a direct target of the EPA and these unfair regulatory practices they have practiced for far too long. For example, in May of 2009, the EPA had a permit backlog of 235 applications. Two-thirds of them were already deemed complete for final processing by the Army Corps of Engineers. Clearly, there is a problem. The question is, Is this legislation the right solution?

The truth is, I would love to sink my teeth in and vote for this measure, but I simply cannot. I do not believe this legislation strikes the right commonsense balance among our energy demands, responsible regulation, our economy, and the environment. In fact, the unintended consequence of this legislation is that it could make regulatory agencies more powerful and more Draconian—a fact that would actually hurt the drilling, the energy independence we could gain, and the businesses' and our need to achieve energy independence.

Quite simply, if we place a fixed 30-day deadline on these permits with two 15-day extensions, I believe we would see more permits denied than we would see processed. How does this make sense? It would create a perverse effect

that could encourage government bureaucrats to stop any and all permits, and that would be a terrible outcome.

The fact is, neither the legislation we will vote on today nor the legislation we voted on yesterday addresses the bigger issue that our Nation must declare its independence from foreign oil. We can only do that by developing a true national plan for energy independence.

I have come to this floor many times to urge my Republican and Democratic colleagues to work with me to put together an energy plan that works for all of America. In fact, just last week, I came here to address the importance of expanded domestic drilling. I truly believe this Nation needs to develop all of our domestic resources, whether it is drilling for oil or natural gas, mining coal, producing wind and solar, developing better nuclear, biomass, or geothermal so that we can declare our energy independence within a generation. But in developing and pursuing a national energy plan, we cannot lose sight of our commonsense values and our priorities.

This bill falls short of those commonsense priorities, but I assure my colleagues that I will work with any Senator from either party who will try to create a national energy policy that will truly help the Nation achieve energy independence.

I thank all of my colleagues, and I hope we will be able to work together to move this Nation forward for true energy independence.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. ROCKEFELLER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS) is necessarily absent.

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

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

[Rollcall Vote No. 73 Leg.]

YEAS—42

Alexander	Chambliss	Crapo
Ayotte	Coats	Enzi
Barrasso	Coburn	Graham
Blunt	Cochran	Grassley
Boozman	Collins	Hatch
Brown (MA)	Corker	Heller
Burr	Cornyn	Hoeven
Hutchison	Lugar	Risch
Inhofe	McCain	Roberts
Isakson	McConnell	Rubio
Johanns	Moran	Sessions
Johnson (WI)	Murkowski	Thune
Kirk	Paul	Toomey
Kyl	Portman	Wicker

NAYS—57

Akaka	Harkin	Nelson (FL)
Begich	Inouye	Pryor
Bennet	Johnson (SD)	Reed
Bingaman	Kerry	Reid
Blumenthal	Klobuchar	Rockefeller
Boxer	Kohl	Sanders
Brown (OH)	Landrieu	Schumer
Cantwell	Lautenberg	Shaheen
Cardin	Leahy	Shelby
Carper	Lee	Snowe
Casey	Levin	Stabenow
Conrad	Lieberman	Tester
Coons	Manchin	Udall (CO)
DeMint	McCaskill	Udall (NM)
Durbin	Menendez	Vitter
Feinstein	Merkley	Warner
Franken	Mikulski	Webb
Gillibrand	Murray	Whitehouse
Hagan	Nelson (NE)	Wyden

NOT VOTING—1

Baucus

The PRESIDING OFFICER. On this vote, the yeas are 42, the nays are 57. Under a previous order requiring 60 votes for the adoption of this motion, the motion is withdrawn.

The majority leader.

EXECUTIVE SESSION

NOMINATION OF GOODWIN LIU TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

Mr. REID. I ask unanimous consent that the Senate proceed to executive session to consider Calendar No. 80, the nomination of Goodwin Liu, of California, to be U.S. Circuit Judge for the Ninth Circuit; further, that on Thursday, May 19, following morning business, the Senate resume consideration of the nomination and the time until 2 p.m. be equally divided in the usual form prior to a cloture vote on the nomination as under the previous order.

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

The clerk will report.

The legislative clerk read the nomination of Goodwin Liu, of California, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. KIRK. Mr. President, I ask unanimous consent to speak as in morning business for 2 minutes.

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

CALLING FOR THE RESIGNATION OF DOMINIQUE STRAUSS-KAHN

Mr. KIRK. Mr. President, I rise today to call for the resignation of Mr. Dominique Strauss-Kahn, head of the International Monetary Fund. The criminal allegations against Mr. Strauss-Kahn are alarming and undermine confidence in the institution at a critical juncture in our economic history. Mr. Strauss-Kahn has forfeited our confidence and should resign or be fired from his position at the IMF.

Over the last 2 years, the IMF presided over the European debt crisis, which included controversial bailouts of Greece, Ireland and Portugal. I remain especially concerned about the U.S. taxpayer share of funding these European bailouts and American taxpayers' exposure to new sovereign risks. While I have questions about the actions taken by the IMF to handle the debt crisis, the institution's role in our global financial system requires strong leadership.

The IMF's Deputy Managing Director, John Lipsky, should assume full responsibility of the IMF and the process to determine a permanent replacement should commence at once. I encourage U.S. Executive Director of the IMF, Meg Lundsager, to strongly advocate for Mr. Strauss-Kahn's resignation or termination and aid in the search for a more worthy replacement.

The PRESIDING OFFICER. The Senator from Ohio.

TRADE ADJUSTMENT ASSISTANCE

Mr. BROWN of Ohio. Mr. President, I appreciate the courtesy of the senior Senator from Virginia who is about to speak. I will be brief.

I wish to applaud the President today on his comments and the administration's comments, especially the comments of Trade Ambassador Kirk and Gene Sperling, the President's top economic adviser. They have made it clear they will not submit the three free trade agreements—one with Colombia, one with Panama, and one with South Korea—until legislation has come to their desks to take care of the issue of trade adjustment assistance.

This Congress, because of some objections on the other side of the aisle, allowed the trade adjustment assistance language to expire in February. That simply means many workers who lost their jobs because of free trade agreements, or lost their jobs because of trade—not necessarily the countries we had trade agreements with—were going to get some assistance so they could, in fact, be retrained so they could go back to work. Losing their jobs had everything to do with what happens in other ways but has nothing to do with their job performance or even their company's job performance.

The President made the right decision by saying we are not going to move forward with these free trade agreements. I don't much like them, but that is not the point. We are not going to move forward until we have helped these workers find jobs.

Second, we are going to make sure, as Senator CASEY and I have said on the floor before, that the health coverage tax credit is also renewed. That matters, to be able to continue the health coverage of many workers.

And, third, that the work of Senator WYDEN, Senator STABENOW, and Senator MCCASKILL will continue, to work on trade enforcement in making sure

these trade rules and trade laws that are in effect will actually be in force so we can protect American jobs.

When we pass these trade agreements, they always cost us jobs. It is about time we take care of workers and communities that suffer from it.

I thank Senator WEBB, and I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WEBB. Mr. President, I wish to speak today on the pending nomination of Professor Goodwin Liu for a seat on the Ninth Circuit Court of Appeals. Regretfully, I will be voting against this nomination for reasons I will explain. At the same time, I wish to emphasize my profound respect for this institution and for my fellow Senators from both parties, and I believe it would be wrong to vote against a cloture motion whose intent is to proceed with debate on the merits of one who has been nominated to be a judge. I made this point loudly and clearly when the nomination of one of my Virginia constituents, Barbara Keenan, was filibustered. Philosophical consistency—and my admiration and respect for all the work Chairman LEAHY has been doing in order to fill the many vacancies in our Federal court system—compel me to vote to proceed with the debate on Mr. Liu, but I do not, however, intend to vote in favor of his confirmation.

I have met with Mr. Liu. I have read many of his writings and most of the testimony from his two confirmation hearings. He is clearly talented and whatever he ends up doing, he is certain to have a long future in our country. He also has been blessed beyond words by the goodness of our society. Both his parents came to this country already as physicians. He attended our finest universities. He was a Rhodes scholar. He is a Yale Law School graduate, and he has spent almost his entire career as a talented, if somewhat controversial, professor of law. When I met with Mr. Liu I found him to be personable and clearly bright.

But intellect in and of itself does not always give a person wisdom, nor does it guarantee good judgment, and the root word of judgment is, of course, judge. This is our duty today: to decide whether Professor Liu's almost complete lack of practical legal experience, coupled with his history of intemperate, politically charged statements, allows us a measure of comfort and predictability as to whether he would be fair and balanced while sitting on one of the highest courts in the land. Mr. Liu's temperament and his frequently strident political views have been called into question by many well-intentioned observers, including my respected colleague, Senator LINDSEY GRAHAM, who, like myself, voted in favor of both Justices Sotomayor and Kagan. Senator GRAHAM concluded that Professor Liu seems better fit for a life in politics rather than on the bench. My own concern is that we in the Senate have no real ability to know whether Mr. Liu would temporize these views or conduct himself in a different manner if he were to be given a seat in one of the highest judicial positions in our country.

The list is long, and time is short, but I would summarize my concerns through two observations.

The first involves Professor Liu's public comments regarding Supreme Court Justice Alito, which I know will be repeated by others. Mr. Liu's view was that:

> Judge Alito's record envisions an America where police may shoot and kill an unarmed boy to stop him from running away with a stolen purse . . . where a black man may be sentenced to death by an all-white jury for killing a white man . . . I humbly submit that this is not . . . the America that we aspire to be.

Obviously, I share the view of many others that whether one agrees or disagrees with Justice Alito's view of the Constitution, this is hardly a fair representation of his view of our society.

The second observation is more telling and it goes to the America we all should aspire to be: an America where every person, regardless of race, creed, national origin, or personal circumstances, has the same opportunities to succeed to the full extent of their potential. Let me make a point that a lot of people seem uncomfortable with in speeches on this floor. That means White people too. Economic disadvantage is not limited to one's race, ethnic background, or time of immigration to America. When it comes to policies that are designed to provide diversity in our society, we do ourselves an enormous injustice by turning a blind eye to the wide variance among White cultures as we discuss greater representation from different minority groups.

For all of his emphasis on diversity programs, I do not see anywhere that Mr. Liu understands this vital point. In fact, one tends to see the opposite. In 2004, Mr. Liu made a speech at an American Constitution Society Conference. In this speech he mentioned: "The power of the courts to influence society, . . . the power of legal principle to ratify inequality." He then went on to comment:

> If we work hard, if we stick to our values, if we build a new moral consensus, then I think someday we will see Millikan, Rodriquez, Adarand, be swept into the dustbin of history.

So we know, first, that Mr. Liu wants to use the courts to influence society and to ratify his view of inequality. OK. How does that fit into Adarand being swept into the dustbin of history?

What was Adarand about? Well, it was about Randy Pech, one of five kids born to a welder and a mom, whose family had lost their farm in Iowa during the Great Depression. The mom then worked as a sales clerk in a department store. Neither of them had ever gone to college. Mr. Pech left college after 3 years and started a company that put up guardrails along highways. His startup was the money he would have used in his fourth year of college and his loan was accomplished by using his parents' retirement pensions as collateral. He made a bid as a subcontractor on a highway construction project in Colorado that was by far the lowest bid, but he lost to a minority-owned company because our own government was paying bonuses to contractors who made subcontracts with so-called "disadvantaged businesses," and Mr. Pech happened to be White. The Supreme Court decided that this was wrong and decided in Mr. Pech's favor, although the Civil Rights Commission pointed out 10 years later that the Supreme Court's decision was still not being complied with by Federal agencies.

Mr. Liu offered an explanation for his comments during his confirmation process, but taken in the context of his other remarks, I find that statement unconvincing.

Last July I wrote an article in the Wall Street Journal saying that while I continue to support the original goal of affirmative action, which was to assist African Americans who still suffer the badges of discrimination and slavery, it is time for us to recognize that we harm ourselves any time we cut away any person or group from the opportunity to reach their full potential in our wonderful and unique society. As one can imagine, I got a few questions from some groups about this article, so let me answer those questions—and sum up my concerns about Mr. Liu—with an observation.

The same day my Wall Street Journal ran, July 23, a Remote Area Medical Clinic was held in the open air of the Wise County fairgrounds in the Appalachian mountains of southwest Virginia. These clinics bring medical professionals into underserved areas where medical care is hard to find. They are not that different from what we used to do out in the impoverished villages of Vietnam when I was a Marine infantry officer many years ago. Twelve of my staff members went down to Wise County to volunteer. Working in tents, mobile units, and horse stalls, over these 3 days the RAM clinic took care of 6,869 patient visits and pulled more than 4,000 teeth in the open air of the Wise County fairgrounds. In this part of Virginia, nearly half the population lives below 200 percent of poverty, almost a quarter of them have no insurance whatsoever. Age-adjusted mortality rates in some counties are as much as 70 percent higher than in the rest of Virginia. This Appalachian mountain region is, of course, predominantly White. Let me emphasize that these conditions come from cultural issues based on many generations of hardship and strife and not simply individual choice.

Back there in those mountains, there is no doubt somebody who is thinking that if he could put together a little money and maybe get somebody to believe in him, maybe he could start up a

construction company just like Randy Pech did and compete for government contracts on a completely fair playing field, which has always been the gift and the miracle of America. I want him to have that opportunity, just as I want every other American to have it. And I don't want a judge on a circuit court somewhere telling him that his own chance for a fair and prosperous future should be swept into the dustbin of history.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. PORTMAN. Mr. President, I ask unanimous consent to speak as in morning business.

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

ENERGY POLICY

Mr. PORTMAN. Mr. President, over the past couple of days here on the Senate floor we have had a lot of discussion about domestic energy production and there have been a lot of good points made. But, frankly, it is more of a political exercise than something that is going to help the American people.

If one listened to the debate, one might think there is no consensus and no way forward. I disagree with that. I think given our energy challenges, including $4 a gallon gasoline, we need an energy policy that encourages more affordable, reliable, and cleaner energy. I think we can reach a consensus on a few areas, and let me raise a couple of them today.

The first is natural gas exploration and development. In my own State of Ohio, we have had exciting new developments over the past several years. Geologists have known we have big shale formations in the eastern part of the United States for years, but until recently we haven't had the drilling technologies that allowed us to tap into these huge reserves. We now have that.

In Ohio, we have both the Marcellus and the Utica shale finds that, unfortunately, have not been tapped yet but have tremendous potential. Some of the oil and gas reserve estimates associated with these finds are truly amazing. For the State of Ohio alone, in one of those formations—Utica—I am told we could yield over 15 trillion cubic feet of natural gas. So this is a great opportunity both to be sure we have the energy we need to power our economy but also to create jobs that go into energy production.

By the way, other States around us, including Pennsylvania, West Virginia, and upstate New York, as an example, have even more production potential than Ohio. Already there are some Ohio counties, such as Belmont County and Jefferson County and Columbiana County, that are beginning to explore some of these finds, and we are very hopeful that in some of these counties, where there is incredibly high unemployment, we will be able to begin production soon. These counties have been hard hit by the downturn in the economy, and they can use the economic activity and the jobs that will be created by this production.

Earlier this year, I visited an Ohio company that is an example of one of the industries that is going to benefit from this natural gas production. It is V&M Star. It is a company that makes piping. It is near Youngstown, OH. They just decided to expand their manufacturing capability. Why? Because they are looking at Marcellus and Utica, understanding this is going to create great opportunities for them. They are investing in our State. They are investing in jobs. They are doing it because of these finds. We have to be sure we put out the Federal policies to promote and encourage the development of these resources.

In addition to using natural gas for electricity generation and as a feedstock for a lot of industries, including the chemical industry, natural gas holds incredible potential as an alternative to gas. Today, we are talking about the need to be less dependent on foreign oil, which happens to be one of the top issues on both sides of the aisle. Natural gas is a way we can do that very directly because it can be used particularly in fleets. Today, the equivalent price for a gallon of natural gas is $1.60. Think about that: as compared to $4 for gasoline, $1.60 for natural gas. The infrastructure costs create some challenges, but, again, for fleets, where there is central refueling, it makes all the sense in the world. Widespread conversion of our fleets, including our Nation's buses, garbage trucks, and utility vehicles, would help reduce demand for gasoline.

America arguably has the greatest energy reserves in the world, depending on which estimate you look at. We have to find a way to responsibly tap these reserves, in a way that we can become less dependent on foreign nations for energy needs, in a way where we will stop sending so much of our wealth overseas to pay for foreign imports, particularly of crude oil.

Ohio is still in the throes of an economic downturn. Today, we are at 9 percent unemployment in Ohio. Underemployment makes Ohio's situation even worse. One way to create jobs and to get Ohio back on track is by expanding, again, the use of our own resources, including natural gas. There should be a consensus on this issue. We should be promoting Federal policies to encourage the exploration and the development of these resources, and we should do it now.

Another area where I think you could see some consensus on energy policy in the short term in the Senate is in the area of energy conservation and efficiency. We should both find more and use less. It is that commitment to use less that led me, last week, to introduce legislation with Senator SHAHEEN from New Hampshire called the Energy Savings and Industrial Competitiveness Act. It is S. 1000, for those who would like to check it out.

It is a bipartisan bill, a targeted and achievable piece of legislation that would leverage energy efficiency investments in a number of areas, including the building and industrial sectors but also with the Federal Government. It would help consumers and the Federal Government save money on their energy bills and help industry improve the efficiency of their production processes.

Again, this is an example of where we should be able to come together as Republicans and Democrats to get something done. There is widespread consensus that energy efficiency is the low-hanging fruit, a way to reduce our energy use and, again, to make America's economy more competitive. As with anything, the devil is in the details. There will be some Senators who may disagree with some of the specifics in this legislation, but, again, it is the type of bill we should be debating on the floor of this Senate. With a little hard work, I believe it is one we can ultimately get enacted into law.

Instead, again, we have spent the better part of this week debating two bills; one that, in my view, would have done more harm than good, by raising taxes on certain businesses, while doing nothing to increase energy production or lower gas prices; and another one I supported that I think would do a lot of good but we knew did not have the necessary 60 votes to move forward and, therefore, we were not able to make progress this week for the American people.

We have all the ingenuity, the know-how, and the resources within our own borders to be able to have the energy we need to run our economy and to improve our economy and to create jobs. I hope moving forward we can find agreement on these issues and begin to tap this great American potential.

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

Mr. CARDIN addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold his suggestion?

Mr. PORTMAN. I will.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Thank you very much, Mr. President.

I rise in strong support of the nomination of Goodwin Liu to be U.S. Circuit Judge for the U.S. Circuit Court of Appeals for the Ninth Circuit. I urge my colleagues to invoke cloture on this nomination.

I am disappointed we had to file a cloture motion. I hope my colleagues would want to vote up or down on this nomination, and I hope they would vote for his confirmation.

As we begin the debate on the nomination of Mr. Liu, let me start by telling my colleagues how thoroughly his nomination has been vetted by the Judiciary Committee under the leadership of Chairman LEAHY.

President Obama first nominated Goodwin Liu for this position in February of last year. That was over 1 year

ago. The Judiciary Committee has held two separate hearings on this nomination. Mr. Liu's latest set of questions and answers, for the record, spanned over 130 pages. The Judiciary Committee has favorably reported his nomination on three separate occasions: in May of 2010, September of 2010, and April of 2011.

So I am disappointed my Republican colleagues have refused to allow this nomination to come to a vote without the necessity of filing a cloture motion. As we know, the majority leader has filed cloture on this nomination. Senators have had ample information on the background, experience and qualifications of this nominee and it is time for the Senators to perform their constitutional duty to debate the nomination and to vote up or down on this nominee.

I was privileged to serve on the Judiciary Committee in the 111th Congress and participated in a debate of the Goodwin Liu nomination on several occasions. I was pleased to cast my vote in favor of Mr. Liu's nomination in committee, and I look forward to supporting his nomination on the floor.

When I examine judicial nominations that are submitted by the President, I use several criteria.

First, I believe judicial nominees must have an appreciation for the Constitution and the protections it provides to each and every American.

Second, a nominee must embrace a judicial philosophy that reflects mainstream American values, not narrow ideological interests.

Third, a judicial nominee must respect the role and responsibilities of each branch of government, including a healthy respect for the precedents of the court.

Fourth, I look for nominees with a strong commitment and passion for the continued forward progress of civil rights protections.

Finally, I want a judge who has the necessary experience, temperament, and commitment to public service.

I wish to share with my colleagues a little background on Mr. Liu, his qualifications, and why I intend to support his nomination.

Goodwin Liu, in many ways, embodies the American dream. He is the son of immigrants to this country. His parents were doctors who came to the United States from Taiwan in the late 1960s, when foreign doctors were being recruited to work in underserved areas.

Goodwin Liu did not speak English until kindergarten. During high school, Goodwin Liu had the opportunity to serve as a page in the House of Representatives, after being sponsored by late Congressman Bob Matsui of California, whom I had the privilege of serving with in the House of Representatives.

Professor Liu has a sterling academic record. He earned his B.S., Phi Beta Kappa, from Stanford University, where he was elected copresident of the student body. A Rhodes Scholar, he earned his M.A. from Oxford University. He received his J.D. from Yale Law School, where he was an editor of the Yale Law Journal. He then went on to clerk for DC Circuit Court Judge David Tatel and Supreme Court Justice Ruth Bader Ginsburg.

Professor Liu has a track record of working on public policy issues in public service. He worked for 2 years at the Corporation for National Service. He served as a special assistant to the Deputy Secretary of Education, where he worked on numerous legal and policy issues.

Professor Liu has worked in private practice. After his clerkships, he served as an associate in the Washington, DC, law firm of O'Melveny & Myers, working on a wide range of business matters. About half his practice consisted of appellate litigation, preparing him well to serve on a court of appeals. He has also maintained an active pro bono practice at that firm, which also tells me of his commitment to equal justice under the law.

Professor Liu then went on to his current occupation, joining the faculty of the University of California Berkeley School of Law and helping to teach our next generation of lawyers. He serves as a professor at the law school, was promoted to an associate dean of the law school, and was elected to the American Law Institute.

Professor Liu has received the law school's Distinguished Teaching Award. Professor Liu is considered an expert on constitutional law and education law and policy, with a particular focus on the needs of America's most disadvantaged students. He is the author of numerous law review articles and the coauthor of an influential book on constitutional law interpretation entitled ''Keeping Faith with the Constitution.''

I heard my colleague talk about Goodwin Liu. But I would just urge my colleagues not to penalize an individual because he is active or expresses his own opinions. We should judge the nominees based upon their qualifications and their commitments to interpret the law as required on the court.

Professor Liu answered numerous questions about his approach to constitutional interpretation during his two confirmation hearings. He testified:

> The role of the judge is to be an impartial, objective and neutral arbiter of specific cases and controversies that come before him or her, and the way that process works is through absolute fidelity to the applicable precedents and the language of the laws, statutes, or regulations that are at issue in the case.

I do not know who would disagree with that. That is what many of us have been calling for on both sides of the aisle.

He has also answered questions about his ideology as a judge. He testified:

> It would not be my role to bring any particular theory of constitutional interpretation to the job of an intermediate appellate judge. The duty of a circuit judge is to faithfully follow the Supreme Court's instructions on matters of constitutional interpretation, not any particular theory. So that is exactly what I would do. I would apply the applicable precedents to the facts of each case.

Once again, I could not agree with that statement more. In written responses to Senators' questions, he also stated:

> I do not believe it is ever appropriate for judges to indulge their own values or policy preferences in determining what the Constitution and laws mean.

Professor Liu certainly has written a number of thought-provoking articles on controversial public policy issues of the day, but this should not disqualify him from being a judge. I am confident Professor Liu understands the difference between being an advocate and being a judge and I hope we can draw that distinction and will respect the difference if he is confirmed and puts on the judicial robe.

Specific questions concerning affirmative action were asked during his confirmation hearings. So let me quote from Professor Liu's testimony to the Judiciary Committee:

> I absolutely do not support racial quotas, and my writings, I think, have made very clear that I believe they are unconstitutional.

He then said:

> I think affirmative action, as it was originally conceived, was a time-limited remedy for past wrongs, and I think that is the appropriate way to understand what affirmative action is.

I think we should take a look at his record on this, and I think it is unfair to judge him based upon certain innuendoes.

Professor Liu also has broad support from distinguished legal scholars from both parties. The former Solicitor General and White House prosecutor, Ken Starr, praised Professor Liu's ''strong intellect, demonstrated independence, and outstanding character''—qualifications we all want to see on the court. We want to see intellect, we want to see independence, and we want to see character. Ken Starr summed that up fairly well.

In a March 19, 2010, letter to the Senate Judiciary Committee, Mr. Starr joined with another professor, stating:

> Goodwin is a person of great intellect, accomplishment, and integrity, and he is exceptionally well qualified to serve on the court of appeals. . . . What we wish to highlight, beyond his on obvious intellect and legal talents, is his independence and openness to diverse viewpoints, as well as his ability to follow the facts and the law to their logical conclusion. . . .
>
> These are qualities we expect in a judge. And Goodwin clearly possesses them . . . [A] judge takes an oath to uphold and defend the Constitution, and in the case of a circuit judge, fidelity to the law entails adherence to Supreme Court precedent and . . . adherence to circuit precedence as well. . . . Goodwin knows the difference between what the law is and what he might wish it to be, and he is fully capable and unafraid of discharging the duty to say what the law is.

That is what Ken Starr said about a person he knows very well, Goodwin

Liu, and he strongly recommends his confirmation to our colleagues. I also want to discuss the importance of improving diversity on our courts. If confirmed, Professor Liu would be only the second Asian American currently serving on a Federal appeals court, and the only Asian American in active service in the Ninth Circuit.

The Ninth Circuit is home to over 40 percent of the Asian American population in the United States. Finally, Professor Liu has received the highest possible judicial rating, ''unanimously well qualified'' from the American Bar Association's Standing Committee on the Federal Judiciary.

With this distinguished record and recommendations that we have received, we have an excellent nominee to serve on the court of appeals. I urge my colleagues to vote for his confirmation.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. BOXER. Mr. President, it is my privilege, it is my honor, to support Goodwin Liu, a Californian—and a brilliant Californian—who has been nominated by the President to the U.S. Ninth Circuit Court of Appeals. And what a fine nomination this is. I thank the President for his belief in Goodwin, and his, I think, amazing perception that this is a young man—and he is young, he is about 40. This is a young man who is just exceptional, is a perfect example of the American dream, and someone who has worked so hard to put himself into this position where he was nominated for this great honor.

I want to show folks a picture of Goodwin. He is a very special and talented person. He has had a long struggle with this nomination, which we will talk about. I also wish to thank, of course, Chairman LEAHY for working hard to bring this nomination to the Senate floor, and Senator FEINSTEIN, my colleague, for her hard work in the committee and her leadership in helping to shepherd this nomination in the Senate.

This vote is not only historic, because Goodwin will make history—if he gets this vote. This vote is long overdue. First, let me talk about why it is historic. It is historic because if we get the 51 votes we need today, Professor Liu will be one of only two Asian Americans currently serving as a Federal appellate judge in the United States. There is currently only one Asian American among the 160 active judges on the Federal Courts of Appeals, and there is no active Asian American judge on the Ninth Circuit, which has jurisdiction over an area that is home to more than 40 percent of our Nation's Asian American population.

Let me repeat that. There is no active Asian American judge on the Ninth Circuit, which has jurisdiction over an area that is home to more than 40 percent of our Nation's Asian American population. The beauty of our great Nation—one of the beauties—is our great diversity. America is great because we are representatives of so many faiths and so many ethnic backgrounds. We know all of our institutions, whether it is here in the Senate or anywhere, all of our institutions do better when they have a diversity of views and diversity. Clearly, when someone as brilliant as Goodwin gets this nomination, we should be so proud in this body. We should be joining hands over party lines. We should be pleased that our court would have such a brilliant member.

Professor Liu was originally nominated in February 2010 for a judicial emergency seat, one that has been vacant since January 2009. So we have had a judicial emergency, and yet we have had a hard time getting this vote to the floor.

Chief Justice Roberts called on Senators not to play politics with our nominees. He warned that ''delays in filling vacancies have created acute difficulties in some judicial districts.'' Undoubtedly, the Ninth Circuit certainly is one of the jurisdictions that Chief Justice referred to because the Ninth Circuit is the Nation's largest and busiest appellate court in the country, accounting for over 20 percent of all new appellate cases in the country, according to court statistics.

Now, I have said—and I heard Senator CARDIN, and I thought he just did a beautiful job of laying out why he is supporting Goodwin Liu. But I also heard some other comments that did not connect to Goodwin Liu. I heard comments that just did not fit what Goodwin Liu has said about his role as a judge.

So I wanted to put up a couple of the quotes directly from Professor Liu and what he said about his role as a judge. He said:

> I think the role of the judge is to be an impartial, objective, and neutral arbiter of specific cases and controversies that come before him or her. And the way that that process works is through absolute fidelity to the applicable precedents and the language of the laws, statues, regulations that are at issue in the case.

Another statement by Professor Liu I wanted to share with you. He said:

> If I were fortunate enough to be confirmed in this process, it would not be my role to bring any particular theory of constitutional interpretation to the job of an intermediate appellate judge. The duty of a circuit judge is to faithfully follow the Supreme Court's instructions on matters of Constitutional interpretation, not any particular theory. And so that is exactly what I would do, is I would apply the applicable precedents to the facts of each case.

It could not be clearer. So if you hear any colleague of mine saying something else about how Professor Liu views the role of a judge in this particular appellate area, just refer them to these quotes.

Professor Liu has sat before the Senate Judiciary Committee twice for more than 5 hours—5 hours—answering any and all questions posed to him during the hearing. He has also answered numerous written questions from committee members. He has been voted out of the Judiciary Committee three times.

I just ask the American people, as they tune in to this debate—they may not be familiar with the confirmation process—if they think it is fair for someone like Professor Liu—and we will put his picture back up so we personalize this—this young man, this husband, this father, this teacher, to have to sit for all of those hours, and then to finally be brought to the floor, after the third time we voted it—that is why I praised Senator LEAHY for doing this again because sometimes there are reasons that we go back and back and back. There are reasons of fairness and justice and because we do not want to miss an opportunity to put someone like Professor Goodwin Liu on the bench.

Now, I will tell you, there have been 12 months of attacks on Goodwin Liu, misrepresentations, unfounded distortions of his record. I want the American people to know this. Politics is tough. I can tell you, running four times for Senate, it is tough. It is brutal. It is ugly. But there is no reason to turn that venom on a nominee like this, and it is offensive to me.

Through it all, Professor Liu could have said: You know what, I cannot take this. I do not need this. My kids do not need this. My family does not need this. But he showed courage and character and dignity.

I was so pleased when President Obama nominated Goodwin Liu to serve on the U.S. Ninth Circuit Court of Appeals because Goodwin Liu is considered one of the brightest legal scholars not just in California but in the Nation. He is a respected authority on constitutional law.

At UC Berkeley's Boalt Hall School of law, where he is an associate dean and a professor, he is admired widely for his writings and his devotion to his students.

To Professor Liu, if you are watching these proceedings, I am proud of you. To Professor Liu's wife, Ann, and his two small children, Violet and Emmett, I say thank you for your patience and your unyielding support. You should be so proud of your dad.

Let me tell you a little bit about Goodwin Liu's background. He was born in Augusta, GA, the son of Taiwanese immigrants who came to this country to practice medicine in underserved areas.

In 1977, they moved to Sacramento, where his parents were primary care physicians for over 20 years. In Goodwin, his parents instilled both perseverance and a strong work ethic, even leaving math problems on the kitchen

table every day of the summer to supplement his school work. As a high school student, he pulled all-nighters studying the dictionary to expand his vocabulary and raise his SAT scores. His hard work paid off, propelling him to Stanford University, where he graduated Phi Beta Kappa, and then to Oxford University, where he was a Rhodes scholar.

I say to my colleagues on the other side, who often say it ought to be the results of your life that count, it ought to be your record that counts, it ought to be your qualifications that count—Stanford University, Phi Beta Kappa, Oxford University Rhodes scholar.

Liu's experience at Stanford and Oxford in student government, as a summer school teacher for low-income youth, codirecting a K–12 youth education conference, and studying philosophy encouraged him to pursue the law and public service. In fact, Liu spent the next 2 years at the Corporation for National Service helping to launch the groundbreaking AmeriCorps program. He led the agency's effort to build community service programs at colleges and universities throughout the country, and he traveled to over 30 States to encourage service among students.

The spark of public service and the law clearly ignited, Liu then went on to attend Yale Law School. His stellar record of achievements continued at Yale, where Liu, along with a classmate, won the prize for the best team argument in the moot court competition. Several of his papers won awards, and he earned prestigious clerkships on both the court of appeals and the Supreme Court.

What more does anyone want from a nominee? I can't even imagine, frankly, even matching this.

In between the clerkships, Liu again chose public service, working at the U.S. Department of Education, helping to implement a congressional appropriation to help turn around low-performing schools. Former South Carolina Governor Richard Riley, who was Secretary of Education at the time, called Liu a "'go-to' person"—in his words—"for important projects and complex issues because of Liu's ability to see the big picture while also mastering the details of legal and policy problems." What else do you want in a judge? He has an "ability to see the big picture while also mastering the details of legal and policy problems." That is a quote from former South Carolina Governor Richard Riley.

After completing his Supreme Court clerkship, Liu joined the litigation practice at O'Melveny & Myers, working on a wide range of business matters while maintaining an active pro bono practice. So you have a person who worked in government, private practice, and in education. He earned high praise from his peers, including Walter Dellinger, chair of O'Melveny's appellate practice, who said Liu was "widely respected in law practice for his superb legal ability, his sound judgment and warm collegiality."

Then Liu joined the faculty at UC Berkeley's Boalt Hall School of Law in 2003 and quickly established himself as an outstanding teacher as well as a constitutional law and education law and policy expert.

Think about this. This is a young life, with all these experiences, including raising a family.

In the classroom, Liu is popular and well regarded. His introductory constitutional law course is consistently one of the most oversubscribed at Boalt. They want to hear him. They want to be in his presence to understand how the Constitution works and why this country is so special. In 2009, Liu received UC Berkeley's Distinguished Teaching Award, the university's most prestigious teaching excellence award, and was selected by that year's graduating class to be commencement speaker.

Students often remark on Liu's efforts to illustrate the impact of the law on everyday life. As anyone who has taken his con law class knows, to demonstrate that principle, Liu uses a wedding photo that shows him and his new bride, Ann O'Leary, the Irish American daughter of a social worker and union leader from Orono, ME. The two married in Virginia, a State that restricted interracial marriages until the Supreme Court invalidated the provision in the landmark 1967 case Loving v. Virginia.

Berkeley Law School Dean Christopher Edley describes Professor Liu this way:

> Goodwin Liu is an outstanding teacher, a brilliant scholar, and an exceptional public servant.

Professor Liu is widely respected and has tremendous support across the legal spectrum and from both sides of the political aisle.

I want to read what Ken Starr said about Goodwin Liu. Remember Ken Starr, the former Whitewater prosecutor? This is what he said. He wrote this with Professor Amar in an op-ed piece that ran:

> In our view, the traits that should weigh most heavily in the evaluation of an extraordinarily qualified nominee, such as Goodwin, are professional integrity and the ability to discharge faithfully an abiding duty to follow the law. Because Goodwin possesses those qualities to the highest degree, we are confident that he will serve on the Court of Appeals not only fairly and competently, but with great distinction. We support and urge his speedy confirmation.

I point out to my Republican friends that Ken Starr is one of your heroes. Come on, listen to what he says about Goodwin Liu. Don't come to the floor and say things about Goodwin that aren't so. Please come to your senses about Goodwin Liu.

There is another supporter I want to talk about too. This is former Bush administration counsel, Richard Painter:

> I have done my share of vetting judicial candidates and fighting the confirmation wars. I didn't know much about Liu before his nomination, but I became intrigued by the attention the nomination generated, and I wondered if his Republican critics were deploying the same tactics Democrats used to attack Republican nominees. They were. If anything, the attacks on Liu have been even more unfair. Based on my own review of his record, I believe it is not even a close question that Liu is an outstanding nominee whose views fall well within the legal mainstream.

That conclusion is shared by leading conservatives who are familiar with Liu's record. We even have a quote from Clint Bolick of the Goldwater Institute, one of the most conservative institutes. They endorsed Liu. This is what they said:

> Because of his fresh, independent thinking and intellectual honesty, as well as scholarly credentials and experience, he will serve with distinction on this important court.

If that is not enough for my Republican friends, I have some more. I have former Republican Congressman Bob Barr. He offered praise of Professor Liu's "commitment to the Constitution and to a fair criminal justice system." Barr also noted that "[Liu's] views are shared by many scholars, lawyers and public officials from across the ideological spectrum."

Tom Campbell of California, a former Republican Congressman—someone who actually attempted to run against me a couple of times for the Senate—wrote that "Goodwin will bring scholarly distinction and a strong reputation for integrity, fair-mindedness, and collegiality to the Ninth Circuit." Reflecting on Liu's many years of work in serving the public interest, Campbell also said, "I am not surprised that [Liu] has again been called to public service."

Yes, he has been called and nominated, but he won't be able to continue his extraordinary work unless we get 51 votes here. I know there is some letter that is circulating that attacks Goodwin Liu again. I hope my colleagues will read not just what I am saying but what leading Republicans are saying about how talented Goodwin Liu is. Every single thing the man has done has turned to gold—every single thing he has done. He is best at everything he does. Why would we lose this opportunity for the American people to have him serve them in this important capacity? I ask that rhetorically. I cannot imagine why anybody would vote no.

Here is another one. Professor Liu has even drawn praise from Brian Jones, who served as General Counsel at the Department of Education after Liu's tenure there. This is what Brian Jones, the General Counsel at the Department of Education, said:

> During [2001 abd 2002], and even after he became a law professor in 2003, [Goodwin] volunteered his time and expertise on several occasions to help me and my staff sort through legal issues he worked on during the previous administration. In those interactions, Goodwin's efforts were models of bipartisan cooperation. He brought useful knowledge and careful lawyerly perspectives that helped our administration to achieve its goals.

But I am convinced, based on his record and my own experiences with him, that he is

thoughtful, fair-minded and well qualified to be an appellate judge.

I don't know why the Republicans filibustered this nomination. I don't know why they filibustered this. I don't understand it.

Let's look at some of the organizations that back Goodwin. Of course, those in the Asian American community are so proud, as they should be and as I am, because Goodwin is a Californian by choice.

In an op-ed published just today, former Secretary Norm Mineta, the first Asian Pacific American member of a President's Cabinet; that is, the Bush Cabinet, wrote that ''Professor Liu is an extremely well-qualified nominee who has the intellectual capacity, experience, temperament and integrity to be an excellent jurist.'' Mineta went on to warn that ''if Liu is not confirmed, Asian Pacific Americans may be left with the impression that there continues to be a glass ceiling blocking Asian Pacific Americans from top-level leadership positions regardless of their qualifications.''

Again, Norm Mineta—and anybody who knows Norm knows what a wonderful human being he is. George W. Bush chose Norm Mineta, who is a Democrat, to be the Secretary of Transportation. Norm Mineta says that because Professor Liu is so qualified and has so much intellectual capacity, such great experience, such great temperament, and so much integrity, he warns that ''if Liu is not confirmed, Asian Pacific Americans may be left with the impression that there continues to be a glass ceiling blocking Asian Pacific Americans from top-level leadership positions regardless of their qualifications.''

We also have a quote from the Committee of 100, a national nonprofit, nonpartisan membership organization that addresses issues concerning Sino-U.S. relations affecting the Chinese American community. They wrote that ''[Liu's] ascension to the bench would signal that talented people of all backgrounds are integral to our justice system.''

What we do here matters. It matters whom we send to these important positions. We have someone here who will break down barriers, but, do you know what, that would not be enough. He has to be great, he has to be outstanding, and he is all those things. Yet we are very nervous about getting 51 votes. We are very nervous that politics is being played. We don't know what is going to happen at the end of the day. That is why I am taking this time, because I want my colleagues to know that if they cast an ''aye'' vote, it should bring a smile to their faces, and they should feel good in their hearts and their minds that they are doing the right thing.

Twenty-five prominent Asian-Pacific Americans who serve as general counsel to Fortune 1000 companies and other large companies wrote:

Professor Liu has earned praise from conservatives and progressives alike for his sense of fairness, open-mindedness, and integrity. His intellect and qualifications are beyond dispute. Indeed, Professor Liu has been rated unanimously ''well-qualified'' by the American Bar Association.

They go on:

It is worth noting that Professor Liu, if confirmed, would become the only Asian Pacific American active appellate court judge in the Ninth Circuit, and only the second Asian Pacific American active appellate court judge nationwide. Especially given the large number of Asian Pacific Americans in California, Hawaii, and other states, covered by the Ninth Circuit—

And I said before I think it is 40 percent of Asian Americans who live in this particular area that the court covers—

the lack of an Asian Pacific American judge in this circuit is striking. We feel that Professor Liu would serve our country well and with distinction.

Professor Liu has drawn law enforcement support, including the California Correctional Peace Officers Association, as well as the National Asian Peace Officers Association, which noted that Professor Liu has ''earned the respect of [its] members and the large audience of the law enforcement community.''

David Lum, the president of National Asian Peace Officers Association, went on to compliment Liu as ''a person of integrity, dedication, passion, enthusiasm, and law and order.''

Liu has also received support from the business community, including from the prominent business executives with whom Liu served on the Stanford University board of trustees. In a letter of support, Liu's fellow trustees wrote the following:

Across a wide range of complex issues, Goodwin routinely asks thoughtful and incisive questions. He is good at thinking independently and zeroing in on important issues that need attention. Even in a room full of highly accomplished leaders, Goodwin is impressive. He is insightful, constructive, and a good listener. Moreover, he possesses a remarkably even temperament; his demeanor is unfailingly respectful and open-minded, never dogmatic or inflexible. Given these qualities, it was no surprise that he was asked to chair the board's Special Committee on Investment Responsibility after serving just one year of his five-year term.

Again and again, there is a thread running through this man's life at 40. That is how old he is, 40—40 years old. Everything this man has done, this young man has been unbelievably—I want to say unimaginable at his age that he has done all he has done.

They continue:

In short, Goodwin's strengths are exactly what we expect in a judge: objectivity, independence, collegiality—

This is what the Stanford trustees say—

respect for differing views, sound judgment. Goodwin possesses these qualities on top of the brilliant legal acumen that is well-established by his professional record and the judgment of those most familiar with his scholarly work.

It goes on and on.

The President of Stanford University, along with two presidents emeritus, wrote to endorse Liu's nomination. They said that Liu ''has epitomized the goal of Stanford's founders, which was to promote the public welfare by exercising an influence on behalf of humanity and civilization, teaching the blessings of liberty regulated by law, and inculcating love and reverence for the great principles of government as derived from the inalienable rights of man to life, liberty and the pursuit of happiness.''

This eloquence that is coming out of people's mouths about Goodwin—honestly, I have stood here many times, and I have spoken on behalf of many nominees. I honestly have not had a situation where the eloquence and passion of the supporters has come through as it has for this young man. He is a blessing, honestly. I feel at this moment we need to back him—all of us—and bring this country together around someone who epitomizes the American dream.

I want to speak about, as I wind down, newspapers across the country that weighed in to support Liu's nomination.

The Washington Post remarked that:

Mr. Liu has sterling credentials that earned him the highest rating from the American Bar Association. And there have been no allegations of impropriety to disqualify him from serving. The brilliant professor [they call him], who just turned 40 in October, testified that he would not allow his academic musings to interfere with the duties of a lower-court judge to follow precedent. He should be confirmed and given the opportunity to demonstrate that he can do that.

I was going to ask unanimous consent because I know Senator TESTER has been waiting for 40 minutes—I ask the Senator, does he need about 5 or 7 minutes in morning business?

Mr. TESTER. Yes.

Mrs. BOXER. I ask unanimous consent that Senator TESTER be able to speak for 7 minutes in morning business before we get to Senator GRASSLEY; is that acceptable?

Mr. GRASSLEY. If the Senator is done, that is OK.

Mrs. BOXER. I am almost done.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

Mrs. BOXER. I am closing in the next 2 minutes.

The Sacramento Bee noted that Liu would add luster to any court. The Los Angeles Times joined the New York Times in endorsing his confirmation.

We heard from Professor Liu when I opened, and I am going to close by saying this: When we ask people in this country to give back to this Nation and they step to the plate and they want to give their talent to this Nation and they are supremely qualified and they bring with them mainstream views, mainstream endorsements, bipartisan endorsements from the progressive community to Ken Starr, for goodness' sake, give this man an up-or-down vote and do not say that you believe that judges deserve an up-or-down

vote when you are in the majority and suddenly say they do not deserve it now.

I hope we will see the 60 votes for cloture and then the 51 votes for confirmation. I am privileged to have had this opportunity to share the story of Professor Goodwin Liu with my colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Madam President, I think this is appropriate. I ask unanimous consent to speak as in morning business.

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

DEBIT INTERCHANGE FEES

Mr. TESTER. Madam President, I thank Senator BOXER and Senator GRASSLEY for their generosity. I am not here to talk about Goodwin Liu. I am going to talk about the debate over debit interchange.

In a matter of weeks, the government is planning to price-fix debit card swipe fees below—below—the cost of doing business. They are going to price-fix debit card swipe fees below the cost of doing business.

On the surface, the plan might make sense. But peel back the layers and we will see why a whole bunch of folks out there on both sides of the aisle are raising a flag.

I am not asking to repeal the rules or even change them. I am asking that we take a closer look so we can get the information to understand the impacts, both intended and unintended. I have listened to the feedback my colleagues have shared on this issue. I have heard their concerns.

While it is important to stop and examine the impact of limiting debit card swipe fees, some have said 2 years is simply too long. I am willing to adjust my legislation to address those concerns. Senator CORKER and I have decided to shorten the timeframe from 24 months to 15 months.

Here is how the 15 months is going to be used. Fifteen months will provide the agencies with 6 months for a study. It will provide the Federal Reserve 6 months to rewrite the rules using that study. It will allow 3 months to implement the final rules. Fifteen months is the bare minimum to get this study right, and we want to get it right.

For me, stopping and studying the unintended consequences of government price-fixing has everything to do with access to capital for small businesses and consumers in rural America. Make no mistake, the big banks are going to do fine no matter what. So I opposed bailing them out. All but two banks in my entire State are considered small community banks and will be affected by this debit interchange price-fixing rule.

All of Montana's credit unions will be affected as well. They will feel the pinch, and they will lose because the government is going to set a price for doing business that does not cover their costs.

Let me say it again. The Federal Government is going to tell these folks what price to set on interchange rates, and it will not be enough for the little guys to be able to compete in the marketplace.

Let me ask this: How would a big box retailer react if we set the price of T-shirts below what it cost to make, ship, and market them? You can bet the retailers would be up in arms—and rightfully so—about the government setting prices and telling them how to run their business.

Some have suggested that the only way to have a competitive marketplace is by capping rates. That kind of reasoning does not make sense to a farmer like me. When we slant the playing field against small banks, they cannot compete with the big guys. If they go under, the businesses and consumers who rely on them are left hanging. That is why a populist farmer from rural America is on the side of common sense in this debate, and I am on the side of Montana small businesses and consumers.

Last Thursday, I asked Fed Chairman Ben Bernanke about the impact of government price fixing as it applies to rural America. He is not the only major regulator who has raised serious questions about whether the supposed exemption for small banks will work. He is not the only one. Last week, Chairman Bernanke said ''it could result in some smaller banks being less profitable and failing.''

Let me repeat that, in the words of Chairman Bernanke, the small banks in Montana and across America could fail under this planned rule.

What does it mean if more banks fail? It means more consolidation in the banking industry. How in the world is that good for consumers? How is it better for a small business in Glendive, MT, to have to ask a bank headquartered on Wall Street for a loan instead of going to the bank on Main Street? Are big banks going to provide the same level of service as community banks? I think not. Will they be able to evaluate the prospects of a small business by only looking at data, without understanding the communities they serve? Will big banks create strong relationships with the people in rural America? Will they do that? How about those folks who are looking to start a small business?

We know credit unions are one of the few financial institutions to ever consider going into Indian Country to help bring investment to some of the most impoverished areas in this country. Do you think if these small folks go under, there will be anyone else willing to lend on reservations? No way. No way.

During last week's hearing, FDIC Chairwoman Sheila Bair said this new rule is ''going to reduce revenues at a number of smaller banks, and they will have to pass that on to customers in terms of higher fees.'' Rural America—especially in this fragile economy—cannot afford that.

Today I want to share why a few businesses in Montana are opposed to government price fixing. Their stories are not uncommon. They are quite ordinary.

Doris Rocheleau runs Doris's Day Care in Great Falls, MT. She has been doing business for nearly 30 years with a community bank. She tells me she is struggling to make ends meet, as many small businesses are, and paying more in monthly checking would hurt her very much.

Also, in Great Falls there is a small business owner named Mark Voyles. Mark owns Y-Not Trucking. His reason for supporting my amendment to stop and study the government limit is because he ''doesn't want to pay more fees on his money in his bank.''

Cabela's is a large retailer, a popular sporting goods store in Billings, MT. They are wary of the Durbin amendment because they offer their customers a reward credit card. They have real concerns with government price controls and what they will mean for their ability to meet the needs of their customers.

The bottom line is this: Allowing the government to price-fix debit card swipe fees is a slippery slope. Maybe that is why my amendment is to stop and study the impact of this proposed rule. It has broad bipartisan support from folks such as the National Education Association and Americans for Tax Reform—different sides of the economic equation. Then there are nonprofit organizations, such as Rural Dynamics in Montana. Rural Dynamics serves the entire State of Montana—thousands of folks every year. Their mission? To help individual people and families achieve economic independence, to make sure folks can earn, keep, and grow their assets to reach economic independence.

Rural Dynamics is a well-respected organization. Many of their strategies involve helping Montanans manage their assets and save for their future, enabling them access to banking services. Anything that would result in undue higher fees would take their mission backwards.

Rural Dynamics says simply: We want to understand the long-term risk associated with limiting debit card swipe fees, how it will impact rural America, how it will affect economic independence.

Just as convincing as the small businesses in my State are the administration experts who have been tasked with trying to make this rule on debit interchange work. Chairman Bernanke last week said he is still not sure whether the small issuer exemption would work, saying:

> There are market forces that would work against the exemption.

Sheila Bair, Chairwoman of the FDIC, raised similar concerns about the workability of the small issuer exemption. So has Chairwoman Debbie Matz of the National Credit Union Administration. So has the Conference of

State Banking Supervisors. So has the National Association of State Credit Union Supervisors.

This represents all—all—of the regulators of the small financial institutions at the State and national level—every one of them. These are the folks who are tasked with keeping our community banks and credit unions vibrant and strong, ensuring these institutions are well capitalized and making sound loans. Let me say again, all of them—all of them—have raised concerns about the impact of this rule on the small financial institutions they supervise.

These regulators are not convinced these rules are going to be able to work in the way they were intended. My friends on the other side of this debate continue to attack these folks. They have said they are shills for the big banks; that they do not understand market forces; that they don't understand small institutions. This couldn't be further from the truth.

And no one—no one—has been able to explain to me why studying this issue to make sure these rules do what they say they are supposed to do is a bad idea. To stop and to study. That is what the bipartisan bill I am sponsoring does. To stop and to study the unintended consequences for rural America and this country as a whole. If this rule goes into effect, the consumers and businesses who rely on community banks and credit unions—oh, yeah—are going to pay the price. And we can bet many retailers won't be eager to pass the few pennies they save down to you. Yet Doris Rochileau's monthly banking fees will go up. Mark Voyles will have to pay more to keep his money in his bank. The folks at Cabela's will be asking: What is next? And will it hurt their loyal customers? Thousands of Montanans who rely on Rural Dynamics will have more hurdles to jump over to reach economic independence.

These stories hit home. They are the stories I tell when someone asks: Why would a populist farmer be against the government telling the small banks that drive our economy how to do business? I am not asking to repeal this provision; far from it. I am asking us to do our homework in this body, to make sure we understand exactly what it means for Montana and all of America.

With that, I want to express my thanks to the good Senator from Iowa one more time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I come to the floor to speak on the nomination of Goodwin Liu to be Circuit Judge of the Ninth Circuit.

I have said many times over the past 2 weeks—and perhaps for longer than the last 2 weeks—that by any fair measure we are moving judicial nominees at a very brisk pace. This month alone, we confirmed 7 judges in 10 days. In the short time we have been in session this year, we have confirmed 24 judges. That is a rate, almost, of one judge every other day. This year, the committee has favorably reported 51 percent of President Obama's nominees, yet it seems the more we work with the majority on filling vacancies, the more complaints we hear.

Furthermore, as we work together to confirm consensus nominees, we are met with the majority's insistence that we turn to controversial nominees, such as the one before us today—Goodwin Liu—because this seems to be the most controversial of President Obama's nominees we have had to this point. I have pledged, and indeed I have demonstrated, cooperation in moving forward on consensus nominations. There is no doubt that Mr. Liu does not fall into the category of being a consensus nominee.

My objections to this nominee can be summarized in five areas of concern: his controversial writings and speeches, an activist judicial philosophy, his lack of judicial temperament, his troublesome testimony and lack of candor before the committee, and his limited experience.

Mr. Liu describes his writings as critical, inventive, and provocative, and that is what they are. He states he is simply a commentator and his role is merely to poke, prod, and critique. The problem I have with that is his legal scholarship goes well beyond simple commentary. The nominee argues the 14th amendment creates a constitutional right to some minimum level of public welfare benefits. That is a real reach. He has said:

> The duty of government cannot be reduced to simply providing the basic necessities of life. . . . The main pillars of the agenda would include . . . expanded health insurance, child care, transportation subsidies, job training, and a robust earned income tax credit.

There is no doubt those may be policy issues Congress ought to deal with, but it is a real stretch to say that they are constitutionally protected rights.

Mr. Liu is a strong proponent of affirmative action and the constitutionality of affirmative action. Celebrating the Supreme Court's decision in Grutter v. Bollinger, he said:

> . . . [a]chieving racial diversity throughout our leading [educational] institutions is not merely constitutionally permissible, but morally required.

He believes bans on gay marriage are unconstitutional. The nominee was one of several law professors who filed a brief with the California Supreme Court in a suit seeking to have the California same-sex marriage prohibition declared unconstitutional.

These statements, just a sample of his works, are not merely a scholarly reflection on the state of law. Instead, they are a prescription for change—big change. He stated, following President Obama's election in an interview with NPR's ''Weekend Edition'':

> Whereas I think in the last seven or eight years we had mostly been playing defense in the sense of trying to prevent as many—in our view—bad things from happening. Now we have the opportunity to actually get our ideas and the progressive vision of the Constitution and of law and policy into practice.

Mr. Liu holds a view of the Constitution that can only be described as an activist judicial philosophy. The centerpiece of his judicial philosophy—a theory he describes as ''constitutional fidelity''—sounds nice until you learn what it actually means. Here is what he means by fidelity:

> The Constitution should be interpreted in ways that adapt its principles and its text to the challenges and conditions of our society in every single generation.

Continuing on, he states:

> On this approach, the Constitution is understood to grow and evolve over time as the conditions, needs, and values of our society change.

That is not a far cry from the unwritten constitution of Great Britain, where the Parliament is supreme and makes a determination from time to time on what the policies are, as opposed to in this country where the natural law—or the laws that are the rights we have given to us by our Creator, not by government—are the basis of our law.

When I questioned the nominee at his hearing regarding his position, he stated his book respects the notion that the text of the Constitution and the principles it expresses are totally fixed and enduring. I must admit some confusion with this contradiction. Either the text and the principles are fixed and enduring or they are adaptable—something that grows and evolves, as it happens with the Constitution of Great Britain. Mr. Liu is, apparently, comfortable with this contradiction. I am not. It is a pattern I find throughout his testimony.

I am concerned by his apparent lack of appreciation for the proper role of a judge in our system of checks and balances. His philosophy leads to an inevitable expansion of the power of the judiciary. For example, according to Mr. Liu, courts should play a role in creating and expanding constitutional welfare rights. He argues that once a legislative body creates a welfare program, it is the proper role of the courts to grasp the meaning and the purpose for that welfare benefit. He states the courts can recognize welfare rights by ''invalidat[ing] statutory eligibility requirements or strengthen[ing] procedural protections against the withdrawal of benefits.'' That is forthrightly an attack on the legislative branch of government, and on its power to make statute and law. The courts are supposed to be interpreting, not making law.

The nominee also seems to favor a social needs-based view of living constitutionalism. His scholarly work argues that judicial decisionmaking should be shaped by contemporary social needs and norms, rather than the certainty of the Constitution. Notably, he has said:

. . . the problem for courts is to determine, at the moment of decision, whether our collective values on a given issue have converged to a degree that they can be persuasively crystallized and credibly absorbed into legal doctrine.

It is just as if what the writers of the Constitution in 1787 thought ought to be the basic law of this land means nothing today. So as you know, I think this is very troublesome. Our constitutional framework puts the legislative function in the Congress, not the courts. It is the legislative function, through the political process, where the people rule, that determine when a particular value is to become part of our law. This is not the duty of judges. The judiciary is limited to deciding cases and controversy, not establishing public policy.

I would note further that this view of constitutional interpretation does not rely on the acts of the legislature or on the precedents established by higher courts. Rather, it is based on a concept of what he prefers to call ''evolving norms.'' Furthermore, as he testified before the committee, it is those ''evolving norms'' that inform the Supreme Court's elaboration of constitutional doctrine.

Mr. Liu tried to sound like a mainstream jurist when he stated the duty of a circuit judge was to faithfully follow the Supreme Court's instructions on matters of constitutional interpretation. Who is going to argue with that? Again, that sounds nice, doesn't it, but what does it mean? If we accept his premise that the Supreme Court's instructions are based upon evolving norms, it follows that such ''evolving norms'' will shape the circuit courts' decisions as well. This activist theory leads to a judicial system substituting the whims of individual judges over the text and original meaning of the U.S. Constitution. This is not the duty of any circuit judge.

Mr. Liu's legal views and judicial philosophy are clearly out of the mainstream. A small example illustrates this point. I questioned four of President Obama's district judge nominees who followed Mr. Liu on the day of his hearing. I asked each of them concerning a specific point about Mr. Liu's philosophy. Each and every one of them flatly rejected Mr. Liu's position.

This included his view on judges considering ''collective values'' when interpreting the Constitution; on using foreign law; on interpreting the Constitution in ways that adapt its principles and its text; and on considering ''public values and social understandings'' when interpreting the Constitution.

Based on his out-of-the-mainstream views, it is no surprise that his nomination is opposed by so many. Included in that opposition are 42 district attorneys serving in the State of California. They are concerned, among other things, about his views on criminal law, capital punishment, and the role of the Federal courts in second-guessing State decisions.

My third area of concern is that the nominee has made a number of critical statements which indicate a lack of judicial temperament. He has been very openly critical of the current Supreme Court.

In one article, he said that the holding in Bush v. Gore was ''utterly lacking in any legal principle.'' He has claimed that the current Court as a whole is unprincipled, saying that ''if you look across the entire run of cases, you see a fairly consistent pattern where respect for precedent goes by the wayside when it gets in the way of result.''

Mr. Liu was highly critical of the nomination of Justice Roberts. He published an article on Bloomberg.com entitled ''Roberts Would Swing the Supreme Court to the Right.'' In that article, he acknowledged that Roberts was qualified, saying ''[t]here's no doubt Roberts has a brilliant legal mind. . . . But a Supreme Court nominee must be evaluated on more than legal intellect.'' He then voiced concerns that ''with remarkable consistency throughout his career, Roberts ha[d] applied his legal talent to further the cause of the far right.'' He also spoke very disparagingly of Justice Roberts' conservative beliefs:

[b]efore becoming a judge, he belonged to the Republican National Lawyers Association and the National Legal Center for the Public Interest, whose mission is to promote (among other things) ''free enterprise,'' ''private ownership of property,'' and ''limited government.'' These are code words for an ideological agenda hostile to environmental, workplace, and consumer protections.

Let's think about what he just said there, about Judge Roberts, now Chief Justice Roberts. He said private ownership of property, limited government, and free enterprise are code words for an ideological agenda hostile to environment, workplace and consumer protections? Does he think we are Communist-run China, that the government runs everything, that their system of government is a better one? When they bring online a coal-fired plant every week? Plants that pollute the air and put more carbon dioxide into the air than we do in the United States? Where children are dying because the food is poisoned and consumers aren't protected? Where every miner is in jeopardy of losing their lives? That is how far off base this nominee is when he refers to free enterprise, private ownership of property, and limited government as being bad. But if you get government more involved, as they do in China, it is somehow a better place?

The nominee has been very publicly critical also of Justice Alito in particular. He believes it is a valid criticism of Justice Alito to say that ''[h]e approaches law in a formalistic, mechanical way abstracted from human experience.'' And we are all familiar with Mr. Liu's scathing attack at Justice Alito's confirmation hearing. When asked about his testimony, Mr. Liu admitted the language was unduly harsh, provocative, unnecessary, and was a case of poor judgment. That is one statement of Mr. Liu with which I can I agree.

I can appreciate that Mr. Liu now understands the unfortunate language he uses. The trouble I have with this, however, is that it shows that even when stepping out of the academic world, the nominee promotes extreme views and intemperate language. Even if I accept his rationale for the tone of his work in the academic world, that does not explain his congressional testimony. That was one opportunity where he could demonstrate a reasoned, temperate approach. Yet he failed that test. I think it may also indicate what we might expect from a Judge Liu, should he be confirmed—the same thing. To me, that is an unacceptable outcome.

The fourth major area of concern is Mr. Liu's testimony and candor before the committee, which was troubling at times and lacked credibility. Even before he appeared before the committee, the nominee had difficulty providing the committee, with materials required by his questionnaire. As Senator SESSIONS said at the time:

At best, this nominee's extraordinary disregard for the Committee's constitutional role demonstrates incompetence; at worst, it creates the impression that he knowingly attempted to hide his most controversial work from the Committee.

During his testimony, the nominee said, in reference to his past legal writings, ''whatever I may have written in the books and the articles would have no bearing on my action as a judge.'' Oh? Trying to paint himself as a judicial conservative, the nominee attempted to walk away from his previous positions. He tried to distance himself on the proper role of a judge, on the use of foreign law, on the appropriateness of racial quotas and from his previous views on free enterprise and private ownership of property. Even the Washington Post found his testimony a bit hard to believe. The Post's editorial stated:

Mr. Liu is unlikely to shunt aside completely the ideas and approaches he has spent years developing. But the real problem, of course, is not that he adheres to a particular judicial philosophy, but that he—like so many others before him—feels the need to pretend not to have one.

We have often heard the term ''confirmation conversion'' applied to nominees who appear to have a change of legal philosophy when they are nominated to a Federal judgeship. As I review the record, I think this nominee has taken that concept a step further—I would use the phrase ''confirmation chameleon.'' It seems to me that Mr. Liu is willing to adapt his testimony to what he thinks is most appropriate at the time.

I have discussed other contradictions already, but let me give you a clear example. Senator CORNYN of Texas asked him about his troubling record contained in his work-product that expressed opinions on issues such as the

death penalty, same-sex marriage, and welfare rights. Senator CORNYN then stated ''You are now saying, 'Wipe the slate clean because none of that has any relevance whatsoever to how I would conduct myself as a judge if confirmed by the Senate.' Is that correct?'' Mr. Liu responded, ''That is correct, Senator.''

A few minutes later I asked him, ''If we were to, let us just say, wipe the slate clean as to your academic writings and career, what is left to justify your confirmation?'' The nominee responded, ''I would hope that you would not wipe my slate clean, as it were. You know, I am what I am.''

Mr. Liu cannot have it both ways. Either his record stays with him or we wipe the slate clean. Perhaps in the long run it doesn't matter, because either way it leaves us with an individual who should not be given a lifetime appointment. If you include his record as a law professor, then we are left with the evidence of a left-leaning, judicial activist. If you do not include it, then we are left with a 2-year associate with law clerk experience and little else.

That leads me to my final point. I am concerned about the nominee's lack of experience. After graduating from law school in 1998, he clerked for Judge David S. Tatel on the U.S. Court of Appeals for the District of Columbia. When his clerkship ended, Mr. Liu became special assistant to the Deputy Secretary of Education for 1 year.

In 2000, he worked as a contract attorney for the law firm of Nixon Peabody, LLP, where he ''assisted with legal research and writing.'' From 2000 to 2001, the nominee clerked for Justice Ruth Bader Ginsburg on the Supreme Court. After his Supreme Court clerkship, he became an associate at O'Melveny & Myers, where he remained for less than 2 years. According to his questionnaire, he appeared in court only ''occasionally.'' He also reported that his other work as an attorney has not involved court appearances. He has not tried any cases to verdict, judgment, or final decision, Since 2003, the nominee has been a full-time law professor at UC Berkeley School of Law, and in 2008 he became associate dean.

After his nomination last year, the ABA Standing Committee on the Federal Judiciary gave Mr. Liu the rating ''Unanimous Well-Qualified.'' I am somewhat perplexed by this rating. According to the standing committee's explanation of its standards for rating judicial nominees, ''a prospective nominee to the federal bench ordinarily should have at least twelve years' experience in the practice of law.''

Further, ''the Committee recognizes that substantial courtroom and trial experience as a lawyer or trial judge is important.'' At the time of his nomination and rating, the nominee had graduated from law school less than 12 years prior. He has been a member of a State bar only since May 1999. As noted above, he has no trial experience and has never been a judge.

I will conclude with this thought. Given his record and testimony, I do not believe the nominee has an understanding and appreciation of the proper role of a judge. I believe, if confirmed, he will bring a personal agenda and political ideology into the courtroom.

It is ironic that in commenting on the Roberts nomination, Mr. Liu sad ''the nomination is a seismic event that threatens to deepen the Nation's red-blue divide. Instead of choosing a consensus candidate [the President] has opted for a conservative thoroughbred who, if confirmed, will likely swing the Court sharply to the right on many critical issues.''

If confirmed, I am concerned that Mr. Liu will deeply divide the Ninth Circuit and move that court even further to the left—if that is possible. If confirmed, his activist ideology and judicial philosophy would seep well beyond the Berkeley campus—and it seems that is difficult. Sitting on the Ninth Circuit, his opinions and rulings would have far reaching effect on individuals and businesses throughout the nine-State circuit, including places like Bozeman, MT; Boise, ID, and Anchorage, AK.

For the reasons I have articulated—No. 1, his controversial writings and speeches; No. 2, an activist judicial philosophy; No. 3, his lack of judicial temperament; No. 4, his lack of candor before the committee, and No. 5, his limited experience—as well as many other concerns which I have not expressed today, I shall oppose this nomination.

I yield the floor.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from California.

Mrs. FEINSTEIN. I ask unanimous consent I might be given permission to speak for one-half hour.

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

Mrs. FEINSTEIN. Mr. President, I have been on the Judiciary Committee for 18 years. I have never heard a harsher statement about a brilliant young man than I have just heard. During those 18 years, I have seen the standards for appointment change rather dramatically. I have seen a search engine develop on the Republican side to go out and find anything and everything an individual may have written, and then compile a dossier, almost like one would of a criminal, and then characterize and depict the individual in the terms they wish to do.

I regret this, and I hope to lay out how the Democratic side, with a number of nominees, has not done the same thing. But to see a young man with the credentials Goodwin Liu carries belittled in the way he has been belittled in these hearings and also on this floor really upsets me.

This man is a professor of law and the former associate dean of one of the 10 best law schools in America. He is a nationally recognized constitutional scholar. He is a truly brilliant legal mind. I have every confidence in his intellectual firepower, his integrity, and his even-keeled demeanor, and I believe it will make him a fine judge.

Let me tell my colleagues a little about his background. He was born in Augusta, GA. He is the son of Taiwanese immigrants who were recruited to America to provide medical services in rural areas.

He attended public schools in Clewiston, FL, and in Sacramento, CA. He first struggled to learn English and master vocabulary but, ultimately, he graduated co-valedictorian from Rio Americano High School in Sacramento.

He was admitted to Stanford University, my alma mater. He graduated Phi Beta Kappa. He received numerous awards for his contributions to the university, and he was elected co-president of the student body. Pretty good.

He received a Rhodes scholarship. He graduated with a master's degree from Oxford University. He attended Yale Law School. Once again, he was at the top of his class. He was editor of the Yale Law Journal. He won the prize for the best team argument in the moot court competition and won awards for the best academic paper by a third-year law student and the best paper in the field of tax law.

He received prestigious judicial clerkships with Circuit Judge David Tatel on the U.S. Court of Appeals for the DC Circuit and then with Ruth Bader Ginsburg on the U.S. Supreme Court.

He worked in the Department of Education as a special assistant to the Deputy Secretary of the United States of the U.S. Department of Education.

He spent 2 years in private practice at O'Melveny & Myers, which is a prestigious law firm—not a minor firm, a major firm—where he handled commercial matters, including antitrust, insurance, and class action cases. Appellate law comprised roughly half his practice.

Finally, in 2003, he accepted a tenure-track position on the faculty of Boalt Hall School of Law. At Boalt, he quickly established himself as one of our most astute legal scholars, with specialties in constitutional law, the Supreme Court, education law, and education policy.

He published articles in the Yale Law Journal, the Stanford Law Review, the California Law Review, the Iowa Law Review, the Harvard Law and Policy Review, and many other academic journals.

He received the Education Law Association's Steven S. Goldberg Award for Distinguished Scholarship in Education Law, and he was elected into membership of the American Law Institute.

In 2008, his colleagues on the faculty of Boalt selected him as their associate dean. In 2009, the University of California at Berkeley awarded him their Distinguished Teaching Award, the highest award for teaching across the entire university.

I believe he holds a deep appreciation for what opportunities our country affords. I believe his background and his legal prowess are fitting for him to become an appellate court judge. When one speaks with him about his family and upbringing, one gains a sense of him as someone who loves this country and bears an abiding belief that ours is a land of opportunity and a place where everyone has a chance to learn and grow and to thrive.

Some of my colleagues have questioned a number of his writings and his temperament, and what figures very formidably, as I have talked to the Republican side, is particularly testimony he gave on the confirmation of Justice Alito. What he did was provide a long analysis of Alito's opinions and then at the end he used a rhetorical flourish that was, quite frankly, misguided. He strung together a series of facts from cases Alito had decided and then made a statement that I believe he very much regrets. It was over the top. But he has acknowledged it, he has been forthright, and he has apologized.

Before the Senate Judiciary Committee he said:

> What troubles me most is that the passage has an ad hominem quality that is unfair and hurtful. I regret having written this passage.

He said if he had to do it again: ''I would have deleted it.''

It was a mistake—no question about it—but a mistake should not color this man's entire record.

I wish to read from two letters we received in the Senate from people who knew and know Goodwin Liu well, not just for a moment but for years. The first was sent to us jointly by three successive presidents of Stanford University. I have never seen a letter on behalf of a nominee from three different presidents of a university of the quality of Stanford.

Donald Kennedy was president when Goodwin Liu was a student at Stanford. He worked with Liu at the Haas Center for Public Service and was present when Liu won not only the Dinkelspiel Award, which is the university's highest award for undergraduate service, but also the James W. Lyons Dean Award for Service and the President's Award for Academic Excellence.

Gerhard Casper is president emeritus of Stanford and currently provost at the University of Chicago. He knows Liu both as a Stanford alum as well as a colleague in the field of constitutional law. He is familiar with Liu, as, in his own words, ''a measured interpreter of the Constitution.''

Finally, John Hennessy is Stanford's current President. He describes Liu as insightful, hardworking, collegial, and of the highest ethical standards.

Together, these three presidents of the university wrote the following:

> Goodwin Liu as a student, scholar and trustee, has epitomized the goal of Stanford's founders, which was to promote the public welfare by exercising an influence on behalf of humanity and civilization, teaching the blessings of liberty, regulated by law, and inculcating love and reverence for the great principles of government as derived from the inalienable rights of man to life, liberty, and the pursuit of happiness.

It is a fitting and, I believe, an accurate tribute.

We have one of the most brilliant legal scholars of our time. There is a majority here to confirm him. We know that. But, unfortunately, the minority is trying to use cloture to prevent us from ever casting a vote to confirm him.

Let me turn to another letter. This one is from eight top executives of major American companies, including Yahoo, General Atlantic, Morgan Stanley, and Google. They have all worked closely with Liu on the Stanford board of trustees. They wrote to say the following:

> Even in a room full of highly accomplished leaders, Goodwin is impressive. He is insightful, constructive, and a good listener. Moreover, he possesses a remarkably even temperament. His demeanor is unfailingly respectful and open-minded, never dogmatic or inflexible.

Goodwin's strengths, they said:

> . . . are exactly what we expect in a judge: objectivity, independence, respect for differing views, sound judgment.

We know the American Bar Association has unanimously rated him ''well qualified'' for the U.S. court of appeals, and his background is similar to many who have been confirmed to the circuit court in the past. But some on the other side, nevertheless, say he is too young and he doesn't have judicial experience, or his credentials are not right.

For those who ask for a judicial record to review, I would ask, what about Edward Chen? We considered Judge Chen's nomination last week. He was a district court nominee with a 10-year judicial record. He had written more than 350 published opinions, and the minority didn't criticize one. But most in the minority voted against his nomination anyway. So a judicial record doesn't get it done.

Then there is the criticism based on age or other qualifications. But Liu's qualifications surpass those of many we have confirmed under Republican Presidents.

Since 1980, the Senate has confirmed 14 circuit court nominees who were under the age of 40. That means they were all younger than Liu is now. All 14 were nominated and confirmed during Republican administrations.

Let me give two examples. Judge Kimberly Moore sits on the U.S. Court of Appeals for the Federal Circuit. She was nominated by President Bush at the age of 38. She had 2 years of experience as a law clerk, less than 4 years in private practice, and 6 years as a professor at three different law schools. The Senate confirmed her unanimously.

Judge Harvey Wilkinson is a judge on the U.S. Court of Appeals for the Fourth Circuit. He was nominated by President Reagan at the age of 39. He had 1 year experience as a law clerk, 3 years as a newspaper editor, 1 year of government practice, and 5 years as a professor. He was confirmed.

Judge Brett Kavanaugh, who now sits on the U.S. Court of Appeals for the DC Circuit, also comes to mind. He was 38 when he was nominated. Unlike Liu, he had little track record to review and much of the record that did exist was partisan. He had been a law clerk for 3 years, spent 3 years in private practice, and spent the remainder of his career in the Solicitor General's Office, Ken Starr's Office of Independent Counsel, and the Bush White House. When the ABA conducted its reviews, many troubling reports were received, but I voted for cloture, as did many of my colleagues on this side, and he was confirmed.

Professors are hardly a new game for us when it comes to judicial nominees.

John Rogers is a judge on the U.S. Court of Appeals for the Sixth Circuit. At the time President Bush nominated him, he had only 4 years of practice experience, no appellate clerkships, and had spent the remainder of his career as a professor. He was confirmed by the Senate by a voice vote.

Finally, there is Michael McConnell from the State of Utah. President Bush nominated Professor McConnell for the Tenth Circuit. At the time, he had been a constitutional law professor for 16 years and his writings contained scores of controversial thoughts, ideas, and provocations. In reviewing McConnell's record, many of us on the Democratic side found writing after writing that we strongly disagreed with. McConnell had repeatedly stated that Roe v. Wade was wrongly decided. He called the Supreme Court decision ''a grave legal error'' and ''an embarrassment.''

He wrote that the Freedom of Access to Clinic Entrances Act and the Violence Against Women Act were unconstitutional. He criticized a Supreme Court decision barring racial discrimination at tax-exempt schools and one prohibiting sex discrimination in civic associations. He called the fundamental guarantee of one person, one vote ''wrong in principle.''

But similar to Professor Liu, he made clear in the Senate confirmation process that he understood the difference between the role of a professor and the role of a judge. Here is what he said when asked about all of his writings:

> I have a whole bunch of writings out there that were provocative, and innovative, and taking a different view. Well, within—my academic colleagues understand that that's what we do. If you try to make those look as though they are legal analysis, as if they were what a lawyer thinks the law is, of course they don't reflect the law. They're not meant to. They're not a description of the law.

Professor Michael McConnell, Senate Judiciary Committee, September 18, 2002.

He then assured us he would apply the law as written, not as put forward in academic theory. Guess what. He

was confirmed to the Tenth Circuit by voice vote. There was no cloture vote. He was confirmed by voice vote because the Democrats on this side of the aisle believed he would do just what he said. I don't understand why this same situation is not accorded to this brilliant young American.

Today, we have Professor Liu before us. He has also written article after article as a law professor and people have disagreed with some of what he has written.

Here is what he said:

> I think that there's a clear difference between what things people write as scholars and how one would approach the role of a judge. And those two are very different things. As scholars, we are paid, in a sense, to question the boundaries of the law, to raise new theories, to be provocative in ways that it's simply not the role of a judge to be. The role of the judge is to faithfully follow the law as it is written and as it is given by the Supreme Court. And there is no room for invention or creation of new theories. That's simply not the role of the judge.

A very similar statement. It was made by Goodwin Liu before the Senate Judiciary Committee, April 16, 2010.

Professor McConnell went through by voice vote. The same kind of situation—voice vote—yet we may be prevented from even taking a vote on Professor Liu's nomination because he may not get a supermajority for cloture. I must say, what is sauce for the goose is sauce for the gander.

Professor Liu, like Professor McConnell, is a brilliant legal mind. He has written extensively. He has been absolutely clear that if confirmed he would follow not any academic theory or writing, but the law as it is written and handed down by the U.S. Supreme Court. We took Professor McConnell at his word. Professor Liu deserves the same treatment.

(Mr. WHITEHOUSE assumed the chair.)

Mrs. FEINSTEIN. What is interesting to me is how much things have changed on this committee—and we have a new Presiding Officer who also is on the committee—since before the Presiding Officer came on, when we would look at a person's personal record, what they have said, what they think the kind of judge they will be, and make a decision.

So I do not understand, if we can confirm Professor McConnell by unanimous consent, why can't we grant cloture to a man who has distinguished himself as one of the great legal scholars of our country?

Let me address one particular criticism that has been made of Professor Liu's writings, and that is his writings on constitutional interpretation and fidelity to the Constitution.

Some in the Senate have harshly criticized his book ''Keeping Faith with the Constitution'' because he says at one point that the Supreme Court has taken ''social practices, evolving norms, and practical consequences'' into account when interpreting the Constitution. This, some colleagues say, means he will be an activist.

First, Liu has said this book was written as a professor, as an academic, that it is in no way a roadmap for how he would decide cases as a judge. He said, in his own words:

> The duty of a circuit judge is to faithfully follow the Supreme Court's instructions on matters of constitutional interpretation, not any particular theory. And so that is exactly what I would do, is I would apply the applicable precedents to the facts of each case.

But I think some are using this nomination to try to set a new standard, to say that the only valid theory of constitutional interpretation is originalism. So I want to point out that Liu's comments about constitutional interpretation are hardly exceptional.

In fact, they echo statements made by some of our very best jurists across the span of American history: Chief Justice John Marshall, Justice Oliver Wendell Holmes, and Justice Sandra Day O'Connor, to name a few.

The most famous example: Chief Justice John Marshall wrote, in 1819, in the case of McCulloch v. Maryland:

> We must never forget that it is a constitution we are expounding.
>
> . . . This provision is made in a constitution, intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs.

Chief Justice John Marshall.

We are not all originalists here, and originalism does not define the legal mainstream. In an interview, published in the California Lawyer in January, Justice Scalia made the shocking statement that he does not believe the U.S. Constitution guarantees women equal protection of the law. This came out this January. This is a sitting Supreme Court Justice saying the Constitution does not guarantee women equal protection under the law.

The text of the 14th amendment says no ''person'' shall be denied equal protection of the law—and after decades of precedent, unanimous Supreme Court decisions agree that women are protected. But regardless of text and precedent, Justice Scalia says it cannot be so because that is not what the drafters of the 14th amendment intended.

This is not the American mainstream. Following this line of reasoning, the minimum wage would be unconstitutional, schools could still be legally segregated, States could prohibit married couples from using birth control, and I, as a woman, could be prohibited from standing here today as an elected Member of the Senate.

That kind of thinking cannot be a criterion for acceptance onto our Federal courts. So some may disagree with Liu's statement about constitutional interpretation, but it is hardly far afield of the legal mainstream today.

Let me tell you what others who are familiar with Liu's full record—full record—have said about his work.

Richard Painter, a chief ethics officer for President George W. Bush, relayed similar thoughts after reviewing Liu's record. Here is a quote: Liu's ''views are part of the legal mainstream'' and that the ''independence, rigor, and fair-mindedness of his writings support a confident prediction that he will be a dutiful and impartial judge.'' ''Liu respects the law, which is what we should expect of a judge.''

Yet the Senate may well not give him cloture even to come to a vote on his confirmation. That is unfair.

Jesse Choper, who reviewed all of Liu's writings as the chair of his tenure committee, has similarly said, ''in addressing a wide range of issues, Liu demonstrates rigor, independence, fair-mindedness, and—most importantly for present purposes—sincere respect for the proper role of courts in a constitutional democracy.'' ''One thing is clear,'' he says, ''Liu's interpretive approach is part of mainstream legal thought.''

Finally, someone who has been quoted often here today, Kenneth Starr, a prominent conservative and former Reagan appointee to the DC Court of Appeals, has written to us together with Professor Akhil Amar to say, Goodwin Liu is ''a person of great intellect, accomplishment, and integrity, and he is exceptionally well qualified to serve on the court of appeals.''

Continuing to quote:

> In our view, the traits that should weigh most heavily in the evaluation of an extraordinarily qualified nominee such as Goodwin are professional integrity and the ability to discharge faithfully an abiding duty to follow the law. Because Goodwin possesses those qualities to the highest degree, we are confident that he will serve on the court of appeals not only fairly and competently, but with great distinction.

I have a very hard time understanding why people would do this: we listened to and read Judge McConnell's views, which were antithetical to many of us on this side, but we believed he would be a fair and good judge, and he was confirmed by voice vote; but today someone who has the finest education America has to offer, who is supported by scholars on both sides of the political aisle, who is truly scholastically exceptional, who could quote case after case after case in his hearings, may be denied cloture.

If he is, this is not the Senate of the United States of which I am most proud. I hope I am wrong. I hope he will be granted cloture because he deserves a vote up or down. A majority vote—that is America—a majority vote on his confirmation. We will see what happens.

Mr. INOUYE. Mr. President, I rise today in support of Goodwin Liu for confirmation to the U.S. Court of Appeals for the Ninth Circuit.

Goodwin Liu and I share the immigrant experience. He is the proud son of Chinese immigrants and my father came to this great Nation from Japan. He holds degrees from some of the top universities in the world. Before attending Yale Law School, he worked with the Corporation for National

Service in Washington, DC, where he helped launch the AmeriCorps program. In 2000, he served as a law clerk for U.S. Supreme Court Justice Ruth Bader Ginsburg. Since 2003, he has taught law at the University of California, Berkeley School of Law, Boalt Hall. He has also served as a special assistant to the Deputy Secretary at the U.S. Department of Education, advising the Department on a range of legal issues including the development of guidelines to help turn around low performing schools.

Goodwin also practiced as a litigant for the firm of O'Melveny & Myers in Washington, DC. There, appellate litigation comprised nearly half his practice.

Were these accolades not enough to demonstrate Goodwin's capacity to serve as a Federal appellate judge, I would also point to the ''unanimously well qualified'' rating he received from the American Bar Association, ABA, the ABA's highest rating for Federal judgeships. I believe Goodwin's extensive knowledge of the law, understanding of appellate procedure, and appellant litigation experience make him an outstanding candidate for confirmation.

I would like to remind my colleagues that there are still many judicial vacancies that need to be filled. The constitutional right to a speedy trial correlates to the number of judges able to hear cases. While it is important to ascertain the character and capacity of a nominee to such an important position, postponing Goodwin Liu's confirmation does a disservice to our Nation, and to this body's responsibility for confirming Presidential nominees. I believe Goodwin Liu will make a fine judge, and will serve with distinction in the Ninth Circuit Court of Appeals. I ask my colleagues to join me in confirming Goodwin Liu to the U.S. Court of Appeals for the Ninth Circuit.

I thank the Chair and yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BARRASSO. Mr. President, I ask unanimous consent to speak for up to 15 minutes as in morning business.

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

HEALTH CARE

Mr. BARRASSO. Mr. President, I come to the floor, as I have week after week since we passed the health care law, giving a doctor's second opinion of the law. I come today because last month President Obama delivered a very big speech on spending. Unfortunately, it seemed to be more of a political attack than a substantive speech offering a detailed plan to attack the American debt crisis.

The President did, however, mention one bit of substance that really should raise a red flag to the American people. He said:

> We will slow the growth of Medicare costs by strengthening an independent commission.

Well, the Washington commission he is referring to is called the Independent Payment Advisory Board. This board may sound harmless, but let me assure you that the American people deserve to know and have a right to know more detail about the board and its work.

Many Americans may not remember that the health care law created this unelected, unaccountable board of Washington full-time bureaucrats. The sole purpose of the board is to cut Medicare spending based on arbitrary budget targets—not based on the number of people on Medicare or the number of seniors but based on arbitrary budget targets. These are cuts above and beyond the $500 billion already taken from a nearly bankrupt Medicare Program during the health care law—taken from our seniors—not to save Medicare but to start a whole new government program.

Now the President wants to slow the growth of Medicare costs by strengthening this independent commission. Well, this board empowers 15 unelected Washington bureaucrats to make these Medicare cuts, all without full transparency and accountability to the American seniors and also to elected officials.

Once again, this board proved that the President and the Democrats in Congress who voted for the health care law simply didn't have the political courage to make tough spending decisions. Instead, they took the easy road and pulled a classic Washington maneuver: they created a board and then punted the tough decisions to the board. Well, this forced Congress to abdicate two important congressional duties. First is the constitutional responsibility to manage Medicare spending. The second is the responsibility to explain to the American people why specific payment changes might be necessary to keep Medicare afloat—all because the President and Washington Democrats refused to lead. They simply threw up their hands and said: Let someone else deal with it.

If expanding this independent board is—they call it ''independent,'' but I am not so convinced it is. It is called the Independent Payment Advisory Board. If expanding the board is the one and only concrete proposal the President has to reform Medicare and reduce the debt and most Americans have never even heard of it, then it is important that we take the time on the Senate floor today to discuss exactly how this board works and the impact it will have on medical care in America.

I call this the top 10 things you need to know about the Independent Payment Advisory Board. To me, this issue is so important that I plan to talk about five of them today, and I will come back next week, as part of the doctor's second opinion on the health care law, and talk about the next five.

No. 1, this board is how Washington will limit patient care.

When Congressman PAUL RYAN offered his 2012 budget plan, the President and members of his party launched an all-out media assault on Medicare spending. The White House and Democrats used inflammatory and patently false statements to scare people about the Ryan plan. What they failed to mention, however, is that the President's own health care law actually has significant caps on Medicare spending. To enforce the caps, the President and Washington Democrats went with their tried-and-true solution: create another board.

What does this mean for people who are currently on Medicare and for future Medicare patients? A centralized Washington board will arbitrarily cut payments to Medicare providers—doctors, nurses, and other people taking care of patients. They are going to squeeze Medicare savings by cutting provider payments and treatment options, which will punish patients. Why? To start a whole new government program—not for the people who paid into Medicare but for a whole different group of people. Not only will medical professionals facing these cuts decide to simply stop seeing Medicare patients—and we see that now. Frankly, doctors are running away from Medicare, not wanting to see those patients. Individuals and families will watch helplessly as a Washington bureaucrat decides what kind of treatments that person can have.

No. 2, this board is going to make recommendations, and those recommendations will automatically become law.

How can it be that something the board does automatically becomes law? But their spending recommendations automatically become law—unless Congress acts to stop it. If Congress would actually want to stop the board's policies, there are very few options. The options are severely limited. Overriding the board's recommendations requires a three-fifths majority vote in the Senate, a high hurdle to jump, or Congress can pass a different Medicare spending plan. But there is a catch. It still has to meet the same arbitrary spending target. So if Congress does nothing, then Health and Human Services Secretary Kathleen Sebelius will implement the board's plan.

Medicare consumes about 13 percent of the Federal budget, and former Office of Management and Budget Director Peter Orzag called this board ''the largest yielding of sovereignty from Congress since the creation of the Federal Reserve.''

The bottom line is that this board isn't making recommendations to Congress; this board is passing law. Well, Congress doesn't have to approve these policies of the board, and the President

doesn't have to sign them. They are law. This represents an unprecedented shift of power from the legislative branch of the Federal Government to an unelected board of 15 bureaucrats.

No. 3, the policies of this board cannot be challenged in court.

On April 19 of this year, the New York Times published an article entitled ''Obama Panel to Curb Medicare Finds Foes in Both Parties.''

This article explains that:

> In general, federal courts could not review actions to carry out the board's recommendations.

Well, there is an institute called Arizona's Goldwater Institute. They filed a lawsuit based upon this payment advisory board. Part of the lawsuit says:

> Congress has no constitutional power to delegate nearly unlimited legislative power to any federal executive branch agency, much less to entrench health care regulation against review, debate, revision, or repeal. . . . Such federal overreaching must be rejected if the principles of limited government and the separation of powers by the United States Constitution mean anything.

That is what the lawsuit says.

Let's go to No. 4. This board's mission is to cut provider payments. The board is strictly limited in what it can do to achieve Medicare spending reductions. By law, the board cannot raise revenue by increasing taxes. It cannot increase patient cost-sharing methods, such as premiums, copayments, and deductibles. It cannot alter Medicare eligibility or benefit package.

What can it do? One thing and one thing only: It will adjust provider reimbursement rates. We all know Medicare payment rates are already well below market rates. That is why so many doctors are limiting the number of Medicare patients they see and, in more severe cases, refusing to treat Medicare patients at all.

Additional subjective cuts to Medicare will not make the program more efficient or more available. These measures will simply reduce the supply of medical care to the Medicare patients of America.

The Medicare Chief Actuary, Richard Foster, warned us that the health care law's Medicare cuts would cause providers to leave the program, and we are seeing that today. It is not because they do not want to treat Medicare patients; it is because the doctors know the payments will be too low to even cover their costs. Mr. Foster, the Medicare Chief Actuary, has said approximately 15 percent of our Nation's hospitals would drop out of Medicare in 10 years.

Then No. 5: This board could eventually impact all patients, not just Medicare patients. Washington Democrats have long supported policies that give government more power to set health care prices, not just in public programs such as Medicare, but also in the private sector. President Bill Clinton asked for this authority in a 1994 debate on what at the time was called ''Hillary care.'' It was one reason his effort failed. President Obama learned from that failure. Make no mistake, he wants to achieve the same objective. This time he is using this board as a Trojan horse to sell it.

If President Obama's health care law remains the law of the land, millions of Americans will have government-subsidized health insurance. Paying for this new entitlement program will cost trillions. It will be no surprise when we inevitably hear cries for increased cost control. This is when the President will make his move—proposing to extend this board's reach beyond Medicare to the new health care law's subsidized insurance premiums. Last month, the President opened the door to this strategy when he proposed in his speech to expand this board's power and its control over Medicare.

That is why I come to the Senate floor each and every week to deliver a doctor's second opinion about the health care law—a law that I believe is bad for patients, bad for providers—the nurses and doctors who take care of those patients—and bad for our taxpayers. I believe the more the American people discover about this so-called independent payment advisory board, the more unpopular the President's health care law will become.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. FRANKEN. Mr. President, I rise to speak in support of the confirmation of Professor Goodwin Liu to the U.S. Court of Appeals for the Ninth Circuit. As a member of the Judiciary Committee for the past 2 years, I have had the opportunity to meet with Professor Liu and vote on his nomination on several occasions. He is a singularly talented individual, and I wish to associate myself with the remarks all my colleagues have made in support of his confirmation.

But the strongest arguments I have heard in support of Professor Liu haven't come from my colleagues. In fact, they haven't even come from a Democrat. No, the most persuasive arguments I have heard for confirming Professor Liu come from the former chief ethics lawyer for the administration of President George W. Bush, a gentleman named Richard Painter. Professor Painter, a Republican, is now a prominent law professor at the University of Minnesota.

Earlier this year, Professor Painter wrote a lengthy article that systematically catalogued Professor Liu's strengths and systematically answered his critics. This is his conclusion:

> In sum, Liu is eminently qualified. He has support from prominent conservatives. . . . He is pragmatic and open-minded, not dogmatic or ideological. . . . Many, though by no means all, of his scholarly views do not align with conservative ideology or with the policy positions of many elected officials in the Republican Party. . . . Nevertheless, his views are part of the American legal mainstream. The independence, rigor, and fairmindedness of his writings support a confident prediction that he will be a dutiful and impartial judge.

When I circulated Professor Painter's article to the members of the Judiciary Committee, my Republican colleagues sent me a series of articles critiquing Professor Liu. I would like to take a few moments to rebut the criticisms in these articles because they simply don't hold water.

The first and most common criticism of Goodwin Liu is that he somehow believes in a so-called living Constitution. His opponents are especially worried about his suggestion that in interpreting the Constitution, judges should consider the ''evolving norms and traditions of our society.''

Professor Liu has written an entire book about his theory of constitutional interpretation. On page 2 of that book, he writes that we need to consider a lot of different things when we interpret the Constitution. We need to consider the original understanding of the Framers. We need to consider the purpose and structure of the Constitution. We need to consider precedent. We need to consider the practical consequences of our laws. Lastly, we need to consider the evolving norms and traditions of our society. So this is just one thing—one thing—that we should take into account.

But even more important, this idea that we should merely consider the evolving standards of our society in interpreting the Constitution is not a radical idea. In fact, it isn't even a new idea. This issue frequently comes up in fourth amendment cases. Over 40 years ago, in a 1967 case called U.S. v. Katz, the Supreme Court was asked to determine whether a wiretap constituted a search under the fourth amendment. If it did, law enforcement would have to get a warrant to get a wiretap.

The problem, of course, was that the Founders never anticipated the telephone, let alone the wire to the telephone. So this was a new question for the Court. But the Court voted 7 to 1 to find that a wiretap was, in fact, a search under the fourth amendment, and one of the main reasons they cited was that people in modern society had come to expect and assume that their phone calls were private. Two years later, in a separate case called Smith v. Maryland, the Court formally adopted the rule that the fourth amendment will protect people where our society recognizes a reasonable expectation of privacy. So for 40 years, it has been the law of this land that you have to look at social norms when interpreting the fourth amendment.

Here is another example, one that Senator FEINSTEIN cited, but still, it bears repeating. This is what Chief Justice Marshall said about the Necessary

and Proper Clause in McCulloch v. Maryland.

> . . . [t]his provision is made in a constitution, intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs.

McCulloch v. Maryland was decided in 1819. So the idea that we should merely consider the state of our society when we interpret the Constitution isn't new, it is old. It is very old. In fact, it is arguably older than the Senate Chamber we are standing in, which first opened in 1859.

Professor Liu's detractors have also accused him of believing that judges may ''legitimately invent constitutional rights to a broad range of social 'welfare' goods, including education, shelter, subsistence, and health care.'' That is the accusation. This argument is based on an article Professor Liu wrote in 2008.

But if you actually read the article, you will find this statement right in the introduction. This is a quote from the article:

> [B]ecause the existence of any welfare right depends on Democratic instantiation of our shared understandings, the Judiciary is generally limited to an interstitial role within the context of a legislative program. Courts do not act as 'first movers' in establishing welfare rights . . .

In other words, Professor Liu is being accused of saying judges can invent welfare rights because of an article he wrote where he said judges cannot invent welfare rights.

The final point I wish to address is the idea that Professor Liu somehow supports ''using foreign law to redefine the Constitution.'' Professor Liu's critics cite an obscure speech he gave at a Japanese law school 5 years ago. According to his critics, he said in this speech that it is ''difficult for him to grasp how anyone could resist the use of foreign authority in American constitutional law.''

I went and got a copy of the speech. If you read it, you will see that Professor Liu was referring to a series of Supreme Court decisions written by Justice Anthony Kennedy, where Justice Kennedy reviewed the laws of foreign countries on certain issues. Justice Kennedy didn't use the laws of foreign countries to decide the cases before him, he used them to get a sense of how other countries were resolving the legal issues before him.

Professor Liu was basically saying he found it difficult to grasp how people could disagree with Justice Kennedy. He has repeatedly said in his testimony, under oath, that he does not believe that foreign law should be binding in any way on Federal law.

There are other critiques against Professor Liu that I will not go into further, but I urge my colleagues to dig behind these blanket statements. To paraphrase Gertrude Stein, I think you will find there is no there there.

I think what my colleagues will find is an extraordinary intellect, a fundamentally decent man, and someone who will be a strong and impartial jurist. I urge my colleagues to vote for cloture and to vote to support his nomination.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent we now proceed to a period for morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

TRIBUTE TO BRIGADIER GENERAL STEPHEN R. HOGAN

Mr. MCCONNELL. Madam President, I rise today to congratulate a friend of mine who is a valued servant to the people of Kentucky, BG Stephen R. Hogan. On March 12 of this year, the former colonel had his promotion ceremony to the rank of brigadier general. This promotion to general is a very special accomplishment, as very few career officers in our Armed Forces ever reach the general rank.

This promotion is well deserved for all that Brigadier General Hogan has done for his country. Serving as the assistant adjutant general for the Kentucky Army National Guard, he is responsible to the adjutant general for balancing the requirements of readiness, modernization, force structure, and sustainment of the National Guard for mobilization and domestic missions.

Brigadier General Hogan's significant duty assignments include tours with the 101st Airborne Division (Air Assault), Fort Campbell, KY; the 6th Infantry Division Light, Fort Richardson, AK; the Army Operations Center, the Pentagon; and with the Multi-National Corps Iraq based in Baghdad, Iraq. When not serving on Federal active duty, he has served in the Kentucky Army National Guard as an active-duty guardsman with the State's Counter-Drug Unit, and $11 billion worth of illegal marijuana has been eradicated during his service.

Brigadier General Hogan's awards, medals and decorations include the Meritorious Service Medal, with three Bronze Oak Leaf Clusters; the Army Commendation Medal, with one Bronze Oak Leaf Cluster; the Army Reserve Components Achievement Medal, with one Silver Oak Leaf Cluster; the National Defense Service Medal; with one Bronze Service Star; the Iraq Campaign Medal; the Global War on Terrorism Service Medal; the Armed Forces Reserve Medal, with ''M'' Device and Silver Hourglass; the Army Service Ribbon, the Overseas Service Ribbon; the Master Parachutist Badge; the Pathfinder Badge; the Air Assault Badge; the Kentucky Merit Ribbon; the Kentucky Service Ribbon, with three Oak Leaf Clusters; and the Kentucky Counter Drug Ribbon.

Despite all this accomplishment, at his promotion ceremony, Brigadier General Hogan said, ''All I ever wanted to do in life is be a professional soldier.'' Well, we in Kentucky are certainly glad he got his wish. I want to congratulate him on his promotion, and I know my colleagues in the U.S. Senate will join me in honoring his service and his sacrifice for our country.

An article extolling the virtues of Brigadier General Stephen R. Hogan appeared recently in the Marion Star. I ask unanimous consent that the article be printed in the RECORD.

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

[From the Marion Star, April 18, 2011]

CONNER HIGH GRAD NAMED BRIG. GENERAL—STEPHEN HOGAN SERVED AT PENTAGON, IN BAGHDAD

(By Stephanie Salmons)

FRANKFORT.—Conner High School graduate Stephen Hogan, of Frankfort, has been promoted to the rank of brigadier general.

A 1981 Conner graduate, Hogan is the son of Paul and Marilyn Hogan of Burlington. He is a 1985 graduate of Morehead State University and a 2008 graduate of the U.S. Army War College.

Hogan received his commission from the Morehead ROTC in 1985 and since 1993 has worked with the Kentucky Army National Guard as an active-duty Guardsman with the state's Counter-Drug Unit, where Paul Hogan says his son works for a marijuana eradication program.

His assignments have included tours with the 101st Airborne Division (Air Assault), Fort Campbell, KY.; 6th Infantry Division Light, Fort Richardson, Alaska; The Army Operations Center, Pentagon; and Multi-National Corps Iraq, Baghdad, Iraq.

Hogan has also received numerous awards during his time in the military.

The Hogans said they're proud of their son.

''It's something you don't comprehend—when someone goes that far,'' Paul Hogan said.

Stephen Hogan has always had an interest in the military and has finally obtained his goal, Paul Hogan said.

''We're very pleased and proud of him. He's worked very hard,'' Marilyn Hogan said.

HONORING OUR ARMED FORCES

LANCE CORPORAL CHRISTOPHER S. MEIS

Mr. BENNET. Madam President, today I pay tribute to a young Coloradan, LCpl Christopher S. Meis, who died on March 17, 2011, from wounds he received while supporting combat operations in Helmand Province, Afghanistan. He was 20 years old. The loss of Lance Corporal Meis weighs heavily on his hometown of Bennett, CO, where he grew up dreaming of serving his country as a marine.

According to his mother, Lance Corporal Meis set his mind to becoming a soldier in the eighth grade. He always preferred the Marines, she says, because of its distinct reputation for rigor and excellence. Lance Corporal Meis enlisted in January 2010 after graduating from Bennett High School. He served a tour of duty in Afghanistan in support of Operation Enduring Freedom, earning numerous decorations.

He was a machine gunner in the 8th Marine Regiment, 2nd Marine Division, based at Camp Lejeune, NC. This post situated Lance Corporal Meis on the front lines of battle in Afghanistan, which for him meant an opportunity to contribute. His mother said that, when he called home, he spoke of his readiness for action and commitment to ''making a difference.'' He told his family that he ultimately wanted to pursue the Marine Corps as a career.

Lance Corporal Meis's bravery and exemplary service quickly won the recognition of his commanding officers. He earned, among other decorations, the National Defense Service Medal, the Afghanistan Campaign Medal, and the Global War on Terrorism Service Medal. Just 3 weeks before his passing, he received a promotion to lance corporal.

His record as a soldier exhibits America's proudest traditions of valor, commitment to duty, and strength of character. To his family, he will be remembered as a dedicated son and brother. For Lance Corporal Meis, family and duty sometimes took the same form. By putting on the uniform, he followed his two grandfathers in a proud family tradition of service in the Armed Forces. His paternal grandfather served in World War II, and his maternal grandfather retired from the Air Force.

Mark Twain once said, ''The fear of death follows from the fear of life. A man who lives fully is prepared to die at any time.'' Lance Corporal Meis's service was in keeping with this sentiment—by selflessly putting country first, he lived life to the fullest. He lived with a sense of the highest honorable purpose.

I stand with the citizens of Colorado and across our country in profound gratitude for Lance Corporal Meis's tremendous sacrifice. In Afghanistan, he fought with unwavering courage to protect America and her citizens, and for his service he will forever be remembered as one of our bravest. To honor those who survived him, I ask my colleagues to join me in extending our deepest respects and condolences to Holly, his mother, Chris, his father, Hunter, his brother, and to his entire family.

CARNEY CONFIRMATION

Mr. RUBIO. Madam President, on May 17, 2011, the Senate considered the nomination of Susan Carney to serve as a Judge on the Second Circuit Court of Appeals. I voted against her nomination and want to explain my vote.

The qualifications of a judicial nominee are critically important. Susan Carney received her A.B. in 1973 and her J.D. in 1977 from Harvard, graduating both times with honors. Following law school she clerked on the First Circuit. She then worked in private practice in Washington from 1979 until 1986. After several years of self-employment, she became affiliated with another Washington law firm in 1994 before becoming associate general counsel of the Peace Corps in 1996. Since 1998 she has worked in Yale University's General Counsel's Office; she has been deputy general counsel since 2001.

I question whether Ms. Carney has the proper experience to serve as an appellate judge. She has no litigation experience in the last 15 years. She has never tried any cases to verdict, judgment, or final decision. There is nothing in her background that will provide this body with any information as to how she will view the law and what she may or may not be inclined to do as an appellate court judge.

When examining a nominee, especially a nominee for the circuit court of appeals, I am looking for evidence in the nominee's history that will establish that the nominee is a constitutionalist. Someone who takes the original, public meaning of the text of the Constitution and our laws seriously and does not look for excuses to depart from it and read into it what he or she wants.

In making a determination as to whether to vote for a nominee, I look for evidence that the nominee meets Chief Justice John Roberts' analogy of a baseball umpire, someone who doesn't bend the rules for the game, but just calls them as he sees them; someone who offers no favoritism depending on who is at bat.

All Americans should expect Members of U.S. Senate to carefully explore and guard against judicial nominees who are activists. Judges who interpret the Constitution and laws in light of his or her personal preferences or how he or she thinks they ought to have been written should not be on the bench. We should guard against a nominee who would elevate ''empathy'' over what the rule of law requires.

The only information that has been produced about Ms. Carney's potential judicial inclinations is that she was a supporter of pro-abortion groups such as NOW, NARAL, and Planned Parenthood. This nominee has little legal and no judicial history to rely upon. The burden of proof to show that the nominee will be a fair and impartial judge falls on the nominee. There is nothing in the record that would allow me to conclude that Ms. Carney will always be fair and impartial or that she will not elevate empathy over the rule of law. What I believe we should seek is a fair judge should be neutral and rule the same way according to the laws as written regardless of who is before the court.

Senators SESSIONS, COBURN, and LEE voted against this nomination in committee. The Republican members of the ABA committee that review nominees found Ms. Carney unqualified.

A review of Ms. Carney's record lacks any indicia as to how she would rule or how she would handle her role in this critical position. In my view, the burden of proof falls to the nominee and despite the support this nomination garnered from my colleagues, I do not believe that Ms. Carney met this burden. Given the higher scrutiny associated with consideration of nominees to the circuit courts of appeal, this nominee's limited record coupled with her history of supporting liberal organizations and because the nominee has the burden of establishing fidelity to constitutional principles, I voted against this nomination.

ADDITIONAL STATEMENTS

MAKOTI, NORTH DAKOTA

• Mr. CONRAD. Madam President, today I wish to recognize a community in North Dakota that will be celebrating its 100th anniversary. On July 8–10, the residents of Makoti will gather to celebrate their community's history and founding.

The vibrant community of Makoti is a Soo Line Railroad townsite. On July 12, 1911, the village of Makoti was platted, and lots at the townsite were sold. Approximately 200 people attended the sale. The name of the town was coined by the townsite promoter, Edward Kamrud, from maakoti, a Mandan Indian word meaning largest of the earthen lodges. Edward learned of this word from James Holding Eagle, who was building a replica Mandan-type earthen lodge on the grounds of the State capitol in Bismarck.

Today, the economy of Makoti is largely based on agriculture. There are also eight businesses within the city, three churches, and the Lewis and Clark Makoti High School. Each fall, the town comes together and celebrates the Makoti Threshing Show, which is the largest threshing exhibition in North Dakota. Other recreational opportunities including a city park, swimming pool, baseball diamonds, and nearby lakes with great fishing and hunting.

The citizens of Makoti are proud of all of their accomplishments over the past 100 years and have planned a celebration that will include a golf tournament, 5K walk, arts and craft show, children's activities, a car show, a parade, and fireworks.

I ask the U.S. Senate to join me in congratulating Makoti, ND, and its residents on the first 100 years and in wishing them well through the next century. By honoring Makoti and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Makoti that

have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Makoti has a proud past and a bright future.●

ROBINSON, NORTH DAKOTA

● Mr. CONRAD. Madam President, today I wish to recognize a community in North Dakota that will be celebrating its 100th anniversary. On July 15–17, the residents of Robinson will gather to celebrate their community's history and founding.

The vibrant community of Robinson is a Northern Pacific Railroad townsite. It was named after John F. Robinson, president of the First National Bank in Steele. Verne Wells came to Robinson in 1922, and established banking and civic leadership traditions that are now in their third generation. Vernon Liedtke—1912–1957—a world famous circus star, was born here.

Today, the economy of Robinson is largely based on agriculture and hunting. There are also local businesses, such as Countryside Auto, Flath Trucking, First Security Bank West, Northern Plains Electric Cooperative, Robinson Senior Center, Carol's Kitchen, Barb's Hair Shack and the Robinson Post Office.

The citizens of Robinson are proud of all of their accomplishments over the past 100 years and have planned a celebration that will include, among other things, a class parade, dance, gun raffle, truck and tractor pull, food vendors, street dances, and fireworks.

I ask the U.S. Senate to join me in congratulating Robinson, ND, and its residents on the first 100 years and in wishing them well through the next century. By honoring Robinson and all the other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Robinson that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Robinson has a proud past and a bright future.●

SELFRIDGE, NORTH DAKOTA

● Mr. CONRAD. Madam President, today, I am pleased to recognize a community in North Dakota that is celebrating its 100th anniversary. From July 8–10, the residents of Selfridge will gather to celebrate their community's founding.

The Selfridge Milwaukee Road Railroad Station was established in 1911. Several theories exist on how Selfridge received its name. Some say the name describes the ridge of hills in the area, while others say it was named for a Milwaukee Road Railroad official. Others contend that it was named for Thomas E. Selfridge, a pioneer army aviator killed in service.

In 1925, Selfridge boasted 63 business establishments and 51 homes. By 1930, the town's population had more than doubled. In the early 1940s, crops harvested in the countryside around Selfridge brought agricultural success, and during the 1950s the city council established a water and sewer system for the community. Because prairie fires have been a concern for Selfridge since its founding, a voluntary fire department has always been in existence.

Selfridge is located in south central North Dakota in Sioux County. It is part of the Standing Rock Indian Reservation. Today the town is home to the Selfridge Fire Hall, Selfridge High School, Selfridge Post Office, Selfridge Farmer's Union Oil Co., and the Branding Iron Bar & Steakhouse.

In honor of the city's 100th anniversary, community leaders have organized, among other things, a high school reunion social, street dances, a parade, sporting activities, a performance by Native American dancers, a children's carnival, and a German supper.

I ask that my colleagues in the U.S. Senate join me in congratulating Selfridge, ND, and its residents on their first 100 years and in wishing them well in the future. By honoring Selfridge and all other historic small towns of North Dakota, we keep the great pioneering frontier spirit alive for future generations. It is places such as Selfridge that have helped shape this country into what it is today, which is why this fine community is deserving of our recognition.

Selfridge has a proud past and a bright future.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES DISCHARGED

The following bill was discharged from the Committee on Environment and Public Works, and referred as indicated:

S. 840. An act to establish customs user fees for commercial trucks transporting foreign municipal solid waste, and for other purposes; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 754. An act to authorize appropriations for fiscal year 2011 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 1022. A bill to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until December 31, 2014, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–1744. A communication from the Under Secretary of Defense (Acquisition, Technology and Logistics) transmitting, pursuant to law, a report from the Counterproliferation Program Review Committee entitled ''Report on Activities and Programs for Countering Proliferation and NBC Terrorism'' (DCN OSS 2011–0847); to the Committee on Armed Services.

EC–1745. A communication from the Assistant Secretary of Defense (Reserve Affairs), Department of Defense, transmitting, pursuant to law, a report relative to the modernization priority assessments provided by the Chiefs of the Reserve and National Guard Components; to the Committee on Armed Services.

EC–1746. A communication from the Assistant Secretary of Defense (Legislative Affairs), transmitting legislative proposals relative to the National Defense Authorization Act for Fiscal Year 2012; to the Committee on Armed Services.

EC–1747. A communication from the Assistant Secretary of Defense (Legislative Affairs), transmitting legislative proposals relative to the National Defense Authorization Act for Fiscal Year 2012; to the Committee on Armed Services.

EC–1748. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Plum Pox Virus; Update of Quarantined Areas'' (Docket No. APHIS–2010–0089) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1749. A communication from the General Counsel of the National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled ''Corporate Credit Unions'' (RIN3133–AD74) received in the Office of the President of the Senate on May 17, 2011; to the Committee on Banking, Housing, and Urban Affairs.

EC–1750. A communication from the President of the United States, transmitting, pursuant to law, a report on the continuation of the national emergency that was originally declared in Executive Order 13047 of May 20, 1997, with respect to Burma; to the Committee on Banking, Housing, and Urban Affairs.

EC–1751. A communication from the Chairman and President of the Export-Import Bank, transmitting a legislative proposal; to the Committee on Banking, Housing, and Urban Affairs.

EC–1752. A communication from the Assistant General Counsel for Legislation, Regulation and Energy Efficiency, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Submitting to the Department of Energy Trade Secrets and Commercial or Financial Information That is Privileged or Confidential'' (RIN1990–AA36) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Energy and Natural Resources.

EC–1753. A communication from the Assistant Secretary of Land and Minerals Management, Bureau of Ocean Energy Management, Regulation, and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Renewable Energy Alternate Uses of Existing Facilities on the Outer Continental Shelf—Acquire a Lease Noncompetitively'' (RIN1010–AD71) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Energy and Natural Resources.

EC–1754. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Version One Regional Reliability Standards for Facilities Design, Connections, and Maintenance; Protection and Control; and Voltage and Reactive'' (Docket No. RM09–9–000; Order No. 751) received in the Office of the President of the Senate on May 17, 2011; to the Committee on Energy and Natural Resources.

EC–1755. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Electric Reliability Organization Interpretations of Interconnection Reliability Operations and Coordination and Transmission Operations Reliability Standards'' (RIN1902–AE23) received in the Office of the President of the Senate on May 17, 2011; to the Committee on Energy and Natural Resources.

EC–1756. A communication from the Secretary of Energy, transmitting, pursuant to law, the Department's May 2011 Strategic Plan; to the Committee on Energy and Natural Resources.

EC–1757. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''An Approach for Using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis'' (Regulatory Guide 1.174, Revision 2) received during adjournment of the Senate in the Office of the President of the Senate on May 13, 2011; to the Committee on Environment and Public Works.

EC–1758. A communication from the Director of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''An Approach for Plant-Specific, Risk-Informed Decisionmaking: Technical Specifications'' (Regulatory Guide 1.177, Revision 1) received during adjournment of the Senate in the Office of the President of the Senate on May 13, 2011; to the Committee on Environment and Public Works.

EC–1759. A communication from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the extension of waiver authority for Turkmenistan; to the Committee on Finance.

EC–1760. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the annual reports that appeared in the March 2011 Treasury Bulletin; to the Committee on Finance.

EC–1761. A communication from the Board of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, transmitting, pursuant to law, the Board's 2011 Annual Report; to the Committee on Finance.

EC–1762. A communication from the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, transmitting, pursuant to law, the Board's 2011 Annual Report; to the Committee on Finance.

EC–1763. A communication from the Assistant General Counsel for Regulatory Services, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Enhanced Assessment Instruments Notice of Final Priorities, Requirements, Definitions, and Selection Criteria'' (CFDA No. 84.368) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–1764. A communication from the Director, Directorate of Standards and Guidance, Occupational Safety and Health Administration, transmitting, pursuant to law, the report of a rule entitled ''General Working Conditions in Shipyard Employment (29 CFR part 1915, subpart F)'' (RIN1218–AB50) received during adjournment of the Senate in the Office of the President of the Senate on May 13, 2011; to the Committee on Health, Education, Labor, and Pensions.

EC–1765. A communication from the Chief Privacy Officer, Privacy Office, Department of Homeland Security, transmitting, pursuant to law, a report entitled ''Privacy Office Second Quarter Fiscal Year 2011 Report to Congress''; to the Committee on Homeland Security and Governmental Affairs.

EC–1766. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled, ''Auditor's Review of the Operations and Administration of the Office of Public Education Facilities Modernization''; to the Committee on Homeland Security and Governmental Affairs.

EC–1767. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, a report entitled ''International Terrorism Victim Expense Reimbursement Program Report to Congress 2009''; to the Committee on the Judiciary.

EC–1768. A communication from the Management and Program Analyst, Citizenship and Immigration Services, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Requiring Residents Who Live Outside the United States to File Petitions According to Form Instructions'' (RIN1615–AB93) received in the Office of the President of the Senate on May 17, 2011; to the Committee on the Judiciary.

EC–1769. A communication from the Acting Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled ''Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended'' (RIN1400–AC87) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Foreign Relations.

EC–1770. A communication from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a manufacturing license agreement for the export of defense articles, including, technical data, and defense services to Canada for Telephonics APS–508 Radar System for the CP–140 Program in the amount of $25,000,000 or more; to the Committee on Foreign Relations.

EC–1771. A communication from the Acting Assistant Secretary, Bureau of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed amendment to a technical assistance agreement for the export of defense articles, including, technical data, and defense services to the United Kingdom for development and support of Data Terminal Equipment for the Bowman ComBat Infrastructure and Platform Battlefield Information System Application (BISA) Program in the amount of $100,000,000 or more; to the Committee on Foreign Relations.

EC–1772. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Traffic Separation Schemes: In the Approaches to Portland, ME; in the Approaches to Boston, MA; in the Approaches to Narragansett Bay, RI and Buzzards Bay, MA; in the Approaches to Chesapeake Bay, VA, and in the Approaches to the Cape Fear River, NC'' ((RIN1625–AB55) (Docket No. USCG–2010–0718)) received during adjournment of the Senate in the Office of the President of the Senate on May 6, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1773. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Traffic Separation Schemes: In the Strait of Juan de Fuca and its Approaches; in Puget Sound and its Approaches; and in Haro Strait, Boundary Pass, and the Strait of Georgia'' ((RIN1625–AA48) (Docket No. USCG–2002–12702)) received during adjournment of the Senate in the Office of the President of the Senate on May 6, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1774. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations; Rainy River, Ranier, MN'' ((RIN1625–AA09) (Docket No. USCG–2010–1055)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1775. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Curtis Creek, Baltimore, MD'' ((RIN1625–AA09) (Docket No. USCG–2010–1103)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1776. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Buffalo Bayou, mile 4.3, Houston, Harris County, TX'' ((RIN1625–AA09) (Docket No. USCG–2011–0100)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1777. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Duluth Ship Canal, Duluth-Superior Harbor, MN'' ((RIN1625–AA09) (Docket No. USCG–2010–1030)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1778. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulation for Marine Event;

Temporary Change of Dates for Recurring Marine Event in the Fifth Coast Guard District'' ((RIN1625–AA08) (Docket No. USCG–2010–1094)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1779. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations and Safety Zones; Recurring Events in Northern New England'' ((RIN1625–AA08) (Docket No. USCG–2010–0110)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1780. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulation; Hydroplane Races within the Captain of the Port Puget Sound Area of Responsibility'' ((RIN1625–AA08) (Docket No. USCG–2009–0996)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1781. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Anchorage Regulations; Port of New York'' ((RIN1625–AA01) (Docket No. USCG–2008–1082)) received in the Office of the President of the Senate on May 16, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1782. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Inflatable Personal Flotation Devices'' ((RIN1625–AB60) (Docket No. USCG–2011–0076)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1783. A communication from the Commander, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Great Lakes Pilotage: 2011 Annual Review and Adjustment'' ((RIN1625–AB48) (Docket No. USCG–2010–0517)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1784. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Ninth Coast Guard District Sector Realignment; Northern Lake Michigan and Lake Huron'' ((RIN1625–ZA29) (Docket No. USCG–2009–0929)) received in the Office of the President of the Senate on May 12, 2011; to the Committee on Commerce, Science, and Transportation.

EC–1785. A communication from the President of the United States, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Syria that was originally declared in Executive Order 13338 of May 11, 2004 and expanded in Executive Order 13572 of April 29, 2011; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 99. A bill to promote the production of molybdenum-99 in the United States for medical isotope production, and to condition and phase out the export of highly enriched uranium for the production of medical isotopes (Rept. No. 112–17).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

S. 398. A bill to amend the Energy Policy and Conservation Act to improve energy efficiency of certain appliances and equipment, and for other purposes (Rept. No. 112–18).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment:

S. 629. A bill to improve hydropower, and for other purposes (Rept. No. 112–19).

By Mr. KERRY, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 15. A concurrent resolution supporting the goals and ideals of World Malaria Day, and reaffirming United States leadership and support for efforts to combat malaria as a critical component of the President's Global Health Initiative.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. HARKIN for the Committee on Health, Education, Labor, and Pensions.

*Cora B. Marrett, of Wisconsin, to be Deputy Director of the National Science Foundation.

*Martha Wagner Weinberg, of Massachusetts, to be a Member of the National Council on the Humanities for a term expiring January 26, 2016.

*Paula Barker Duffy, of Illinois, to be a Member of the National Council on the Humanities for a term expiring January 26, 2016.

*Cathy N. Davidson, of North Carolina, to be a Member of the National Council on the Humanities for a term expiring January 26, 2016.

*Constance M. Carroll, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 2016.

*Albert J. Beveridge III, of the District of Columbia, to be a Member of the National Council on the Humanities for a term expiring January 26, 2016.

*Clyde E. Terry, of New Hampshire, to be a Member of the National Council on Disability for a term expiring September 17, 2013.

*Janice Lehrer-Stein, of California, to be a Member of the National Council on Disability for a term expiring September 17, 2013.

*Judith A. Ansley, of Massachusetts, to be a Member of the Board of Directors of the United States Institute of Peace for the remainder of the term expiring September 19, 2011.

*Judith A. Ansley, of Massachusetts, to be a Member of the Board of Directors of the United States Institute of Peace for a term of four years.

*John A. Lancaster, of New York, to be a Member of the Board of Directors of the United States Institute of Peace for the remainder of the term expiring September 19, 2011.

*John A. Lancaster, of New York, to be a Member of the Board of Directors of the United States Institute of Peace for a term of four years.

Mr. HARKIN. Mr. President, for the Committee on Health, Education, Labor, and Pensions I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

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

*Public Health Service nominations beginning with Manisha Patel and ending with Christopher M. Sheehan, which nominations were received by the Senate and appeared in the Congressional Record on May 11, 2011.

*Public Health Service nominations beginning with Alice Y. Guh and ending with Ukegbu J. Ugochi, which nominations were received by the Senate and appeared in the Congressional Record on May 11, 2011.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself and Ms. COLLINS):

S. 1018. A bill to amend title 10, United States Code, and the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 to provide for implementation of additional recommendations of the Defense Task Force on Sexual Assault in the Military Services; to the Committee on Armed Services.

By Mr. SANDERS (for himself and Mr. WEBB):

S. 1019. A bill to amend the Elementary and Secondary Education Act of 1965 in order to support secondary school reentry programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL (for himself and Mr. ENZI):

S. 1020. A bill to amend the Internal Revenue Code of 1986 to modify the rules relating to loans made from a qualified employer plan, and for other purposes; to the Committee on Finance.

By Mr. COBURN (for himself and Mr. CARPER):

S. 1021. A bill to limit the amount expended by the Department of Defense for printing and reproduction costs; to the Committee on Appropriations.

By Mr. REID:

S. 1022. A bill to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until December 31, 2014, and for other purposes; read the first time.

By Mr. DURBIN (for himself, Ms. COLLINS, and Mr. KERRY):

S. 1023. A bill to authorize the President to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KIRK:

S. Res. 188. A resolution opposing State bailouts by the Federal Government; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CRAPO (for himself, Ms. KLOBUCHAR, Mr. RISCH, and Mr. FRANKEN):

S. Res. 189. A resolution recognizing and honoring Harmon Killebrew and expressing the condolences of the Senate to his family on his death; considered and agreed to.

By Mr. LUGAR (for himself and Mr. COATS):

S. Res. 190. A resolution recognizing the 100th anniversary of the Indianapolis 500 Mile Race; considered and agreed to.

ADDITIONAL COSPONSORS

S. 48

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 48, a bill to amend the Public Health Service Act to provide for the participation of pharmacists in National Health Services Corps programs, and for other purposes.

S. 164

At the request of Mr. BROWN of Massachusetts, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 164, a bill to repeal the imposition of withholding on certain payments made to vendors by government entities.

S. 245

At the request of Mr. CORKER, the name of the Senator from North Dakota (Mr. HOEVEN) was added as a cosponsor of S. 245, a bill to reduce Federal spending in a responsible manner.

S. 486

At the request of Mr. WHITEHOUSE, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 486, a bill to amend the Servicemembers Civil Relief Act to enhance protections for members of the uniformed services relating to mortgages, mortgage foreclosure, and eviction, and for other purposes.

S. 489

At the request of Mr. REED, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 489, a bill to require certain mortgagees to evaluate loans for modifications, to establish a grant program for State and local government mediation programs, and for other purposes.

S. 491

At the request of Mr. PRYOR, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 491, a bill to amend title 38, United States Code, to recognize the service in the reserve components of the Armed Forces of certain persons by honoring them with status as veterans under law, and for other purposes.

S. 547

At the request of Mrs. MURRAY, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 547, a bill to direct the Secretary of Education to establish an award program recognizing excellence exhibited by public school system employees providing services to students in pre-kindergarten through higher education.

S. 555

At the request of Mr. FRANKEN, the name of the Senator from North Carolina (Mrs. HAGAN) was added as a cosponsor of S. 555, a bill to end discrimination based on actual or perceived sexual orientation or gender identity in public schools, and for other purposes.

S. 565

At the request of Mr. KERRY, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 565, a bill to establish an employment-based immigrant visa for alien entrepreneurs who have received significant capital from investors to establish a business in the United States.

S. 567

At the request of Mr. CONRAD, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from New Mexico (Mr. UDALL) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 567, a bill to amend the small, rural school achievement program and the rural and low-income school program under part B of title VI of the Elementary and Secondary Education Act of 1965.

S. 596

At the request of Mr. WYDEN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 596, a bill to establish a grant program to benefit victims of sex trafficking, and for other purposes.

S. 604

At the request of Mr. WYDEN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 604, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, and for other purposes.

S. 615

At the request of Mr. VITTER, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 615, a bill to improve the accountability and transparency in infrastructure spending by requiring a life-cycle cost analysis of major infrastructure projects, providing the flexibility to use alternate infrastructure type bidding procedures to reduce project costs, and requiring the use of design standards to improve efficiency and save taxpayer dollars.

S. 658

At the request of Ms. KLOBUCHAR, the names of the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Washington (Mrs. MURRAY), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 658, a bill to provide for the preservation of the Department of Defense of documentary evidence of the Department of Defense on incidents of sexual assault and sexual harassment in the military, and for other purposes.

S. 668

At the request of Mr. CORNYN, the name of the Senator from Kentucky (Mr. PAUL) was added as a cosponsor of S. 668, a bill to remove unelected, unaccountable bureaucrats from seniors' personal health decisions by repealing the Independent Payment Advisory Board.

S. 701

At the request of Mr. BENNET, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 701, a bill to amend section 1120A(c) of the Elementary and Secondary Education Act of 1965 to assure comparability of opportunity for educationally disadvantaged students.

S. 707

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 707, a bill to amend the Animal Welfare Act to provide further protection for puppies.

S. 712

At the request of Mr. DEMINT, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 712, a bill to repeal the Dodd-Frank Wall Street Reform and Consumer Protection Act.

S. 722

At the request of Mr. WYDEN, the name of the Senator from Colorado (Mr. UDALL) was added as a cosponsor of S. 722, a bill to strengthen and protect Medicare hospice programs.

S. 726

At the request of Mr. RUBIO, the names of the Senator from New Hampshire (Ms. AYOTTE), the Senator from Oklahoma (Mr. COBURN), the Senator from Wisconsin (Mr. JOHNSON) and the Senator from Kentucky (Mr. PAUL) were added as cosponsors of S. 726, a bill to rescind $45 billion of unobligated discretionary appropriations, and for other purposes.

S. 755

At the request of Mr. WYDEN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 755, a bill to amend the Internal Revenue Code of 1986 to allow an offset against income tax refunds to pay for restitution and other State judicial debts that are past-due.

S. 798

At the request of Mr. TESTER, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 798, a bill to provide an amnesty period during which veterans and their family members can register certain firearms in the National Firearms Registration and Transfer Record, and for other purposes.

S. 800

At the request of Mr. HARKIN, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 800, a bill to amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to reauthorize and improve the safe routes to school program.

S. 838

At the request of Mr. TESTER, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 838, a bill to amend the Toxic Substances Control Act to clarify the jurisdiction of the Environmental Protection Agency with respect to certain sporting good articles, and to exempt those articles from a definition under that Act.

S. 906

At the request of Mr. WICKER, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 906, a bill to prohibit taxpayer funded abortions and to provide for conscience protections, and for other purposes.

S. 946

At the request of Mr. BAUCUS, the name of the Senator from New Mexico (Mr. UDALL) was added as a cosponsor of S. 946, a bill to establish an Office of Rural Education Policy in the Department of Education.

S. 954

At the request of Mr. LUGAR, the name of the Senator from Florida (Mr. RUBIO) was added as a cosponsor of S. 954, a bill to promote the strengthening of the Haitian private sector.

S. 979

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 979, a bill to designate as wilderness certain Federal portions of the red rock canyons of the Colorado Plateau and the Great Basin Deserts in the State of Utah for the benefit of present and future generations of people in the United States.

S. 996

At the request of Mr. ROCKEFELLER, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 996, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2016, and for other purposes.

S. 1000

At the request of Mrs. SHAHEEN, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 1000, a bill to promote energy savings in residential and commercial buildings and industry, and for other purposes.

S. 1009

At the request of Mr. RUBIO, the names of the Senator from New Hampshire (Ms. AYOTTE), the Senator from Wyoming (Mr. BARRASSO), the Senator from Oklahoma (Mr. COBURN), the Senator from Wisconsin (Mr. JOHNSON), the Senator from Utah (Mr. LEE), the Senator from Louisiana (Mr. VITTER) and the Senator from Kentucky (Mr. PAUL) were added as cosponsors of S. 1009, a bill to rescind certain Federal funds identified by States as unwanted and use the funds to reduce the Federal debt.

S. 1014

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1014, a bill to provide for additional Federal district judgeships.

S. RES. 180

At the request of Mr. LIEBERMAN, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. Res. 180, a resolution expressing support for peaceful demonstrations and universal freedoms in Syria and condemning the human rights violations by the Assad regime.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS ON MAY 17, 2011

By Mr. INHOFE:

S. 1007. A bill to amend the Internal Revenue Code of 1986 to eliminate the taxable income limit on percentage depletion for oil and natural gas produced from marginal properties; to the Committee on Finance.

Mr. INHOFE. Mr. President, I would like to announce the reintroduction of a bill to amend the Internal Revenue Code to eliminate the taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.

Since 1926 small producers and millions of royalty owners have had the option to utilize percentage depletion to both simplify their accounting methodology and to account for the decline in the value of minerals produced from a property. Percentage depletion is particularly important to America's 611,000 low-volume marginal wells. The average marginal well produces barely 2 barrels per day, yet cumulatively they account for nearly 28 percent of domestic production in the lower 48 States. Since every on-shore natural gas and oil well eventually declines into marginal production, the economic life span and corresponding production of all wells is extended by allowing the use of percentage depletion.

Until 1998, the deduction marginal producers could take from percentage depletion was limited to 100 percent of taxable income from each individual property. Many producers, however, specialize in marginally producing wells and have many properties operating simultaneously. Naturally, some wells in a producer's portfolio are more productive than others. Some would have depletion rates greater than 100 percent of taxable income, while others would have depletion rates lower than the limit. Removing the taxable income limitation allows producers to take percentage depletion deductions on a portfolio-wide basis, which makes their entire operation more efficient.

Since 1998, Congress has understood this fact and has suspended the limitation. Unfortunately, the provision has never been made permanent. It has just been extended year after year as part of the Tax Extenders Package. Since we have had this suspension on the books for more than a decade, I think it is time to give producers the predictability they need by making this common sense tax accounting provision permanent.

At a time when our unemployment rate is at 9 percent, we need to be doing everything we can to encourage economic growth. The energy industry is a major contributor to our economy, and it has a lot of room to grow. The Congressional Research Service recently released a report that says the United States has the most energy potential under its soil than any other country on earth. Hiding beneath our soil are jobs, wealth, and lower deficits. We should allow this sector to grow. This is a common sense, easy way to do this, so I urge swift passage.

By Mr. INHOFE:

S. 1008. A bill to amend the Internal Revenue Code of 1986 to permanently extend the depreciation rules for property used predominantly within an Indian reservation; to the Committee on Finance.

Mr. INHOFE. Mr. President, I would like to bring to your attention a bill I am reintroducing that would make permanent the current tax provision that allows capital assets on Indian lands to be depreciated on an accelerated schedule.

For many years, the Federal tax code has provided an incentive for businesses to invest in operations on Indian reservations and lands across the country. According to the law, businesses that purchase capital equipment and use it on Indian lands will be able to depreciate it, on average, more than 40 percent faster than would otherwise be allowed.

This tax provision is important to Oklahoma because of our longstanding history and unique relationship with Indian tribes. In light of the weak and ongoing economic recovery, we need to be doing all that we can to encourage businesses to reinvest in and expand their operations. This alone is what will create sustainable job growth.

The accelerated depreciation schedule helps do that by giving businesses the opportunity to recover investment dollars in capital assets more rapidly. This frees up capital and allows companies to reinvest that money more quickly than would have otherwise been possible. This is money that would have been tied up in the value of their capital assets, things like buildings, equipment, and machinery.

According to the Oklahoma Department of Commerce, 96 companies in Oklahoma announced $1.7 billion of investments during the 2009–2010 period, creating an estimated 10,500 jobs. The trickledown effect of these investments

is strong: 12,000 additional jobs and additional capital stock investments of over $200 million. Companies enjoyed at least $50 million in economic incentives as a direct result of the accelerated depreciation schedule.

The Oklahoma Department of Commerce has also reported that many companies attribute this provision as a key reason for relocating to and expanding within the State. One Oklahoma food processing plant manager recently stated that the credit was a significant factor in the company's decision to expand. Had the credit not been there, the business may not have expanded, and the unemployment rate would be worse than it is today.

The accelerated schedule is currently allowed, but the law states that it will expire at the end of this year. While the provision has typically been renewed each year, many business leaders have expressed concern that it is not permanent. I can understand why. As a former businessman myself, I understand the problem of unpredictability. More and more, unpredictability is the most serious concern I hear of from Oklahoma's business leaders. They are frustrated that many government policies, ranging from environmental regulations to the tax code, are changing so dramatically that they have no way of estimating how the new regulations will impact their businesses. How do you expect anyone to make investment decisions in that kind of environment? Businesses need stability, and this is particularly true during times of economic weakness. We in Congress should take this point seriously, and we can take a step in the right direction by making permanent this important tax provision. I urge swift passage.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL (for himself and Mr. ENZI):

S. 1020. A bill to amend the Internal Revenue Code of 1986 to modify the rules relating to loans made from a qualified employer plan, and for other purposes; to the Committee on Finance.

Mr. KOHL. Mr. President, today I am introducing the Savings Enhancement by Alleviating Leakage in 401(k) Savings Act of 2011, otherwise known as the SEAL 401(k) Savings Act. This bill, which I introduce together with my friend Senator MIKE ENZI, will reduce leakage from retirement plans and help ensure that retirement savings in defined contribution plans last throughout retirement.

With the recent shift from defined benefit retirement savings plans to 401(k)-type defined contribution plans, many Americans are now responsible for making the proactive decision to save for their retirement. These decisions include how much to save and where to invest their savings. Meanwhile, they also must resist the urge to tap into their savings in times of hardship through withdrawals and loans.

During these difficult economic times, we are increasingly seeing 401(k) funds being treated as rainy day funds, as participants take out withdrawals and loans. According to a recent study by Aon Hewitt, as of the end of 2010, about 28 percent of active participants in defined contribution plans had an outstanding loan. This is a record high. Withdrawals from defined contribution plans also have increased since the 2008 financial crisis. This leakage from these plans can significantly reduce workers' savings and put their retirement security at risk.

To determine how to best tackle the issue of leakage from retirement plans, the Special Committee on Aging, of which I chair, held a hearing in July 2008 entitled, ''Saving Smartly for Retirement: Are Americans Being Encouraged to Break Open the Piggy Bank?.'' The Committee also requested a GAO report entitled, ''401(k) Plans: Policy Changes Could Reduce the Long-term Effects of Leakage on Workers' Retirement Savings,'' which was released in August 2009.

The SEAL 401(k) Savings Act builds on the recommendations the Committee received from witnesses during our hearing and from the GAO and would reduce leakage and increase retirement savings. First, the bill would extend the time workers have to repay loans. When an employee with a 401(k) plan loan loses his job, he generally is put to the choice of defaulting on his outstanding loan and incurring tax penalties or immediately repaying the entire outstanding loan balance. Paying back a loan after just losing your job can be difficult so our bill would give people more time.

While having access to a loan in an emergency is an important feature for many participants, a 401(k) savings account should not be used as a piggy bank for revolving loans. Also, the administrative burden of managing multiple loans for a few individuals can increase the costs for all workers in a plan. The SEAL Act reduces the overall number of loans that participants can take to three at one time. Currently employers determine the number of loans available, and many employers, like the Federal Thrift Savings Program, have chosen to restrict the number of loans to reduce leakage and overall cost.

The bill also would allow 401(k) participants to continue to make additional contributions during the 6 months following a hardship withdrawal. Currently, after an employee takes a withdrawal from a 401(k) plan due to a hardship, he or she is prohibited from making contributions to the plan and all other plans maintained by the employer for at least six months. This loss of both employee contributions and company matching contributions during this period can exacerbate the long-term negative effects on retirement savings.

Finally, the bill would ban products that promote leakage, such as the 401(k) debit card. By offering a 401(k) debit card, plans send the message that it is okay to use your retirement savings for every day purchases, despite the fact that the high fees associated with its use will drastically diminish their savings.

I look forward to working with my colleagues to pass this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Savings Enhancement by Alleviating Leakage in 401(k) Savings Act of 2011'' or the ''SEAL 401(k) Savings Act''.

SEC. 2. EXTENDED ROLLOVER PERIOD FOR THE ROLLOVER OF PLAN LOAN OFFSET AMOUNTS IN CERTAIN CASES.

(a) IN GENERAL.—Paragraph (3) of section 402(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(C) ROLLOVER OF CERTAIN PLAN LOAN OFFSET AMOUNTS.—

''(i) IN GENERAL.—In the case of a qualified plan loan offset amount, paragraph (1) shall not apply to any transfer of such amount made after the due date (including extensions) for filing the return of tax for the taxable year in which such amount is treated as distributed from a qualified employer plan.

''(ii) QUALIFIED PLAN LOAN OFFSET AMOUNT.—For purposes of this subparagraph, the term 'qualified plan loan offset amount' means a plan loan offset amount which is treated as distributed from a qualified employer plan to a participant or beneficiary solely by reason of—

''(I) the termination of the qualified employer plan, or

''(II) the failure to meet the repayment terms of the loan from such plan because of the separation from service of the participant (whether due to layoff, cessation of business, termination of employment, or otherwise).

''(iii) PLAN LOAN OFFSET AMOUNT.—For purposes of clause (ii), the term 'plan loan offset amount' means the amount by which the participant's accrued benefit under the plan is reduced in order to repay a loan from the plan.

''(iv) LIMITATION.—This subparagraph shall not apply to any plan loan offset amount unless such plan loan offset amount relates to a loan to which section 72(p)(1) does not apply by reason of section 72(p)(2).

''(v) QUALIFIED EMPLOYER PLAN.—For purposes of this subsection, the term 'qualified employer plan' has the meaning given such term by section 72(p)(4).''.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 402(c)(3) of the Internal Revenue Code of 1986 is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made after the date of the enactment of this Act.

SEC. 3. MODIFICATION OF RULES GOVERNING HARDSHIP DISTRIBUTIONS.

Not later than 1 year after the date of the enactment of this Act, the Secretary of the

Treasury shall modify Treasury Regulation section 1.401(k)—1(d)(3)(iv)(E) to—

(1) delete the prohibition imposed by paragraph (2) thereof, and

(2) to make any other modifications necessary to carry out the purposes of section 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of 1986.

SEC. 4. QUALIFIED EMPLOYER PLANS PROHIBITED FROM MAKING LOANS THROUGH CREDIT CARDS AND OTHER SIMILAR ARRANGEMENTS.

(a) IN GENERAL.—Paragraph (2) of section 72(p) of the Internal Revenue Code of 1986 is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) PROHIBITION OF LOANS THROUGH CREDIT CARDS AND OTHER SIMILAR ARRANGEMENTS.—Subparagraph (A) shall not apply to any loan which is made through the use of any credit card or any other similar arrangement.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date which is 60 days after the date of the enactment of this Act.

SEC. 5. LIMITATION ON NUMBER OF LOANS FROM QUALIFIED EMPLOYER PLANS WHICH MAY BE OUTSTANDING WITH RESPECT TO ANY PARTICIPANT OR BENEFICIARY.

(a) IN GENERAL.—Paragraph (2) of section 72(p) of the Internal Revenue Code of 1986, as amended by section 4, is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

''(E) EXCEPTION ONLY TO APPLY TO 3 LOANS.—Subparagraph (A) shall not apply to any loan made after the date of the enactment of this subparagraph if, immediately after such loan is made, the number of outstanding loans from the plan to the participant or beneficiary exceeds 3.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to loans made after the date which is 1 year after the date of the enactment of this Act.

Mr. ENZI. Mr. President, in February the Committee on Health, Education, Labor, and Pensions held a hearing on the success of the automatic enrollment provisions of the Pension Protection Act of 2006 which helped millions of workers and their families access to a 401(k) retirement savings accounts. Because of the Pension Protection Act, we greatly expanded retirement savings and individuals ability to put money away for their golden years.

Just last week, Fidelity Investments released a report that employer-sponsored retirement plans with an automatic enrollment feature have an overall participation rate of 82 percent compared with only 56 percent without automatic enrollment. The Fidelity report also indicated that average account balances for 401(k) and similar retirement accounts have reached an all-time high. This is some good news to show that workers and their families retirement accounts are coming back from the economic distress of just a few years ago.

While our Nation's 401(k) retirement system is providing greater opportunities for individuals to save, there is still room for improvement. Recent studies have shown that money saved in 401(k) accounts sometimes ''leaks'' out of the system and is never put back. AonHewitt released a report this week showing that unpaid loans, withdrawals and cashouts of 401(k) monies, otherwise known as ''leakage,'' can have a substantial effect on how much money ultimately will be there for retirement. According to the AonHewitt report, an individual who ceases to make loan repayments during the loan term is expected to erode future retirement income by 10 to 13 percent. If the individual has two loans and payments are not made then the reduction in retirement savings nearly doubles. In the event of a complete default of the loan, then the monies are permanently gone from the retirement system.

Today, I join the Chairman of the Senate Aging Committee, Senator KOHL, in taking the first step in helping to stop leakage in the retirement system. Chairman KOHL held a hearing on this very issue and had the Government Accountability Office, GAO, research and come up with recommendations to stop retirement savings leakage. The bill we introduce today, The Savings Enhancement by Alleviating Leakage in 401(k) Pension Act also known as the SEAL Act, is based upon those initial GAO recommendations.

The SEAL Act takes the first steps in helping workers and their families to pay back loans from 401(k) accounts when a worker leaves a job. Typically, when a worker separates from an employer any outstanding 401(k) loan must be paid back immediately or suffer tax penalties. The SEAL Act would allow for a greater period of time for the loan to be paid back thereby helping families to pay back the loan and allowing the monies to be put back into their retirement savings and avoid the tax penalty.

The bill also would remove the prohibition against individuals from making contributions to their 401(k) accounts in the following 6 months after a hardship loan has been made. Situations where hardship loans are made are some of the most stressful times for individuals and their families. If they have the ability and means to continue to contribute to their 401(k) accounts then they should be provided that option. The bill gives them the option to continue to save for retirement even in dire circumstances.

Finally, the bill would provide structural changes to 401(k) plans to help businesses keep down administrative costs and extra fees. Currently, the Internal Revenue Code permits businesses to structure retirement plans with an unlimited amount of loans per individual but an individual cannot take more than 50 percent of their retirement account balances in loans up to $50,000 for all outstanding loans. The Federal Government's Thrift Savings Plan has a limit of two outstanding loans, one personal loan and one loan for the purchase of a house, at any time. We consulted with retirement experts, mutual funds and retirement service providers and virtually all agreed that the optimal number of loans agreed upon was 3 outstanding loans at any time. Some believed that we should match the Thrift Savings Plan, however, we believe that businesses need to reduce administrative costs but they should be able to provide flexibility to their workers. The bill also would restrict the use of credit and/or debit card loans on 401(k) accounts. Again, these types of loans pull money out in ''reserve'' so that individuals can tap the reserve at any time. However, the extra administrative costs and fees are burdensome to businesses and to their workers.

Overall, the SEAL bill is the first step in helping to provide flexibility for individuals and plan structure to help keep retirement monies in retirement savings accounts. I look forward to working with Chairman KOHL in moving this important piece of retirement savings legislation. I also look forward to working with my colleagues to improve and add other items to help reduce leakage in 401(k) retirement savings and to help our Nation's workers and their families have their money there for them at retirement. Each step that we take to stop leakage will mean that individuals will be more financial secure in retirement.

By Mr. REID:

S. 1022. A bill to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until December 31, 2014, and for other purposes; read the first time.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''PATRIOT Sunsets Extension Act of 2011''.

SEC. 2. SUNSET EXTENSIONS.

(a) USA PATRIOT IMPROVEMENT AND REAUTHORIZATION ACT OF 2005.—Section 102(b)(1) of the USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109–177; 50 U.S.C. 1805 note, 50 U.S.C. 1861 note, and 50 U.S.C. 1862 note) is amended by striking ''May 27, 2011'' and inserting ''December 31, 2014''.

(b) INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.—Section 6001(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 50 U.S.C. 1801 note) is amended by striking ''May 27, 2011'' and inserting ''December 31, 2014''.

By Mr. DURBIN (for himself, Ms. COLLINS, and Mr. KERRY):

S. 1023. A bill to authorize the President to provide assistance to the Government of Haiti to end within 5 years the deforestation in Haiti and restore within 30 years the extent of tropical forest cover in existence in Haiti in 1990, and for other purposes; to the Committee on Foreign Relations.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Haiti Reforestation Act of 2011''.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the established policy of the Federal Government is to support and seek protection of tropical forests around the world;

(2) tropical forests provide a wide range of benefits by—

(A) harboring a major portion of the biological and terrestrial resources of Earth and providing habitats for an estimated 10,000,000 to 30,000,000 plant and animal species, including species essential to medical research and agricultural productivity;

(B) playing a critical role as carbon sinks that reduce greenhouse gases in the atmosphere, as 1 hectare of tropical forest can absorb up to approximately 3 tons of carbon dioxide per year, thus moderating potential global climate change; and

(C) regulating hydrological cycles upon which agricultural and coastal resources depend;

(3) tropical forests are also a key factor in reducing rates of soil loss, particularly on hilly terrain;

(4) while international efforts to stem the tide of tropical deforestation have accelerated during the past 2 decades, the rapid rate of tropical deforestation continues unabated;

(5) in 1923, over 60 percent of the land of Haiti was forested but, by 2006, that percentage had decreased to less than 2 percent;

(6) during the period beginning in 2000 and ending in 2005, the deforestation rate in Haiti accelerated by more than 20 percent over the deforestation rate in Haiti during the period beginning in 1990 and ending in 1999;

(7) as a result, during the period described in paragraph (6), Haiti lost—

(A) nearly 10 percent (approximately 11,000 hectares) of the forest cover of Haiti; and

(B) approximately 22 percent of the total forest and woodland habitat of Haiti;

(8) poverty and economic pressures are—

(A) two factors that underlie the tropical deforestation of Haiti; and

(B) manifested particularly through the clearing of vast areas of forest for conversion to agricultural uses;

(9) 80 percent of the population of Haiti lives below the poverty line;

(10) two-thirds of the population of Haiti depend on the agricultural sector, which consists mainly of small-scale subsistence farming;

(11) 60 percent of the population of Haiti relies on charcoal produced from cutting down trees for cooking fuel;

(12) soil erosion represents the most direct effect of the deforestation of Haiti, as the erosion has—

(A) lowered the productivity of the land due to the poor soils underlying the tropical forests;

(B) worsened the severity of droughts and flooding events;

(C) led to further deforestation;

(D) significantly decreased the quality and, as a result, quantity of freshwater and clean drinking water available to the population of Haiti; and

(E) increased the pressure on the remaining land and trees in Haiti;

(13) tropical forests provide forest cover to soften the effect of heavy rains and reduce erosion by anchoring the soil with their roots;

(14) when trees are cleared, rainfall runs off the soil more quickly and contributes to floods and further erosion;

(15) in 2004, Hurricane Jeanne struck Haiti, killing approximately 3,000, and affecting over 200,000, people, partly because deforestation had resulted in the clearing of large hillsides, which enabled rainwater to run off directly to settlements located at the bottom of the slopes;

(16) research conducted by the United Nations Environmental Programme has revealed a direct (89 percent) correlation between the extent of the deforestation of a country and the incidence of victims per weather event in the country;

(17) the consequences of the January 2010 earthquake in Haiti, which destroyed much of the infrastructure of Port au Prince, were greater because of deforestation which reduced hillside stability and increased the likelihood of mudslides, soil erosion, and flooding—factors that also negatively impacted the water supply and heightened concerns for the spread of waterborne diseases;

(18) finding economic benefits for local communities from sustainable uses of tropical forests is critical for the long-term protection of the tropical forests in Haiti;

(19) On July 29, 2010, the Supplemental Appropriations Act of 2010 (Public Law 111–212) was enacted into law, which included $25,000,000 for ''the reforestation and other restoration of Haiti's' key watersheds''; and

(20) tropical reforestation efforts would provide new sources of jobs, income, and investments in Haiti by—

(A) providing employment opportunities in tree seedling programs, contract tree planting and management, sustainable agricultural initiatives, sustainable and managed timber harvesting, and wood products milling and finishing services; and

(B) enhancing community enterprises that generate income through the trading of sustainable forest resources, many of which exist on small scales in Haiti and in the rest of the region.

(b) PURPOSE.—The purpose of this Act is to provide assistance to the Government of Haiti to develop and implement, or improve, nationally appropriate policies and actions—

(1) to reduce deforestation and forest degradation in Haiti;

(2) to increase annual rates of afforestation and reforestation in a measurable, reportable, and verifiable manner—

(A) to restore social and economic conditions for environmental recovery of 35 percent of Haiti's land surface area within 5 years after the date of enactment of this Act;

(B) to restore within 30 years after the date of enactment of this Act the forest cover of Haiti to at least 10 percent of the land in Haiti; and

(C) to establish within 10 years after the date of enactment of this Act agroforestry cover of land in Haiti to more than 25 percent; and

(3) to improve sustainable resource management at the watershed scale.

SEC. 3. DEFINITIONS.

In this Act:

(1) AFFORESTATION.—

(A) IN GENERAL.—The term ''afforestation'' means the establishment of a new forest through the seeding of, or planting of tress on, a parcel of nonforested land.

(B) INCLUSION.—The term ''afforestation'' includes—

(i) the introduction of a tree species to a parcel of nonforested land of which the species is not a native species; and

(ii) the increase of tree cover through plantations.

(2) AGROFORESTRY.—

(A) IN GENERAL.—The term ''agroforestry'' refers to systems in which perennial trees or shrubs are integrated with crops or livestock, and where perennials constitute a minimum 10 percent of ground cover.

(B) INCLUSION.—Actual forest cover resulting from agroforestry programs can be counted toward the total forest cover goal set forth in section (2)(b).

(3) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means—

(A) the Committee on Foreign Relations and the Committee on Appropriations of the Senate; and

(B) the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives.

(4) DEFORESTATION.—The term ''deforestation'' refers to the conversion of forest to another land use or the long term reduction of the tree canopy.

(5) FOREST.—

(A) IN GENERAL.—The term ''forest'' means a terrestrial ecosystem containing native tree species generated and maintained primarily through natural ecological and evolutionary processes.

(B) EXCLUSION.—The term ''forest'' does not include plantations, such as crops of trees planted primarily by humans for the purposes of harvesting.

(6) REFORESTATION.—

(A) IN GENERAL.—The term ''reforestation'' refers to the establishment of forest on lands that were previously considered as forest, but which have been deforested.

(B) INCLUSION.—The term ''reforestation'' includes the increase of tree cover through plantations.

TITLE I—FORESTATION AND WATERSHED MANAGEMENT ASSISTANCE TO GOVERNMENT OF HAITI

SEC. 101. FORESTATION ASSISTANCE.

(a) AUTHORITY.—

(1) IN GENERAL.—In accordance with section 117 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151p) and consistent with the provisions of paragraph (2), the President is authorized to provide assistance to the Government of Haiti in the form of financial assistance, technology transfers, or capacity building assistance for the conduct of activities to develop and implement 1 or more forestation proposals under paragraph (2)—

(A) to reduce the deforestation of Haiti; and

(B) to increase the rates of afforestation and reforestation in Haiti.

(2) PROPOSALS.—

(A) IN GENERAL.—Assistance under this title may be provided to the Government of Haiti to implement one or more proposals that contain—

(i) a description of each policy and initiative to be carried out using the assistance;

(ii) adequate documentation to ensure, as determined by the President, that—

(I) each policy and initiative will be—

(aa) carried out and managed in accordance with widely accepted environmentally sustainable forestry and agricultural practices; and

(bb) designed and implemented in a manner by which to improve the governance of forests by building governmental capacity to be more transparent, inclusive, accountable, and coordinated in decisionmaking processes and the implementation of the policy or initiative; and

(II) the proposals will further establish and enforce legal regimes, standards, and safeguards designed to ensure that members of

local communities in affected areas, as partners and primary stakeholders, will be engaged in the design, planning, implementation, monitoring, and evaluation of the policies and initiatives; and

(iii) a description of how the proposal or proposals support and aid forest restoration efforts consistent with the purpose set forth in section 2(b).

(B) DETERMINATION OF COMPATIBILITY WITH CERTAIN PROGRAMS.—In evaluating each proposal under subparagraph (A), the President shall ensure that each policy and initiative described in the proposal submitted by the Government of Haiti under that subparagraph is compatible with—

(i) broader development, poverty alleviation, sustainable energy usage, and natural resource conservation objectives and initiatives in Haiti;

(ii) the development, poverty alleviation, disaster risk management, and climate resilience programs of the United States Agency for International Development, including those involving technical support from the United States Forest Service; and

(iii) activities of international organizations and multilateral development banks.

(b) ELIGIBLE ACTIVITIES.—Any assistance received by the Government of Haiti under subsection (a)(1) shall be conditional upon development and implementation of a proposal under subsection (a)(2), which may include—

(1) the provision of technologies and associated support for activities to reduce deforestation or increase afforestation and reforestation rates, including—

(A) fire reduction initiatives;

(B) forest law enforcement initiatives;

(C) the development of timber tracking systems;

(D) the development of cooking fuel substitutes;

(E) initiatives to increase agricultural productivity;

(F) tree-planting initiatives; and

(G) programs that are designed to focus on market-based solutions, including programs that leverage the international carbon-offset market;

(2) the enhancement and expansion of governmental and nongovernmental institutional capacity to effectively design and implement a proposal developed under subsection (a)(2) through initiatives, including—

(A) the establishment of transparent, accountable, and inclusive decision-making processes relating to all stakeholders (including affected local communities);

(B) the promotion of enhanced coordination among ministries and agencies responsible for agroecological zoning, mapping, land planning and permitting, sustainable agriculture, forestry, and law enforcement; and

(C) the clarification of land tenure and resource rights of affected communities, including local communities;

(3) the development and support of institutional capacity to measure, verify, and report the activities carried out by the Government of Haiti to reduce deforestation and increase afforestation and reforestation rates through the use of appropriate methods, including—

(A) the use of best practices and technologies to monitor land use change in Haiti, including changes in the extent of natural forest cover, protected areas, mangroves, agroforestry, and agriculture;

(B) the monitoring of the impacts of policies and initiatives on—

(i) affected communities;

(ii) the biodiversity of the environment of Haiti; and

(iii) the health of the tropical forests of Haiti; and

(C) independent and participatory forest monitoring; and

(4) the development of and coordination with watershed restoration programs in Haiti, including—

(A) agreements with the Government of Haiti, nongovernmental organizations, or private sector partners to provide technical assistance, capacity building, or technology transfers which support the environmental recovery of Haiti's watersheds through forest restoration activities, provided that the assistance will help strengthen economic drivers of sustainable resource management, reduce environmental vulnerability, and improve governance, planning, and community action of watersheds in Haiti;

(B) actions to support economic incentives for sustainable resource management, may including enhanced incentives for the replacement of annual hillside cropping with perennial and non-erosive production systems;

(C) enhanced extension services supporting the sustainable intensification of agriculture to increase farmer incomes and reduce pressure on degraded land; and

(D) investments in watershed infrastructure to reduce environmental vulnerability, including the establishment of appropriate erosion control measures through reforestation activities in targeted watersheds or sub-watersheds.

(c) DEVELOPMENT OF PERFORMANCE METRICS.—

(1) IN GENERAL.—If the President provides assistance under subsection (a)(1), the President, in cooperation with the Government of Haiti, shall develop appropriate performance metrics to measure, verify, and report—

(A) the conduct of each policy and initiative to be carried out by the Government of Haiti;

(B) the results of each policy and initiative with respect to the tropical forests of Haiti; and

(C) each impact of each policy and initiative on the local communities of Haiti.

(2) REQUIREMENTS.—Performance metrics developed under paragraph (1) shall, to the maximum extent practicable, include short-term and long-term metrics to evaluate the implementation of each policy and initiative contained in each proposal developed under subsection (a)(2).

(d) REPORTS.—

(1) INITIAL REPORT.—Not later than 18 months after the date of enactment of this Act, the President shall submit to the appropriate committees of Congress a report that describes the actions that the President has taken, and plans to take—

(A) to engage with the Government of Haiti, nongovernmental stakeholders, and public and private nonprofit organizations to implement this section; and

(B) to enter into agreements with the Government of Haiti under subsection (a)(1).

(2) BIENNIAL REPORTS.—Not later than 2 years after the date on which the President first provides assistance to the Government of Haiti under subsection (a)(1) and biennially thereafter, the President shall submit to Congress a report that describes the progress of the Government of Haiti in implementing each policy and initiative contained in the proposal submitted under subsection (a)(2).

(e) ADDITIONAL ASSISTANCE.—The President is authorized to provide financial and other assistance to the Government of Haiti, local government bodies, or nongovernmental organizations for the purpose of—

(1) providing local communities information relating to each policy and initiative to be carried out by the Government of Haiti through funds made available under subsection (a)(1);

(2) promoting effective participation by local communities in the design, implementation, and independent monitoring of each policy and initiative; and

(3) promoting, consistent with supporting the sustainability of forestation activities, enhanced watershed governance, national planning, and community action programs that lead to increased—

(A) development of a national watershed management policy for Haiti with the Inter-Ministerial Committee for Land Management, the Ministry of Environment, Ministry of Agriculture, and the Ministry of Planning and External Cooperation;

(B) establishment of an effective forum for donor coordination related to management and reforestation in Haiti;

(C) support for the National Center for Geospatial Information (CNIGS) to provide technology, data, and monitoring support for improved watershed and forest resource management at a national scale in Haiti; and

(D) development of effective governance structures in Haiti for stakeholder engagement, coordination of approaches, and land use planning and disaster mitigation at the watershed scale.

TITLE II—GRANTS FOR REFORESTATION

SEC. 201. REFORESTATION GRANT PROGRAM.

(a) ESTABLISHMENT.—The President is authorized to establish a grant program to carry out the purposes of this Act, including reversing deforestation and improving reforestation and afforestation in Haiti.

(b) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The President is authorized to award grants and contracts to carry out projects that, in the aggregate, reverse deforestation and improve reforestation and afforestation.

(2) MAXIMUM AMOUNT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the President may not award a grant under this section in an amount greater than $500,000 per year.

(B) EXCEPTION.—The President may award a grant under this section in an amount greater than $500,000 per year if the President determines that the recipient of the grant has demonstrated success with respect to a project that was the subject of a grant under this section.

(3) DURATION.—The President shall award grants under this section for a period not to exceed 3 years.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Grants awarded pursuant to subsection (b) may be used for activities such as—

(A) providing a financial incentive to protect trees;

(B) providing hands-on management and oversight of replanting efforts;

(C) focusing on sustainable income-generating growth;

(D) providing seed money to start cooperative reforestation and afforestation efforts and providing subsequent conditional funding for such efforts contingent upon required tree care and maintenance activities;

(E) promoting widespread use of improved cooking stove technologies, to the extent that this does not result in the harvesting of tropical forest growth and other renewable fuel technologies that reduce deforestation and improve human health; and

(F) securing the involvement and commitment of local communities—

(i) to protect tropical forests in existence as of the date of enactment of this Act; and

(ii) to carry out afforestation and reforestation activities.

(2) CONSISTENCY WITH PROPOSALS.—To the maximum extent practicable, a project carried out using grant funds shall support and be consistent with the proposal developed

under section 101(a)(2) that is the subject of the project.

(d) APPLICATION.—

(1) IN GENERAL.—To be eligible for a grant under this section, an entity shall prepare and submit an application at such time, in such manner, and containing such information as the President may reasonably require.

(2) CONTENT.—Each application submitted under paragraph (1) should be consistent with the findings of the 2007 United States Agency for International Development report entitled, ''Environmental Vulnerability in Haiti: Findings and Recommendations'', and shall include—

(A) a description of the objectives to be attained;

(B) a description of the manner in which the grant funds will be used;

(C) a plan for evaluating the success of the project based on verifiable evidence; and

(D) to the extent that the applicant intends to use nonnative species in afforestation efforts, an explanation of the benefit of the use of nonnative species over native species and verification that the species to be used are not invasive.

(3) PREFERENCE FOR CERTAIN PROJECTS.—In awarding grants under this section, preference shall be given to applicants that propose—

(A) to develop market-based solutions to the difficulty of reforestation in Haiti, including the use of conditional cash transfers and similar financial incentives to protect reforestation efforts;

(B) to partner with local communities and cooperatives; and

(C) to focus on efforts that build local capacity to sustain growth after the completion of the underlying grant project.

(e) DISSEMINATION OF INFORMATION.—The President shall collect and widely disseminate information about the effectiveness of the demonstration projects assisted under this section.

SEC. 202. FOREST PROTECTION GRANTS.

Chapter 7 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2281 et seq.) is amended by inserting after section 466 the following new section:

''SEC. 467. PILOT PROGRAM FOR HAITI.

''(a) SUBMISSION OF LIST OF AREAS OF SEVERELY DEGRADED NATURAL RESOURCES.—The President, in cooperation with nongovernmental conservation organizations, shall invite the Government of Haiti to submit a list of areas within the territory of Haiti in which tropical forests are seriously degraded or threatened.

''(b) REVIEW OF LIST.—The President shall assess the list submitted by the Government of Haiti under subsection (a) and shall seek to reach agreement with the Government of Haiti for the restoration and future sustainable use of those areas.

''(c) GRANT PROGRAM.—

''(1) GRANTS AUTHORIZED.—The President is authorized to make grants on such terms and conditions as may be necessary to nongovernmental organizations for the purchase on the open market of discounted debt of the Government of Haiti, if a market is determined to be viable, in exchange for commitments by the Government of Haiti to restore tropical forests identified by the Government under subsection (a) or for commitments to develop plans for sustainable use of such tropical forests.

''(2) MANAGEMENT OF PROTECTED AREAS.—Each recipient of a grant under this subsection shall participate in the ongoing management of the area or areas protected pursuant to such grant.

''(3) RETENTION OF PROCEEDS.—Notwithstanding any other provision of law, a grantee (or any subgrantee) of the grants referred to in section (a) may retain, without deposit in the Treasury of the United States and without further appropriation by Congress, interest earned on the proceeds of any resulting debt-for-nature exchange pending the disbursements of such proceeds and interest for approved program purposes, which may include the establishment of an endowment, the income of which is used for such purposes.

''(4) TERMINATION OF PROGRAM.—The authority to make grants under the pilot program shall terminate five years after the date of the enactment of this Act. The authority may be renewed for one additional five-year period during the 30-year reforestation period targeted by this Act if the President determines and certifies to Congress that the pilot program is effective in meeting the goals of the Act and the commitment of the Government of Haiti to returning land in Haiti to long-term sustainable forests. The cumulative duration of the pilot program may not exceed ten total years.''.

TITLE III—ADMINISTRATIVE PROVISION

SEC. 301. DELEGATION.

The President (or the Administrator of the United States Agency for International Development or the Secretary of State as the President's delegee) may draw, as appropriate, on the expertise of the United States Forest Service in designing and implementing programs pursuant to this Act relating to reforestation, watershed restoration, and monitoring of land use change.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 188—OPPOSING STATE BAILOUTS BY THE FEDERAL GOVERNMENT

Mr. KIRK submitted the following resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. RES. 188

Whereas each State of the Union is a sovereign entity with a constitution and authority to issue sovereign debt;

Whereas the legislature of each State of the Union has the authority to reduce spending or raise taxes to pay the obligations to which the State has committed itself;

Whereas the officials of each State of the Union have the legal obligation to fully disclose the financial condition of the State to investors who purchase the debt of such State;

Whereas Congress has rejected prior requests from State creditors for payment of defaulted State debt; and

Whereas during the financial crisis in 1842, the Senate requested that the Secretary of State report any negotiations with State creditors to assume or guaranty State debts, to ensure that no promises of Federal Government support were proffered: Now, therefore, be it

Resolved, That—

(1) the Federal Government should take no action to redeem, assume, or guarantee State debt; and

(2) the Secretary of the Treasury should report to Congress negotiations to engage in actions that would result in an outlay of Federal funds on behalf of creditors to a State.

SENATE RESOLUTION 189—RECOGNIZING AND HONORING HARMON KILLEBREW AND EXPRESSING THE CONDOLENCES OF THE SENATE TO HIS FAMILY ON HIS DEATH

Mr. CRAPO (for himself, Ms. KLOBUCHAR, Mr. RISCH, and Mr. FRANKEN) submitted the following resolution; which was considered and agreed to:

S. RES. 189

Whereas Harmon Clayton Killebrew was born on June 29, 1936, in Payette, Idaho;

Whereas Harmon Killebrew earned multiple awards as an athlete in baseball, basketball, and football while at Payette High School;

Whereas at the age of 17, Harmon Killebrew signed his first professional baseball contract with the Washington Senators;

Whereas Harmon Killebrew credits then-United States Senator from the State of Idaho, Herman Welker, with recommending to the Griffith family, then-Washington Senators owners, that the Washington Senators sign Killebrew;

Whereas Harmon Killebrew played his first 7 seasons of professional baseball in Washington, D.C. before moving with the Washington Senators franchise to the State of Minnesota in 1961, where the team was renamed the Minnesota Twins;

Whereas Harmon Killebrew played 14 seasons with the Minnesota Twins;

Whereas Harmon Killebrew hit the longest home run in the history of Metropolitan Stadium, which hit a seat located 520 feet from home plate that the Twins later painted red in honor of that historic shot;

Whereas while with the Minnesota Twins, Harmon Killebrew made the All-Star Team in 10 different seasons and competed in the 1965 World Series, where the Minnesota Twins fell in 7 games to the Los Angeles Dodgers;

Whereas Harmon Killebrew earned the American League's Most Valuable Player award in 1969 when he led the league in both home runs and runs batted in;

Whereas Harmon Killebrew retired from professional baseball in 1975, after playing 1 season with the Kansas City Royals;

Whereas uniform number 3, which Harmon Killebrew wore while with the Minnesota Twins, has been retired by the Minnesota Twins;

Whereas as of 2011, Harmon Killebrew, with 573 career home runs, ranks 11th highest on the all-time career home run list of Major League Baseball;

Whereas Harmon Killebrew was elected to the Baseball Hall of Fame in 1984;

Whereas Harmon Killebrew remained active in many important charitable efforts following the conclusion of his playing career;

Whereas in 1977, Harmon Killebrew joined with Ralph Harding, a former United States Representative from the State of Idaho, in founding the Danny Thompson Memorial Golf Tournament, in honor of Danny Thompson, Harmon Killebrew's former Minnesota Twins teammate who died as a result of leukemia in 1976; and

Whereas the efforts of Harmon Killebrew in support of the annual Danny Thompson Memorial Golf Tournament in the State of Idaho generated more than $25,000,000 for leukemia and cancer research at St. Luke's Mountain States Tumor Institute in Boise, Idaho and the University of Minnesota Cancer Research Center: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes Harmon Killebrew as one of the greatest professional baseball players of all time;

(2) honors Harmon Killebrew for his charitable efforts to support leukemia and cancer research; and

(3) extends the deepest condolences of the Senate to the family of Harmon Killebrew.

SENATE RESOLUTION 190—RECOGNIZING THE 100TH ANNIVERSARY OF THE INDIANAPOLIS 500 MILE RACE

Mr. LUGAR (for himself and Mr. COATS) submitted the following resolution; which was considered and agreed to:

S. RES. 190

Whereas the Indianapolis Motor Speedway is the largest spectator sporting facility in the world, with more than 250,000 permanent seats;

Whereas founders Carl G. Fisher, Arthur C. Newby, Frank H. Wheeler, and James A. Allison pooled their resources in 1909 to build the Indianapolis Motor Speedway 5 miles from downtown Indianapolis as a testing ground to support the growing automotive industry of Indiana;

Whereas on August 14, 1909, the first motorized races, using motorcycles, took place on the recently completed 2.5-mile oval, which had a racing surface composed of crushed stone and tar;

Whereas on August 19, 1909, the first 4-wheeled automobile races at the Indianapolis Motor Speedway took place;

Whereas for 63 days in late 1909, 3,200,000 paving bricks, each weighing 9.5 pounds, were laid on top of the crushed stone and tar surface to upgrade the Indianapolis Motor Speedway, leading the facility to be nicknamed ''The Brickyard'';

Whereas a 3-foot horizontal strip of that original brick remains exposed at the start and finish line, known as the ''Yard of Bricks'';

Whereas on May 30, 1911, the first Indianapolis 500 Mile Race took place and was won by Ray Harroun at an average speed of 74.602 miles per hour;

Whereas the Indianapolis 500, the largest single-day spectator sporting event in the world, has occurred on every Memorial Day weekend since 1911, except during the involvement of the United States in world wars from 1917 through 1918 and 1942 through 1945;

Whereas in 1977, Janet Guthrie became the first woman to compete in the Indianapolis 500;

Whereas in 1991, Willy T. Ribbs became the first African-American driver to compete in the Indianapolis 500;

Whereas the Indianapolis Motor Speedway, by hosting the IZOD IndyCar Series, the NASCAR Sprint Cup Series, the MotoGP Series, and the Formula One Series, is the only facility in the world that has played host to these 4 elite worldwide racing series;

Whereas every May since 1981 the Indianapolis Motor Speedway has served as the backdrop for the annual Armed Forces Induction Ceremony, in which citizens of Indiana who have volunteered to serve in the Armed Forces are administered the oath of enlistment;

Whereas in 1987, the Indianapolis Motor Speedway was officially listed on the National Park Service list of National Historic Landmarks as the oldest continuously operated automobile racecourse; and

Whereas the Indianapolis 500 Mile Race has played an enormous part in shaping and defining the City of Indianapolis, the State of Indiana, United States motorsports, and the United States automobile industry, and is a great source of pride to all citizens of Indiana: Now, therefore, be it

Resolved, That the Senate recognizes the 100th anniversary of the Indianapolis 500 Mile Race.

AMENDMENTS SUBMITTED AND PROPOSED

SA 320. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the resolution S. Res. 174, expressing the sense of the Senate that effective sharing of passenger information from inbound international flight manifests is a crucial component of our national security and that the Department of Homeland Security must maintain the information sharing standards required under the 2007 Passenger Name Record Agreement between the United States and the European Union.

TEXT OF AMENDMENTS

SA 320. Mr. REID (for Mr. LIEBERMAN) proposed an amendment to the resolution S. Res 174, expressing the sense of the Senate that effective sharing of passenger information from inbound international flight manifests is a crucial component of our national security and that the Department of Homeland Security must maintain the information sharing standards required under the 2007 Passenger Name Record Agreement between the United States and the European Union; as follows:

In the 5th whereas clause of the preamble, strike ''an agreement to exchange passenger information'' and insert ''information sharing agreements''.

In the 6th whereas clause of the preamble, strike ''international law and treaties have recognized'' and insert ''security and intelligence experts recognize''.

NOTICE OF HEARING

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. LEVIN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs has scheduled a hearing entitled, ''Stimulus Contractors Who Cheat on Their Taxes: What Happened?'' The Subcommittee hearing will focus on the findings of the forthcoming Government Accountability Office Report entitled Thousands of Recovery Act Contract and Grant Recipients Owe Hundreds of Millions in Federal Taxes to examine how contractors with tax delinquencies received payments under the American Recovery and Reinvestment Act, ARRA. The hearing will also examine solutions to the problem, including denying Federal contract dollars to subcontractors with serious tax delinquencies. Witnesses for the hearing will include Mr. Gregory D. Kutz, Director of Forensic Audits and Investigative Services of the Government Accountability Office and The Honorable Daniel I. Gordon, Administrator of the Office of Federal Procurement Policy at the Office of Management and Budget.

The Subcommittee hearing has been scheduled for Tuesday, May 24, 2011, at 2:30 p.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Elise Bean of the Permanent Subcommittee on Investigations at (202) 224–9505.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on May 18, 2011, at 2:30 p.m., to hold a European Affairs subcommittee hearing entitled, ''Administration Priorities for Europe in the 112th Congress.''

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate on March 18, 2011, at 2:20 p.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on May 18, 2011, at 9:45 a.m.

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

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on May 18, 2011, at 10 a.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Improving Efficiency and Ensuring Justice in the Immigration Court System.''

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on May 18, 2011. The committee will meet in room 418 of the Russell Senate Office Building beginning at 10 a.m.

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

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate on May 18, 2011, at 2:30 p.m., in room SD–366 of the Dirksen Senate Office Building.

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

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support of the Committee on Armed Services be authorized to meet during the session of the Senate on May 18, 2011, at 10 a.m.

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

SUBCOMMITTEE ON SCIENCE AND SPACE

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Science and Space of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on May 18, 2011, at 10:30 a.m. in room 253 of the Russell Senate Office Building, to conduct a hearing entitled, ''Contributions of Space to National Imperatives.''

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

SUBCOMMITTEE ON SEAPOWER

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet during the session of the Senate on May 18, 2011, at 2:30 p.m.

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

SUBCOMMITTEE ON SECURITIES, INSURANCE, AND INVESTMENT

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs' Subcommittee on Securities, Insurance, and Investment, be authorized to meet during the session of the Senate on May 18, 2011, at 9:30 a.m., to conduct a hearing entitled ''The State of the Securitization Markets.''

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

U.S./EUROPEAN UNION FLIGHT MANIFEST EXCHANGE

Mr. REID. I ask unanimous consent the Senate proceed to Calendar No. 49, S. Res. 174.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 174) expressing the sense of the Senate that effective sharing of passenger information from inbound international flight manifests is a crucial component of our national security and that the Department of Homeland Security must maintain the information sharing standards required under the 2007 Passenger Name Record Agreement between the United States and the European Union.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I ask unanimous consent the resolution be agreed to, the Lieberman amendment, which is at the desk, to the preamble, be agreed to; the preamble as amended be agreed to; there be no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 174) was agreed to.

The amendment (No. 320) was agreed to, as follows:

(Purpose: To amend the preamble)

In the 5th whereas clause of the preamble, strike ''an agreement to exchange passenger information'' and insert ''information sharing agreements''.

In the 6th whereas clause of the preamble, strike ''international law and treaties have recognized'' and insert ''security and intelligence experts recognize''.

The preamble, as amended, was agreed to.

The resolution, with its preamble, as amended, read as follows:

S. RES. 174

Whereas the National Commission on Terrorist Attacks Upon the United States—

(1) found that ''[t]argeting travel is at least as powerful a weapon against terrorists as targeting their money''; and

(2) recommended that the United States ''combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorist, find terrorist travel facilitators, and constrain terrorist mobility'';

Whereas terrorists continue to target international travel to the United States, as evidenced by Umar Farouk Abdulmutallab's attempt to detonate a bomb on board Northwest Airlines Flight 253 on December 25, 2009, en route from Amsterdam to Detroit;

Whereas Congress responded to the attacks of September 11, 2001, by mandating that all air carriers flying into the United States provide passenger name record (referred to in this resolution as ''PNR'') data concerning all inbound passengers to U.S. Customs and Border Protection to assist the Department of Homeland Security in fulfilling its missions of protecting the border and enhancing border security;

Whereas there is bipartisan agreement on the need to collect and share passenger travel data, which—

(1) has served as a cornerstone for interdicting terrorists by the administrations of President Barack Obama and former President George W. Bush; and

(2) continues to fulfill the mandate for increased information sharing set by Congress in—

(A) the Aviation and Transportation Security Act (Public Law 107–71);

(B) the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458);

(C) the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110–53); and

(D) other laws requiring information sharing internationally and within the United States Government to promote greater security;

Whereas the Implementing Recommendations of the 9/11 Commission Act of 2007 required nations to enter into information sharing agreements with the United States in order to qualify for the United States visa waiver program;

Whereas security and intelligence experts recognize that—

(1) advance information about travelers is a critical tool in identifying high-risk passengers; and

(2) the intelligence gained from the analysis of passenger travel data is critical for—

(A) protecting the United States against terrorists entering the United States; and

(B) preventing terrorists from boarding international flights bound for the United States;

Whereas the Agreement Between the United States of America and the European Union on the Processing and Transfer of Passenger Name Record (PNR) Data by Air Carriers to the United States Department of Homeland Security (DHS), done at Brussels and Washington on July 23 and 26, 2007 (referred to in this resolution as the ''EU–U.S. PNR Agreement'')—

(1) succeeded a series of agreements between 2002 and October 2006;

(2) was intended to remain in effect until 2014; and

(3) complied with European Union and United States privacy laws by providing assurances that the United States would use PNR data for limited purposes;

Whereas PNR data gathered pursuant to the EU–U.S. PNR Agreement has been used to identify and arrest a number of dangerous terrorists, including—

(1) David Headley, who was planning an attack on Denmark and who contributed to the tragedy in Mumbai; and

(2) Faisal Shahzad, who was attempting to flee the country after attempting to set off a car-bomb in Times Square.

Whereas PNR data has been used to prevent the travel of many other individuals considered to be national security threats or otherwise inadmissible to the United States;

Whereas the privacy protections in the current EU–U.S. PNR Agreement are robust, and a February 2010 joint review by both signatories found no privacy violations, misuse, or injury from the collection of PNR data by the Department of Homeland Security;

Whereas although the United States and the European Union have different governing mechanisms that lead to differences in how oversight is conducted, both governments have a firm commitment to the protection of data and the respect of individual privacy;

Whereas in February 2011, the European Commission proposed that the European Union create its own PNR system in order to identify potential terrorists and other dangerous criminals;

Whereas in 2010, the Washington Post—

(1) recognized the important role that PNR data plays in securing international aviation; and

(2) recommended that data sharing should not be restricted without demonstrating specific problems with the operation of current agreement: Now, therefore, be it

Resolved, That the Senate—

(1) acknowledges the grave threat posed by terrorists and other dangerous criminals who seek to exploit international aviation to do harm to our countries;

(2) urges the Department of Homeland Security to reject any efforts by the European Union to modify existing PNR data sharing mechanisms in a way that would degrade the usefulness of the PNR data for identifying terrorists and other dangerous criminals;

(3) urges the Department of Homeland Security to not enter into any agreement that would impose European oversight structures on the United States; and

(4) opposes any effort by the European Union to interfere with counterterrorism cooperation and information sharing between the Department of Homeland Security and non-European countries.

RECOGNIZING AND HONORING HARMON KILLEBREW

Mr. REID. I ask unanimous consent the Senate proceed to S. Res. 189.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 189) recognizing and honoring Harmon Killebrew and expressing the condolences of the Senate to his family on his death.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Madam President, I will just make a very brief comment. I am not a great baseball fan. I am a baseball fan. I am sure there are better fans than me. I have followed baseball all of my life, starting as a little boy. I have listened to baseball games, and I would have loved to have met Harmon Killebrew. He was a man who, before anyone ever suggested steroids, was so powerful. He holds 10th or 11th place in the history of baseball for hitting home runs. According to what everyone says about him, he was such a nice man in addition to that.

Mr. FRANKEN. Madam President, I rise to talk about a Minnesota icon. Minnesotans and baseball fans across this country are celebrating the life of Harmon Killebrew today. We lost the great slugger yesterday.

I never met Mr. Killebrew, which is kind of hard for me to believe, because, similar to so many Minnesotans, I felt that I knew him. He was the heart of the Minnesota Twins franchise, not just because of the towering home runs he hit but because, on and off the field, he carried himself with so much dignity and grace and humility.

I was 9 years old when the old Washington Senators moved to Minnesota and became the Minnesota Twins. We were so excited to have a major league team in Minnesota, and Killebrew was the heart and the anchor of the franchise, batting cleanup and cracking out 400-foot-plus home runs with his unbelievably powerful swing.

By 1965, Killebrew, along with Tony Oliva, Zoilo Versalles, Bob Allison, Earl Battey, Jim Perry, Jim Kaat, and Mudcat Grant unseated the Yankee dynasty and took the American League pennant. I was sitting along the left field line of Metropolitan Stadium the game before the All-Star break that year when Killebrew hit a ninth-inning walk-off homer to beat the Yankees. It was not a typical Killebrew home run. It was a line drive that just shot out of the park into the left field stands, and it sent us into the All-Star break in first place. I, along with lots of Twins fans, believe that was the blow that was the key to that season.

As I said, that rope of a homer was not a typical Killebrew home run. He was known for these towering blasts. I remember one in particular. I was watching the Twins on TV one summer night with my dad and my brother, and the Twins were playing the Tigers in Detroit in the old Tiger Stadium.

And Killebrew got ahold of one and it cleared the left field roof, one of just four shots that cleared that roof in the 87-year history of the stadium. My recollection is that by its trajectory, the ball was estimated to be a 480-foot home run. Killebrew hit the longest ball in the history of Metropolitan Stadium—a 530-foot shot!

Now Killebrew was not that big a man. He was 5 feet 11 inches and about 210 pounds. In his major league career, Harmon Killebrew hit 573 home runs, all without the aid of steroids. Killebrew grew up in rural Idaho. According to one press account I read last night, Killebrew claimed to have gotten his strength from carrying 10-gallon milk cans during the summers as a youth.

But I know a little something, second hand, about where the power for those home runs really came from. His legs. See, about 20 years ago, a friend of mine did a little film with Killebrew, and travelled to his home in Idaho.

My friend asked Killebrew where his power came from, and Harmon said that it came from his legs. Killebrew told my friend that the Killebrews all had incredibly powerful legs and that his father, Killebrew's father, could jump over a cow from a standing position.

I had always hoped to meet Killebrew and ask him about that. I had a chance to. In 2005, there was a commemoration of the 40th anniversary of the 1965 Twins team. It was held in a tent after a Twins' game at the Metrodome.

I was in the tent and I got Tony Oliva's autograph, and Camilo Pascual's. And I saw Killebrew and he was surrounded by fans. And I just wanted to give him some space. He was a totally accessible guy. Every Twins fan knew that from his years on the team and his years in the Twins broadcast booth. But for some reason I decided to talk to another member of that great team, and figured I would talk to Harmon a little later. But by the time I tried to find him again, he was gone.

So, I never met Harmon Killebrew. But, again, like all Twins fans, I felt I knew him. A gracious, humble man that we in Minnesota were privileged to watch, and who we were privileged to have represent our State.

Mr. CRAPO. Madam President, my colleagues Senators JIM RISCH, AMY KLOBUCHAR and AL FRANKEN join me today in honoring the life of Harmon Clayton Killebrew. We join with his family and friends in mourning his passing and paying tribute to his inspirational life.

Harmon Killebrew began his exemplary athletic career in Idaho. He was born June 29, 1936, in Payette, ID, where he earned multiple awards as an athlete in baseball, basketball and football at Payette High School. Harmon explained his childhood in Idaho in a way that fellow Idahoans could clearly understand. He often shared this quote from his childhood. ''My father used to play with my brother and me in the yard. Mother would come out and say, 'You're tearing up the grass'; 'We're not raising grass,' Dad would reply. We're raising boys.' '' We understand Harmon often credited then-U.S. Senator from Idaho, Herman Welker, for recommending to then-Washington Senators owners, the Griffith family, that their team sign Killebrew, and at age 17, Killebrew signed his first professional baseball contract with the Washington Senators.

He went on to play his first seven seasons here in Washington, DC, before moving with the franchise to Minnesota in 1961, when it would be renamed the Minnesota Twins. Killebrew played 14 seasons in Minnesota, making the All-Star team in 10 of those seasons. He also competed in the 1965 World Series, where his Twins would lose to the Los Angeles Dodgers in seven games. Killebrew completed his professional baseball career in 1975, playing one season with the Kansas City Royals.

His remarkable skills earned him due recognition. He was awarded the American League Most Valuable Player Award in 1969, when he led the league in both home runs and runs batted in. Killebrew's No. 3 uniform was retired by the Minnesota Twins, and he was elected to the Baseball Hall of Fame in 1984. His accomplishment of 573 career home runs currently ranks 11th on the All-Time baseball list.

Killebrew's legacy extends far beyond the baseball field. He remained active in Idaho following his retirement, including taking the lead on many important charitable efforts. In 1977, Killebrew and former Idaho Representative Ralph Harding founded the Danny Thompson Memorial Golf Tournament, in honor of Killebrew's former Minnesota Twins teammate, who died from leukemia in 1976. Since then, this annual tournament, played in Sun Valley, ID, has raised more than $11 million, which has been leveraged with matching grants to over $25 million, for leukemia and cancer research. Each year, these proceeds are divided equally between St. Luke's Mountain States Tumor Institute in Boise, Idaho and the University of Minnesota Cancer Research Center.

Harmon Killebrew's talent and hard work have inspired countless young athletes, and he leaves behind a legacy of encouraging skill and dedicated service. We extend our condolences and prayers to his family, friends and loved ones and deep gratitude for his compassion, service and leadership.

Mr. REID. I am very happy to ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 189) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 189

Whereas Harmon Clayton Killebrew was born on June 29, 1936, in Payette, Idaho;

Whereas Harmon Killebrew earned multiple awards as an athlete in baseball, basketball, and football while at Payette High School;

Whereas at the age of 17, Harmon Killebrew signed his first professional baseball contract with the Washington Senators;

Whereas Harmon Killebrew credits then-United States Senator from the State of Idaho, Herman Welker, with recommending to the Griffith family, then-Washington Senators owners, that the Washington Senators sign Killebrew;

Whereas Harmon Killebrew played his first 7 seasons of professional baseball in Washington, D.C. before moving with the Washington Senators franchise to the State of Minnesota in 1961, where the team was renamed the Minnesota Twins;

Whereas Harmon Killebrew played 14 seasons with the Minnesota Twins;

Whereas Harmon Killebrew hit the longest home run in the history of Metropolitan Stadium, which hit a seat located 520 feet from home plate that the Twins later painted red in honor of that historic shot;

Whereas while with the Minnesota Twins, Harmon Killebrew made the All-Star Team in 10 different seasons and competed in the 1965 World Series, where the Minnesota Twins fell in 7 games to the Los Angeles Dodgers;

Whereas Harmon Killebrew earned the American League's Most Valuable Player award in 1969 when he led the league in both home runs and runs batted in;

Whereas Harmon Killebrew retired from professional baseball in 1975, after playing 1 season with the Kansas City Royals;

Whereas uniform number 3, which Harmon Killebrew wore while with the Minnesota Twins, has been retired by the Minnesota Twins;

Whereas as of 2011, Harmon Killebrew, with 573 career home runs, ranks 11th highest on the all-time career home run list of Major League Baseball;

Whereas Harmon Killebrew was elected to the Baseball Hall of Fame in 1984;

Whereas Harmon Killebrew remained active in many important charitable efforts following the conclusion of his playing career;

Whereas in 1977, Harmon Killebrew joined with Ralph Harding, a former United States Representative from the State of Idaho, in founding the Danny Thompson Memorial Golf Tournament, in honor of Danny Thompson, Harmon Killebrew's former Minnesota Twins teammate who died as a result of leukemia in 1976; and

Whereas the efforts of Harmon Killebrew in support of the annual Danny Thompson Memorial Golf Tournament in the State of Idaho generated more than $25,000,000 for leukemia and cancer research at St. Luke's Mountain States Tumor Institute in Boise, Idaho and the University of Minnesota Cancer Research Center: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes Harmon Killebrew as one of the greatest professional baseball players of all time;

(2) honors Harmon Killebrew for his charitable efforts to support leukemia and cancer research; and

(3) extends the deepest condolences of the Senate to the family of Harmon Killebrew.

RECOGNIZING THE 100TH ANNIVERSARY OF THE INDIANAPOLIS 500

Mr. REID. I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 190, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 190) recognizing the 100th anniversary of the Indianapolis 500 mile race.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table.

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

The resolution (S. Res. 190) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 190

Whereas the Indianapolis Motor Speedway is the largest spectator sporting facility in the world, with more than 250,000 permanent seats;

Whereas founders Carl G. Fisher, Arthur C. Newby, Frank H. Wheeler, and James A. Allison pooled their resources in 1909 to build the Indianapolis Motor Speedway 5 miles from downtown Indianapolis as a testing ground to support the growing automotive industry of Indiana;

Whereas on August 14, 1909, the first motorized races, using motorcycles, took place on the recently completed 2.5-mile oval, which had a racing surface composed of crushed stone and tar;

Whereas on August 19, 1909, the first 4-wheeled automobile races at the Indianapolis Motor Speedway took place;

Whereas for 63 days in late 1909, 3,200,000 paving bricks, each weighing 9.5 pounds, were laid on top of the crushed stone and tar surface to upgrade the Indianapolis Motor Speedway, leading the facility to be nicknamed ''The Brickyard'';

Whereas a 3-foot horizontal strip of that original brick remains exposed at the start and finish line, known as the ''Yard of Bricks'';

Whereas on May 30, 1911, the first Indianapolis 500 Mile Race took place and was won by Ray Harroun at an average speed of 74.602 miles per hour;

Whereas the Indianapolis 500, the largest single-day spectator sporting event in the world, has occurred on every Memorial Day weekend since 1911, except during the involvement of the United States in world wars from 1917 through 1918 and 1942 through 1945;

Whereas in 1977, Janet Guthrie became the first woman to compete in the Indianapolis 500;

Whereas in 1991, Willy T. Ribbs became the first African-American driver to compete in the Indianapolis 500;

Whereas the Indianapolis Motor Speedway, by hosting the IZOD IndyCar Series, the NASCAR Sprint Cup Series, the MotoGP Series, and the Formula One Series, is the only facility in the world that has played host to these 4 elite worldwide racing series;

Whereas every May since 1981 the Indianapolis Motor Speedway has served as the backdrop for the annual Armed Forces Induction Ceremony, in which citizens of Indiana who have volunteered to serve in the Armed Forces are administered the oath of enlistment;

Whereas in 1987, the Indianapolis Motor Speedway was officially listed on the National Park Service list of National Historic Landmarks as the oldest continuously operated automobile racecourse; and

Whereas the Indianapolis 500 Mile Race has played an enormous part in shaping and defining the City of Indianapolis, the State of Indiana, United States motorsports, and the United States automobile industry, and is a great source of pride to all citizens of Indiana: Now, therefore, be it

Resolved, That the Senate recognizes the 100th anniversary of the Indianapolis 500 Mile Race.

DISCHARGE AND REFERRAL—S. 840

Mr. REID. I ask unanimous consent that the bill, S. 840, be discharged from the Committee on Environment and Public Works and referred to the Committee on Finance.

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

MEASURE READ THE FIRST TIME—S. 1022

Mr. REID. I have been told that S. 1022 is due for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the first time.

The legislative clerk read as follows:

A bill (S. 1022) to extend expiring provisions of the USA PATRIOT Improvement and Reauthorization Act of 2005 and the Intelligence Reform and Terrorism Prevention Act of 2004 until December 31, 2014, and for other purposes.

Mr. REID. I now ask for its second reading but object to my own request.

The PRESIDING OFFICER. Objection having been heard, the bill will receive its second reading on the next legislative day.

ORDERS FOR THURSDAY, MAY 19, 2011

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Thursday, May 19; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day; and that following any leader remarks, the Senate proceed to a period of morning business until 11 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half; and that following morning business, the Senate proceed to executive session under the previous order.

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

PROGRAM

Mr. REID. Madam President, there will be a rollcall vote tomorrow at about 2 p.m. on the motion to invoke cloture on the nomination of Goodwin Liu, of California, to be United States Circuit Judge for the Ninth Circuit.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Madam President, there seems to be no one here asking for more time. If that, in fact, is the case, I ask unanimous consent that the Senate adjourn under the previous order.

There being no objection, the Senate, at 6:34 p.m., adjourned until Thursday, May 19, 2011, at 10 a.m.