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Senate

The Senate met at 2 p.m. and was called to order by the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut.

PRAYER

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

Let us pray.

Almighty God, look beyond the harmful paths on which we have walked and see our spirits created in Your likeness and longing to commune with You.

Speak to our lawmakers today and teach them to listen through earthquakes, wind, and fire for Your still small voice. Guide them to learn the language of prayer and daily experience its power in their lives. May they be calm when You would have them listen and obedient when You would have them act, always eager to receive directions from You.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable RICHARD BLUMENTHAL led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 26, 2012.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut, to perform the duties of the Chair.

DANIEL K. INOUYE,
President pro tempore.

Mr. BLUMENTHAL 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. Mr. President, following any leader remarks the Senate will be in a period of morning business until 4:30 p.m. today. Following that morning business the Senate will resume consideration of the motion to proceed to S. 2204, the Repeal Big Oil Tax Subsidies Act. At 5:30 p.m. there will be up to two rollcall votes. The first vote will be a cloture vote on the motion to proceed to S. 2204. If cloture is not invoked, there will be a second cloture vote on the motion to proceed to the postal reform bill.

MEASURES PLACED ON THE CALENDAR—H.R. 5, S. 2230, AND S. 2231

Mr. REID. Mr. President, there are three bills at the desk due for a second reading. I would like the clerk to report them if you so order.

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

The legislative clerk read as follows:

A bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

A bill (S. 2230) to reduce the deficit by imposing a minimum effective tax rate for high-income taxpayers.

A bill (S. 2231) to amend the Federal Credit Union Act, to advance the ability of credit unions to promote small business growth and economic development opportunities, and for other purposes.

Mr. REID. Mr. President, I object to any further proceedings with regard to these three pieces of legislation.

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

TRANSPORTATION JOBS

Mr. REID. Mr. President, tens of thousands of bridges—70,000, to be exact—and millions of miles of roads across the country are in a state of disrepair. But rather than putting Americans to work fixing these roads and bridges—and, of course, repairing the crumbling train tracks, highways, and sidewalks across this country—House Republicans are pandering to the tea party. They cannot do a bill. They cannot do a bill. They have tried. They cannot do a bill. They are now not fighting us, they are fighting among themselves. As if putting the tea party ahead of efforts to repair our Nation's crumbling infrastructure was not bad enough, House Republicans are risking almost 3 million jobs in the process.

I was very disappointed last week to hear that the House Republican leaders hope to pursue a 3-month extension of the highway bill. That is, at this stage, without any suggestion that they would go to conference with us. It would seem to me that is the most practical thing to do—have a short-term extension and during the process work to see what we can come up with, working together. I know this is foreign language to what has gone on in the House in the last year and a half, but that would be a good idea—to try that, to work together to come up with a bill, a 2-year bill, a 3-year bill. Working together, we could do that on a bipartisan basis, as we did here. Their short-term bandaid bill is no solution. Communities and contractors need certainty—especially going into the summer construction season. We want to make sure projects do not grind to a halt in 3 months because the House once again refuses to act.

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

The American people certainly know at this stage whom to blame because of the problems over there. It is a crisis. It is a chaotic place we find over there. They are looking to cost us 3 million jobs. One week remains until these projects around the country lock their gates and lay off their workers. It is time for House Republican leaders to do what is responsible: take up the Senate-passed Transportation bill and pass it. The American people are watching and time is wasting.

FORGING A PATH FORWARD

Mr. REID. Mr. President, while House Republicans are squandering precious time and risking American jobs, the Senate will now move forward with a bill to repeal billions in subsidies to big oil companies.

Last year, Big Oil raked in $137 billion in profits—more than ever before—but still received billions in taxpayer-funded giveaways. It does not make sense. Even with domestic oil production at its highest level in almost a decade, prices at the pump are rising. Oil companies are making money hand over fist.

When the price of a gallon of gas goes up by a single penny, quarterly profits for the five major oil companies go up $200 million. I heard on the news this morning that the price of gas in the last couple weeks has gone up 12 cents. Well, that is more than $2 billion for the oil companies.

This country continues to give taxpayer dollars to some of the most profitable corporations in the world—not some of the most profitable, the most profitable. They are doing better than Google and Microsoft and all of them. They are the No. 1 profitable corporations in the world. It is time to end this careless corporate welfare.

The only real way to bring down prices at the pump is to reduce U.S. dependence on foreign oil. That will take additional responsible domestic oil production and smart investments in clean energy technology.

The Senate will vote this evening to advance the Repeal Big Oil Tax Subsidies Act. This legislation ends more than $2 billion a year in tax breaks for Big Oil, and it invests the savings in the clean energy industry, where it will grow our economy and create jobs.

Repealing wasteful subsidies will not cause oil prices to go up. Repealing wasteful subsidies, I repeat, will not cause oil and gas prices to rise. But reducing America's dependence on foreign oil will cause prices to fall for sure. But if Republicans continue to follow in lockstep to the drums of oil companies making record profits, one thing will be obvious: Republicans care less about bringing down gas prices than about helping oil companies that do not need help. Congress should pass this legislation and do it quickly before another taxpayer dollar is spent on wasteful handouts to Big Oil.

How do the American people feel about this? Of course, by an overwhelming margin, they agree with us.

The Senate must also quickly move to reform our postal system, and in the coming weeks, we also must reauthorize the Violence Against Women Act, pass additional job-creation measures, and take up the crucial cybersecurity bill.

The Pentagon says passing cybersecurity legislation is the single most important action Congress can take to improve national security. That is why I will bring a bill to the floor very soon. Bipartisan efforts to craft comprehensive cybersecurity legislation have been ongoing for years. It is now time to act. It is time for Republican colleagues who have been involved in this effort from the start to sit down and help us move this matter forward. We are going to move this bill onto the floor. We have had hard work done by Senator LIEBERMAN and Senator COLLINS. It is a bipartisan bill. I would hope both parties would agree this legislation is a priority. I hope so.

As always, Mr. President, I hope Democrats and Republicans will be able to work together to forge a path forward on these most important issues.

RESERVATION OF LEADER TIME

Mr. REID. Mr. President, would the Chair announce the business of the day.

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 until 4:30 p.m., with Senators permitted to speak therein for up to 10 minutes each.

Mr. REID. 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. JOHANNS. Mr. 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.

ORDER OF PROCEDURE

Mr. JOHANNS. Mr. President, I ask unanimous consent to enter into a colloquy with my Republican colleagues for up to 30 minutes.

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

HEALTH CARE

Mr. JOHANNS. Mr. President, I rise today to once again speak about a topic I have spoken to many times over the last 2 years; that is, the health care law.

Today I would like to focus on a number of aspects of the health care law, but to start I would point out that this law actually enacted the largest expansion of Medicaid since its inception in 1965. The law dramatically increases government spending, it ties the hands of States, it is going to bankrupt State budgets, and it traps nearly 26 million more Americans in a broken system.

Last week's Medicaid Actuary report indicates that 25.9 million more Americans will be dumped on Medicaid under the new law. The week before, the nonpartisan Congressional Budget Office pointed out that Federal spending on Medicaid will increase by $168 billion. That is just compared to last year's projection. That means this expansion alone is projected to cost the Federal taxpayers $795 billion through 2021.

That is at a time when not only our Federal budget is struggling, but in addition to that our State budgets are in trouble. Added up, the Federal Government will spend $4.6 trillion on Medicaid over the next 10 years, a staggering number—$4.6 trillion.

Medicaid spending is projected to increase 35 percent once the law is fully implemented. So with our national debt now approaching $16 trillion and compounding exponentially, as we borrow 42 cents of every $1 we spend every day, instead of reining in costs, the health care law is doubling down with spending.

But the Medicaid expansion did not stop with wrecking Federal budgets. It hammers State budgets as well. This program already consumes 24 percent of State budgets. The law's Medicaid expansion will force $118 billion in additional unfunded mandates on our States through 2023. The National Governors Association has weighed in on this issue. They said: ''Spending on Medicaid is expected to consume an increasing share of State budgets and grow much more rapidly than State revenue growth, resulting in slow or no growth in education, transportation, or public safety.''

The Nebraska impact tells the story. The Governor commissioned a study in Nebraska to see what the impact would be on the health care law on the State budget. Nebraska will spend an additional $526 million to $766 million over the next 10 years on its Medicaid Program. The expansion could add up to 145,000 Nebraskans to the Medicaid Program over the next decade.

Currently, one in nine Nebraskans is enrolled in Medicaid. The new provisions of the law will expand eligibility to one in five Nebraskans, 20 percent. Governor Heineman addressed this issue. He said: This unfunded and unparalleled expansion of Medicaid is an unfair and unsustainable mandate on Nebraska and other States. The Federal health care law is an extraordinarily large and excessive unfunded

mandate for States. It is potentially devastating to our State budget.

Today, with me on the floor, I am joined by two former Governors. All three of us have had to deal with balancing budgets, and we had no choice but to make sure that at the end of our legislative sessions, our budgets were, in fact, balanced.

Senator ALEXANDER was vocal in speaking out against this policy during the health care debate. He has a rather unique perspective because not only is he a former Governor, he is a former U.S. Secretary of Education. I would like the Senator to take a few minutes and explain how this law is going to effect the health care system, our educational system, our States, and for that matter our country.

Mr. ALEXANDER. I thank the Senator. He has a unique perspective himself as a former Cabinet member, Governor, and now Senator. But all three of us here today, including the former Governor of North Dakota, have wrestled with this business of the rising costs of Medicaid, paid for partly by the States, according to rules set in Washington, and how do we deal with public education, especially higher education.

I remember during the debate two years ago, I suggested to our colleagues on the other side of the aisle who were supporting the health care law, which I thought was an historic mistake because it expanded a health care delivery system we already knew was too expensive, instead of taking steps to reduce it. I suggested to them that they go home and run for Governor. They ought to be sentenced to go home and run for Governor if they vote for it and see whether they can implement it over an 8-year-period of time.

Here is what the Senator from Nebraska is suggesting. Let me try to be very specific on the effect of the health care law on higher education in the States. This is not all President Obama's fault. Some 30 years ago, when I was a young Governor, I was still struggling with saying: We get down to the end of the budget process and we have money either to put in higher education or into Medicaid, and the rules from Washington say it has to go to Medicaid.

I remember going to see President Reagan and saying: Why do we not just swap it, Mr. President? You take all of Medicaid. Let the States take elementary and secondary education. I wish we had done that. But we did not do it. Gradually, the increasing Washington-directed costs have distorted State budgets until, as the Senator from Nebraska said, 24 percent of the State budgets go to the Medicaid program.

Now we are in a process where because of the health care law, we are going to add 25.9 million more Americans onto Medicaid, according to the Medicaid Chief Actuary. Employers are going to decide: I would rather pay my $2,000 penalty and allow my employees to go into the exchange or, if they are lower income, into Medicaid. Then the costs to States are going to go up.

The Senator from Nebraska talked about what the current Governor of Nebraska said. Our former Governor, Governor Bredesen, a Democratic Governor, estimated that between 2014 and 2019 it would be $1.1 billion in new costs for the State of Tennessee from the Medicaid expansion.

What most people do not realize is the effect this has on higher education and student tuition. I hear a lot of talk about let's see if we can lower student tuition. One way we can lower it is not take money from student loans and spend it to pay for the health care bill. Most people are not aware we spent $8.7 billion of so-called profits the government makes when it borrows money at 2.8 percent and loans it to students at 6.8 percent. The government took some of that money and spent it to pay for the health care bill.

If it did not do that, it could lower the interest rates on student loans, according to the Congressional Budget Office, to 5.3 percent and save $2,200 per student over 10 years on the basis. So the health care law is costing students who borrow money more on their loans.

In addition, and I will close with this example, it is raising college tuition. You say: How could the health care law cause tuition to go up in California or Tennessee? If in Tennessee, as last year, the increase for Medicaid went up 15.8 percent. That is how much more State tax dollars it had to go up. Spending for the University of Tennessee and community colleges went down 15 percent. Then the result of that was tuition went up in our State by about 8 percent. That was true all across our country.

So the effect—and I will come back to this later if we have more time—is that the health care law mandates that the States spend more money on Medicaid, and, as a result, the State cuts the money it is spending for the University of Tennessee or Nebraska or North Dakota. In order to keep the quality of education up, tuition goes up. So students are paying more for tuition and they are paying more for interest rates on their student loans directly because of the health care law.

President Obama should not be blamed for the last 30 years of rising costs of Medicaid. But he should be held responsible and this health care law should be held responsible for making it worse.

Mr. JOHANNS. Senator ALEXANDER has raised some excellent points there because Governors only have so much revenue they can deal with; they cannot invent it, if you know what I am saying. So Governors have to figure out what the needs of the State are. If the Federal Government is taking that decision away from Governors by forcing them into expanding their Medicaid, there is going to be less money available for programs such as K–12 education, higher education.

Let me, if I might, turn to our colleague Senator HOEVEN. He was a Governor for 10 years in the State of North Dakota. Will the Senator please explain the impact Medicaid expansion would have on budget decisions as a Governor and the impact the health care bill is going to have on the Senator's State.

Mr. HOEVEN. I thank Senator JOHANNS. It is good to be with him. Also, to Senator LAMAR ALEXANDER from the great State of Tennessee, it is great to be with him as well. We share, I guess, the common experience of serving as Governors and certainly bring that perspective to our work in the Senate.

As Senator ALEXANDER just said, there is no question ObamaCare is making the health care challenge in the United States worse, is making it worse. We have to find a way to empower our people. In our roles as Governors, before serving in the Senate, that is what we tried to do. When it came to Medicaid, when it came to health care, it was how do we empower our people, whether it is health care or anything else, in a way that not only makes their lives better but that makes sure we are fulfilling our responsibility as good stewards of the State's treasury on behalf of the citizens of our respective States.

Last week was the second anniversary of the Obama health care legislation—the second anniversary. The fact is, since that law was passed—and just 1 minute ago, Senator ALEXANDER expressed some of the things he talked about when that debate was had in the Congress. But since that law was passed, over the past 2 years, Americans have become more unhappy with the legislation. The Obama health care legislation has actually become more unpopular over the last few years as time has gone by because, quite simply, Americans do not want government-run health care. Americans do not want government-run health care. That is what ObamaCare is.

Americans want to be free to choose their own health care provider, their own doctors, their own hospitals. They also want to be able to be free to choose their own health care insurance. Frankly, they are going to do a lot better job than having the Federal Government do it for them. That is just a fact. Of course, that is very much at issue now with the Supreme Court deliberations, the judicial review they are undertaking now on the constitutionality of the individual mandates in the Obama health care legislation.

Of course, the question is, Is that individual mandate constitutional? If it is, if they find that individual mandate is constitutional, then is there any limit to the government's ability to intrude into the lives of our citizens? This is a huge question. If so, what happened to the concept of limited government, which was so carefully developed by our Founding Fathers in our Constitution?

It seems to me that concept of limited government is gone. That is an incredible problem for all of us that extends far beyond health care. As former Governors, we understand the need to limit government, whether it is the local level—and the Senator was a mayor. Senator JOHANNS was a mayor in Lincoln, NE, before he was the Governor of Nebraska, now a Senator from Nebraska, and he understands that one of the fundamental responsibilities of a mayor, of a Governor, of a Senator is to make sure we honor the Constitution and we limit the power of government, at the local, the State, and the Federal level, to intrude into the lives of our citizens. That is exactly what our Founding Fathers were striving to do in the Constitution, the whole concept of checks and balances.

We have a legislative branch and a judicial branch and an executive branch because that creates checks and balances on the respective powers of each branch. Why? To protect our citizens, to limit the reach of government. We have a bicameral Congress, the House and the Senate, to make it harder to pass laws, not easier—to make it harder to pass laws. Again, it is to protect the people of this country.

We have the 10th amendment that reserves powers to the State not expressly provided to the Federal Government; again, to limit the power of government and protect the people of this great country. Of course, that is what we have in our Bill of Rights. That is what it is all about.

So we have ObamaCare; it raises taxes by $½ trillion. It raises taxes $500 billion. It cuts Medicare $½ trillion, $500 billion. Yet, at the same time, it places huge costs, a huge burden on the States. The CBO now estimates that over the next 10 years it will cost the States $118 billion. That is $118 billion in costs to the States who are trying to balance their budgets. They are already facing challenges in doing that, and we will put that kind of huge cost on them.

At the same time, think of what it does to our small businesses. Again, as a Governor, I know how it was in my State. I think it was true when the Senator from Nebraska was Governor and when Senator ALEXANDER was Governor of Tennessee. We understood that job creation was job one. We had to make sure businesses were able to work effectively, to compete, and to employ people. That is the engine that drives our economy, the small businesses.

When we look at ObamaCare, we look at what it does to the States—the $118 billion over 10 years—and look at the costs it creates for small businesses and look at the confusion it creates in trying to comply with all of this. What do small businesses do? The Senator from Nebraska talked a minute ago about, OK, what does the small business do?

Well, either, A, they try to comply, and that drives up their costs or, B, they cancel their insurance and default to the government-run insurance. But it not only creates a problem for them in determining whether they are going to continue health care for their employees—and our citizens have shown they want the employer to continue doing that, and it goes to whether they hire more people.

Here we are with 8.3 percent unemployment, 13 million people looking for work, and we are going to make it harder for small businesses to put them to work because they don't know if they can comply with ObamaCare, let alone withstand the cost. That affects every single American.

We need to change the approach. That is what we are talking about today. We are talking about an approach where we can empower people to choose their own health insurance and provider, an approach that encourages competition, which will help bring costs down, giving our consumers more choice. We are here to talk about how we work with States and small businesses to reduce costs, reduce fraud, waste, and abuse.

The President of AARP, Barry Rand, estimates that $100 billion is lost annually in waste, fraud, and abuse under Medicaid. Think what our States could do on behalf of their citizens in all 50 States if we in the Congress, working with an administration that will work with us, would empower the States to go after that waste, fraud, and abuse by giving their citizens more say over their health care and by encouraging competition among insurance companies to provide more choice, access, and to go after that waste, fraud, and abuse.

There are so many things we can do, but it is not through a big, monolithic, government-run insurance program that puts costs on the States and costs on its citizens. That is what we need to change. We need to change it now.

Again, I thank Senator ALEXANDER for being here and for his work to empower our people when it comes to health care. Also, I particularly thank Senator JOHANNS for calling us together to discuss this very important issue on behalf of the people of America.

Mr. JOHANNS. Mr. President, I thank Senator HOEVEN for his comments. He mentioned that job one for every Governor is job creation. Before I turn to Senator ALEXANDER, let me congratulate Senator HOEVEN. Whatever he did in that capacity worked. He has the lowest unemployment rate of any State. I am proud to say Nebraska is No. 2 in that regard.

I will guarantee one thing you learn: You don't create jobs by putting a big wet blanket of more regulations on the job creators. I worry that all these rules and regulations are going to have a very damaging impact on job creation.

I would like Senator ALEXANDER to talk about that, what he sees as the impact of this health care bill on job creation in our States.

Mr. ALEXANDER. I thank the Senator. I listened with interest to the former Governor of North Dakota and the former Governor of Nebraska. Let me give a specific example. In response to the question, after the passage of the health care law, I met with a number of representatives from chain restaurants. Chain restaurants are the kind at which we go out to dinner for a modest cost. They are among the largest employers in America. They employ largely low-income and young people—people who are the waiters and waitresses we see when we go into Ruby Tuesday or O'Charley's or one of these other places, and usually it is someone with a part-time job or somebody who is working his or her way up.

Many of those companies offer some health insurance to their employees. At one of the companies, Ruby Tuesday, headquartered in Tennessee, the chief executive officer told me the cost of the health care law to his company would equal the profit of the company that year. This is a company with several billion dollars in revenue.

One of the companies that is even more successful than Ruby Tuesday in terms of profit, and is larger, told me their goal was to have 90 employees per store. But after the health care law, they said they would have 70 employees per store in order to comply with the cost of the health care law. This not only raises the cost of business, but it reduces employment in the United States.

Unfortunately, I am afraid what we may find is these restaurant companies, after 2014—we are about 1 year away from a ticking time bomb for State budgets and businesses and also for people with employer health insurance. I am afraid these companies will look at the penalty and say they would rather pay $2,000 per employee and let them find their way into one of these State exchanges or into the Medicaid Program.

Millions of Americans, because of the health care law, are going to lose their employer-sponsored insurance, and millions of Americans will not have as many jobs because of the costs imposed on businesses such as these restaurants.

Mr. JOHANNS. The Senator raises a good point. I am mindful of our time limit. I am going to take a minute or two to wrap up. I do think Senator ALEXANDER and Senator HOEVEN both raised very good points.

I look at the health care law and I often think, whoever wrote this law, who were they talking to? They certainly were not talking to our small- and medium-sized businesses across this country. Why? Because just as Senator ALEXANDER points out, there is going to be a point where that business owner, large or small, and in each and every spot in between, will look at the penalty of $2,000 per employee and say it is vastly cheaper for them to drop coverage and pay the penalty. In fact, we figured out what that savings would

be for a large retailer in the United States. It was over $1 billion a year.

Does anybody believe for a moment that they are not going to do what is right by their shareholders and pay that penalty and save $1 billion a year by dropping health care coverage? Once that dam breaks, the dam breaks.

Then do you remember that promise so often made—47 times? The President said, ''If you like your plan, you are going to be able to keep it.'' Well, people are not going to be able to keep it. They will lose their plans.

They certainly were not talking to Governors when they wrote this bill. Any Governor would tell us that Medicaid is a broken system. It is literally bankrupting State budgets under current circumstances. Then when we add 26 million more people to Medicaid, we begin to realize they are going to have a serious access problem.

Forty percent of doctors do not take Medicaid patients. Where are they going to find their health care? As many of us pointed out, it is like saying to someone: Here is your bus ticket, travel anywhere you want—oh, by the way, there are not enough buses to haul all the people we have given tickets to.

That is what we are going to be facing—a growing access problem. Then, with the cuts to Medicare, they sure could not have been talking to Medicare providers because when they start cutting reimbursement rates, which is exactly what they are doing with $½ trillion cut out of Medicare, they are going to have access problems there too.

All of a sudden senior citizens cannot find a doctor. Don't believe my statement on that. Read the reports from Richard Foster, the Chief Actuary at CMS, who studied this and said these are the consequences of this legislation.

At the end of the day it is pretty clear to all of us that this is a failed policy that was quickly put together, rammed through to roll over the minority and get this done. We ended up with a very failed piece of legislation.

The American people do not like this legislation any better than the day it was passed. In fact, they like it less. The more they learn about this legislation, the less they like it.

I will wrap up with one thought. We all know the Supreme Court is hearing arguments on this case these days. It is my hope the Supreme Court will intervene and decide that this law is in fact unconstitutional, and then we can build a health care law the way it should be done—a step at a time, consulting with medical providers and Governors all across this country to build a policy that makes sense for the health care system and our citizens. That is what should have been done in the first place. That is what we need to do.

With that, 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. BOOZMAN. I ask unanimous consent that the order for the quorum call be rescinded.

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

HONORING OUR ARMED FORCES

STAFF SERGEANT JERRY REED II

Mr. BOOZMAN. Mr. President, we are reading in the news about the violence in countries all around the world and are reminded about the tremendous sacrifice of American troops as they protect and preserve the interests of our Nation. These men and women serve with courage and honor and it is our duty to honor and stand for those who have stood for us.

Today, I am here to pay my respects to SSG Jerry Reed II, an Arkansas soldier who sacrificed his life for the love of his country while in support of Operation Enduring Freedom.

Staff Sergeant Reed graduated from Russellville High School in 2000 and enlisted in the Army. He served 4 years and then reenlisted in 2008 and served in Iraq, Germany, Korea, and Afghanistan. Staff Sergeant Reed served as a tank driver and gunner with the Army's 28th Infantry Brigade, 2nd Battalion, A Company at Grafenwoehr, Germany.

His sister Katherine, in an interview with the Russellville Courier, spoke of how he loved the military and planned to make it a career. Staff Sergeant Reed's family and friends describe him as a man who would have had no trouble fitting into the military, for he was one who faced danger head on. He was a protector and looked out for his friends. He loved being outdoors and fishing and spending time with his family.

On February 16, 2012, Staff Sergeant Reed passed away while serving in Afghanistan. Staff Sergeant Reed made the ultimate sacrifice for his country. He is a true American hero.

I ask my colleagues to keep his family and his friends in their thoughts and prayers during this very difficult time, and I humbly offer thanks to SSG Jerry Reed for his selfless service to the security and well-being of all Americans.

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

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

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. 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.

SURFACE TRANSPORTATION ACT

Mr. BAUCUS. Mr. President, the British statesman Edmund Burke said:

> All government—indeed every human benefit and enjoyment, every virtue, and every prudent act—is founded on compromise and barter.

Compromise and barter. That means give-and-take in order to work things out.

I want to apply Burke's famous aphorism to the two leaders of the Environment and Public Works Committee, the chairman, Senator BARBARA BOXER of California, and the ranking member, Senator JIM INHOFE of Oklahoma—one of the Senate's leading liberals and one of the Senate's most dyed-in-the-wool conservatives.

While Senators BOXER and INHOFE openly acknowledge there is much they do not agree on, they both agree transportation infrastructure is a smart investment in America's road safety and jobs. So they worked hard to craft a consensus highway bill that three-quarters of the Senate could agree to support. I have always believed this kind of cooperation is the key to success. We can do great things for this country when we work together.

When I had the honor of leading the Environment and Public Works Committee, I also had the truly distinct pleasure of working with Senators from both parties who understood Burke's principle of barter and compromise, such as John Warner of Virginia and John Chafee of Rhode Island. So it is very gratifying to know that tradition on the Environment and Public Works Committee continues to be strongly upheld by the chairman and the ranking member today.

In working to craft the highway bill, both of these leaders faced pressures not to compromise. Each had ample opportunity to give into those pressures and give up on the bill. But instead of drawing lines in the sand and pointing fingers, they chose to reach out their hands and meet in the middle. They talked to each other and, more importantly, they listened. They opted for pragmatism over ideology. They disagreed without being disagreeable. They worked closely with Senator VITTER and myself to incorporate the best ideas from all sides. Ultimately, those good-faith efforts prevailed when the committee reported our highway bill title with unanimous support.

We continued working together to meld that product with contributions from the Banking Committee and the Commerce Committee, along with a fiscally responsible plan to pay for this investment from the Finance Committee.

Earlier this month, 75 percent of the Senate came together to pass a highway bill that will create or sustain approximately 1.8 million American jobs each year. That is according to the Department of Transportation. What a tremendous achievement reached by working together—creating or sustaining 1.8 million jobs a year. For my State of Montana, this bill will create or sustain 14,000 jobs each year, and it cuts through redtape to put people to

work on those jobs even faster. It gives the State of Montana and our local communities the flexibility they need to fund the alternative transportation projects that work best for them. It invests in the Land and Water Conservation Fund and continues a vital program to support our timber communities. It does it all without adding one single dime to the Federal deficit.

Simply put, this bill is an investment in jobs we can't afford to pass up. That is why this weekend Montana's largest newspaper, the Billings Gazette, called on the House to pass the Senate bill, and I join that call today.

The current highway bill expires at the end of this month, and the construction season is starting soon. As the Gazette notes, a short-term extension doesn't provide the certainty we need to get highway projects off the ground and workers on the job. We cannot afford to put these jobs on hold by kicking the can down the road—especially when we don't have to, and, also, especially when we don't have much more road to kick the can.

The Senate bill is the product of months of debate and cooperation, of give-and-take from all sides, carefully crafted into a bipartisan investment we can all be proud to support. It has already passed the test of overwhelmingly bipartisan support in the Senate, and there is no reason the House should not take up this bill and pass it right away.

The House should understand that we need to work together to achieve solutions upon which the American people can rely. Edmund Burke understood that. Thankfully, Senators BOXER and INHOFE clearly understand it too. I thank them for that.

AFFORDABLE CARE ACT

Mr. BAUCUS. Mr. President, President Truman once said, ''Healthy citizens constitute our greatest national resource.''

Two years ago last week we passed the affordable care act. We passed it to help give every American access to quality affordable health care.

People such as Cece Whitney from Helena, MO, know exactly how much help this law provides. Doctors diagnosed Cece with cystic fibrosis by age 7. By high school she carried an oxygen tank. By the end of college she received a double lung transplant. Even with insurance coverage Cece and her family paid tens of thousands of dollars out of pocket. But things looked even worse when she hit an arbitrary coverage limit, and if she had lost her insurance before health reform she might not have been able to find any insurance coverage at all.

Insurance companies could have turned her away simply because she was born with cystic fibrosis. But now, thanks to the affordable care act, Cece will always be covered. She will always have access to the care she needs.

A year ago, on the affordable care act's first anniversary, Cece shared her story about seeing health reform signed into law with her local newspaper. She said she cried tears—tears of extreme joy. She wrote:

> I knew that I no longer had to worry about losing or being denied coverage because of my 'preexisting condition.' And I no longer was going to be denied coverage for exceeding arbitrary caps set by insurance companies.

Cece's story is not unique. Health reform is working for people in Montana and across the country, and it is saving them money. The law improved our health care system and enabled it to focus on prevention and keeping Americans healthy. We have reforms to pay for quality of care rather than quantity of services. In just 2 years, health reform has lowered costs for millions of Americans. Parents can now afford to cover their entire family, including children up to the age of 26. More than 2.5 million young adults have been able to stay on their parents' plan thanks to health reform.

Prescription drugs are now cheaper for seniors because of the act. Already more than 5 million Medicare beneficiaries have saved more than $3 billion on drugs. Again, that is $3 billion saved by seniors on drugs, and health reform eliminates the so-called Medicare prescription drug doughnut hole. This puts dollars back in seniors' pockets—dollars they can use for groceries or electricity bills.

Seniors now receive free annual wellness visits and free screenings. This focus on prevention leads to better health outcomes, and it keeps them healthier. It saves money by allowing seniors and their doctors to catch conditions such as high blood pressure and diabetes before they become serious and costly.

Health reform also helps those who wish to retire early to afford insurance until they qualify for Medicare. The law has provided almost $4.5 billion in aid to businesses to give early-retiree coverage to these employees. Let me repeat that. The law has provided almost $4.5 billion in aid to businesses to enable them to give early-retiree coverage for their employees.

Health reform is also saving Americans money through new consumer protections. It is ending insurance company abuses. Medical loss ratios is one that comes to my mind. Because of health reform, parents can now keep their kids who have preexisting conditions on their plan, and insurance companies can no longer exclude these children. Insurance companies can no longer place lifetime and restrictive yearly limits on their health coverage that can cost Americans such as Cece Whitney tens of thousands of dollars, and insurance companies can no longer go back and scrutinize applications for tiny errors as a way to deny payments after a customer gets sick.

Health reform has also created the Medicare and Medicaid Innovation Center to put good ideas from the private sector into action. The center is already working with more than 7,100 organizations—hospitals, physicians, consumer groups, and employers included—to reduce costly hospital readmissions.

Health reform provides law enforcement with new tools and resources to protect Medicare and Medicaid from fraud and abuse. These efforts recovered more than $4 billion last year. New antifraud provisions in the act, in the health care bill, helped recover more than $4 billion in fraud last year. Just a few weeks ago, Federal agents made the largest Medicare fraud bust in U.S. history. Ninety-one people were charged with defrauding taxpayers for nearly $300 million.

More parts of the affordable care act that will help consumers will start in the year 2014, including the State-based affordable insurance exchanges. On these exchanges people will be able to save money. How? By shopping for an insurance plan that is right for them. It is like getting on Expedia or Orbitz: you just get on and shop around and find the one that is best for you.

For too long, individuals and small businesses shopping for insurance on their own have had very limited options. The plans that were available were often too expensive. Now, for the first time, insurance companies will have to compete against each other for business on a level playing field. That will mean lower premiums, better coverage, and more choices.

Health reform has also reduced government costs by dramatically slowing the growth in spending. According to our nonpartisan scorekeeper, the Congressional Budget Office, health reform slowed the growth in health spending by 4 percent. That will save taxpayer dollars and help get our deficit problem under control.

We need to let the law keep working to save families and taxpayers more money. The Congressional Budget Office tells us that repealing the affordable care act—repealing it now—would increase the Federal deficit by nearly $143 billion over the next decade. Repeal would cost the Federal deficit $143 billion over the next decade according to the Congressional Budget Office, and it would increase the deficit by more than $1 trillion in the decade after that.

Repealing health reform would also leave tens of millions of Americans without insurance. Studies have shown this would cost every American family an extra $1,000 a year. That is something we cannot afford. The affordable care act has already saved millions of Americans money and helped them get affordable health care, and millions more will gain access in the coming years. Healthy citizens are, indeed, the greatest asset our country has. We need to let health reform keep working for all Americans.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

CHENEY WELL WISHES

Mr. KYL. Mr. President, first I would like to take a moment to wish Vice President Cheney well as he recovers from his big-time heart transplant surgery. My wife Caryll and I have him in our thoughts and prayers, and we send our best wishes to him and to his entire family. I am sure ''the Angler,'' as he was called, would rather be out fishing in Wyoming on the Snake River, where I know he has been very happy. I hope he can get back out West soon. In the meantime, I know he is fortified by his wonderful family, his wife Lynn, his two daughters, and his grandchildren. We wish him all the best.

RYAN BUDGET

Mr. KYL. In a recent column in the Arizona Republic, my friend Bob Robb laid out a very thoughtful contrast between President Obama's budget and the alternative put forth by House Budget Committee chairman PAUL RYAN, which the House of Representatives will be acting on this week. In his column Robb notes that the Ryan budget would get the Federal deficit below 3 percent of GDP by 2015 and after a decade would reduce our debt-to-GDP ratio from today's 100 percent to about 87 percent or just under the share many economists believe affects private sector economic performance and casts doubt on the government's ability to even repay its obligations. Robb explains that ''despite the caterwauling of critics, Ryan doesn't achieve this through brutal budget cuts. Quite the contrary.'' He explains why the Ryan budget would allow spending to increase about 3 percent each year, compared to the Obama budget's about 5 percent annual increases, and he concludes that low interest rates are currently muting the effects of our growing debt on the economy, but it could change overnight. ''And if it changes, the federal government will have to take action much more drastic and quicker than the relatively gentle and gradual pathway provided by the Ryan budget.''

I hope Senators will take a few moments to review this column in its entirety. I ask unanimous consent that it be printed in the RECORD.

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

[From the Arizona Republic, Mar. 23, 2012]

RYAN HAS A LESS-PAINFUL DEBT PLAN

(By Robert Robb)

Critics of Rep. Paul Ryan's proposed budget resolution are almost universally unserious about getting federal debt and deficits under control. The country will be very lucky if it gets a chance to implement as gentle and gradual a path to fiscal sobriety as the Ryan plan outlines.

Economists believe there are two red lines for debt and deficits. If accumulated debt exceeds 90 percent of GDP, it begins to affect private-sector economic performance and raise questions about the ability of the government to pay it back. And annual deficits of more than 3 percent of GDP are regarded as a sign of a government that has lost control of its finances.

Right now, total federal debt exceeds 100 percent of GDP. The deficit is 8.5 percent of GDP. And that's the lowest it's been in four years.

The Ryan budget would get the annual deficit below 3 percent of GDP by 2015. At the end of the 10-year planning horizon, total federal debt would be an estimated 87 percent of GDP, barely out of the red zone.

Despite the caterwauling of critics, Ryan doesn't achieve this through brutal budget cuts. Quite the contrary.

Under Ryan's budget, federal spending would increase from $3.6 trillion today to $4.9 trillion 10 years from now. That's an average annual rate of increase of around 3 percent. Hardly a starvation diet.

What is the alternative to Ryan's plan to get the federal government out of the red zone on debt and deficits? It certainly isn't President Barack Obama's budget.

Under Obama's budget, the annual deficit wouldn't get under 3 percent of GDP until 2017. That would mean eight consecutive years of exceeding the deficit speed limit. That's not a country in control of its finances.

Under Obama's budget, the country would never get below 100 percent of GDP in terms of total debt. After 10 years, the country would still be deep in the red zone.

Rather than increase federal spending to $4.9 trillion over 10 years, Obama would increase it to $5.8 trillion—or nearly 5 percent a year, compared with Ryan's 3 percent.

Obama's tax increases aren't really to reduce the deficit, as he claims. They are to support his higher rate of growth in spending.

Right now, there's not a political urgency to do something meaningful about debt and deficits because the federal government can borrow a seemingly unlimited amount of money at very low interest rates.

But that could change. And it could change overnight. And if it changes, the federal government will have to take action much more drastic and quicker than the relatively gentle and gradual pathway provided by the Ryan budget.

The most controversial parts of the Ryan budget—tax reform and Medicare reform—are actually irrelevant to the task of getting out of the red zone for debt and deficits. The tax reform is intended to be revenue-neutral. The Medicare reform doesn't kick in until after the 10-year planning horizon of the budget resolution. It's intended to reduce the debt problem of the future, not get us out of our current hole.

If Democrats were serious about doing something about debt, there would be room for discussion about changes to the Ryan blueprint. The Simpson-Bowles Commission proposed tax reform similar to what Ryan advocates, lower rates on a broader base, but in a way that increases revenues to the government. Ryan proposes spending $440 billion more on defense over 10 years than does Obama. The relative allocations within the Ryan spending limits are certainly arguable.

But Democrats aren't serious, so the Ryan budget is the only current alternative to just waiting for the credit markets to start saying no. If that day arrives, the Ryan plan will look awfully lovely in retrospect.

HEALTH CARE

Mr. KYL. Mr. President, as we know, today the Supreme Court began hearing arguments about the constitutionality of the affordable care act. It is one of the most critically important Supreme Court cases of our time. A Wall Street Journal editorial noted last Friday:

Few legal cases in the modern era are as consequential, or as defining, as the challenges to [this law]. . . . The powers that the Obama administration is claiming change the structure of the American government as it has existed for 225 years. . . . The Constitutional questions the Affordable Care Act poses are great, novel, and grave.

The editorial, entitled ''Liberty and ObamaCare,'' lays out the constitutional problems with the affordable health care act and focuses on the bill's centerpiece: the individual mandate to purchase health insurance. As the editorial notes, the case against this provision is anchored in ample constitutional precedent, and I quote their conclusion:

The Commerce Clause that the government invokes to defend such regulation has always applied to commercial and economic transactions, not to individuals as members of society. . . . The Court has never held that the Commerce Clause is an ad hoc license for anything the government wants to do.

I urge my colleagues to read this article, and I ask unanimous consent that it be printed in the RECORD.

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

[The Wall Street Journal, Mar. 22, 2012]

LIBERTY AND OBAMACARE

Few legal cases in the modern era are as consequential, or as defining, as the challenges to the Patient Protection and Affordable Care Act that the Supreme Court hears beginning Monday. The powers that the Obama Administration is claiming change the structure of the American government as it has existed for 225 years. Thus has the health-care law provoked an unprecedented and unnecessary constitutional showdown that endangers individual liberty.

It is a remarkable moment. The High Court has scheduled the longest oral arguments in nearly a half-century: five and a half hours, spread over three days. Yet Democrats, the liberal legal establishment and the press corps spent most of 2010 and 2011 deriding the government of limited and enumerated powers of Article I as a quaint artifact of the 18th century. Now even President Obama and his staff seem to grasp their constitutional gamble.

Consider a White House strategy memo that leaked this month, revealing that senior Administration officials are coordinating with liberal advocacy groups to pressure the Court. ''Frame the Supreme Court oral arguments in terms of real people and real benefits that would be lost if the law were overturned,'' the memo notes, rather than ''the individual responsibility piece of the law and the legal precedence [sic].'' Those nonpolitical details are merely what ''lawyers will be talking about.''

The White House is even organizing demonstrations during the proceedings, including a '' 'prayerful witness' encircling the Supreme Court.'' The executive branch is supposed to speak to the Court through the Solicitor General, not agitprop and crowds in the streets.

The Supreme Court will not be ruling about matters of partisan conviction, or the President's re-election campaign, or even about health care at all. The lawsuit filed by 26 states and the National Federation of Independent Business is about the outer

boundaries of federal power and the architecture of the U.S. political system.

The argument against the individual mandate—the requirement that everyone buy health insurance or pay a penalty—is carefully anchored in constitutional precedent and American history. The Commerce Clause that the government invokes to defend such regulation has always applied to commercial and economic transactions, not to individuals as members of society.

This distinction is crucial. The health-care and health-insurance markets are classic interstate commerce. The federal government can regulate broadly—though not without limit—and it has. It could even mandate that people use insurance to purchase the services of doctors and hospitals, because then it would be regulating market participation. But with ObamaCare the government is asserting for the first time that it can compel people to enter those markets, and only then to regulate how they consume health care and health insurance. In a word, the government is claiming it can create commerce so it has something to regulate.

This is another way of describing plenary police powers—regulations of private behavior to advance public order and welfare. The problem is that with two explicit exceptions (military conscription and jury duty) the Constitution withholds such power from a central government and vests that authority in the states. It is a black-letter axiom: Congress and the President can make rules for actions and objects; states can make rules for citizens.

The framers feared arbitrary and centralized power, so they designed the federalist system—which predates the Bill of Rights—to diffuse and limit power and to guarantee accountability. Upholding the ObamaCare mandate requires a vision on the Commerce Clause so broad that it would erase dual sovereignty and extend the new reach of federal general police powers into every sphere of what used to be individual autonomy.

These federalist protections have endured despite the shifting definition and scope of interstate commerce and activities that substantially affect it. The Commerce Clause was initially seen as a modest power, meant to eliminate the interstate tariffs that prevailed under the Articles of Confederation. James Madison noted in Federalist No. 45 that it was ''an addition which few oppose, and from which no apprehensions are entertained.'' The Father of the Constitution also noted that the powers of the states are ''numerous and infinite'' while the federal government's are ''few and defined.''

That view changed in the New Deal era as the Supreme Court blessed the expansive powers of federal economic regulation understood today. A famous 1942 ruling, Wickard v. Filburn, held that Congress could regulate growing wheat for personal consumption because in the aggregate such farming would affect interstate wheat prices. The Court reaffirmed that precedent as recently as 2005, in Gonzales v. Raich, regarding homegrown marijuana.

The Court, however, has never held that the Commerce Clause is an ad hoc license for anything the government wants to do. In 1995, in Lopez, it gave the clause more definition by striking down a Congressional ban on carrying guns near schools, which didn't rise to the level of influencing interstate commerce. It did the same in 2000, in Morrison, about a federal violence against women statute.

A thread that runs through all these cases is that the Court has always required some limiting principle that is meaningful and can be enforced by the legal system. As the Affordable Care Act suits have ascended through the courts, the Justice Department has been repeatedly asked to articulate some benchmark that distinguishes this specific individual mandate from some other purchase mandate that would be unconstitutional. Justice has tried and failed, because a limiting principle does not exist.

The best the government can do is to claim that health care is unique. It is not. Other industries also have high costs that mean buyers and sellers risk potentially catastrophic expenses—think of housing, or credit-card debt. Health costs are unpredictable—but all markets are inherently unpredictable. The uninsured can make insurance pools more expensive and transfer their costs to those with coverage—though then again, similar cost-shifting is the foundation of bankruptcy law.

The reality is that every decision not to buy some good or service has some effect on the interstate market for that good or service. The government is asserting that because there are ultimate economic consequences it has the power to control the most basic decisions about how people spend their own money in their day-to-day lives. The next stops on this outbound train could be mortgages, college tuition, credit, investment, saving for retirement, Treasurys, and who knows what else.

Confronted with these concerns, the Administration has echoed Nancy Pelosi when she was asked if the individual mandate was constitutional: ''Are you serious?'' The political class, the Administration says, would never abuse police powers to create the proverbial broccoli mandate or force people to buy a U.S.-made car.

But who could have predicted that the government would pass a health plan mandate that is opposed by two of three voters? The argument is self-refuting, and it shows why upholding the rule of law and defending the structural checks and balances of the separation of powers is more vital than ever.

Another Administration fallback is the Constitution's Necessary and Proper Clause, which says Congress can pass laws to execute its other powers. Yet the Court has never hesitated to strike down laws that are not based on an enumerated power even if they're part of an otherwise proper scheme. This clause isn't some ticket to justify inherently unconstitutional actions.

In this context, the Administration says the individual mandate is necessary so that the Affordable Care Act's other regulations ''work.'' Those regulations make insurance more expensive. So the younger and healthier must buy insurance that they may not need or want to cross-subsidize the older and sicker who are likely to need costly care. But that doesn't make the other regulations more ''effective.'' The individual mandate is meant to offset their intended financial effects.

Some good-faith critics have also warned that overturning the law would amount to conservative ''judicial activism,'' saying that the dispute is only political. This is reductive reasoning. Laws obey the Constitution or they don't. The courts ought to defer to the will of lawmakers who pass bills and the Presidents who sign them, except when those bills violate the founding document.

As for respect of the democratic process, there are plenty of ordinary, perfectly constitutional ways the Obama Democrats could have reformed health care and achieved the same result. They could have raised taxes to fund national health care or to make direct cross-subsidy transfers to sick people. They chose not to avail themselves of those options because they'd be politically unpopular. The individual mandate was in that sense a deliberate evasion of the accountability the Constitution's separation of powers is meant to protect.

Meanwhile, some on the right are treating this case as a libertarian seminar and rooting for the end of the New Deal precedents. But the Court need not abridge stare decisis and the plaintiffs are not asking it to do so. The Great Depression farmer in Wickard, Roscoe Filburn, was prohibited from growing wheat, and that ban, however unwise, could be reinstated today. Even during the New Deal the government never claimed that nonconsumers of wheat were affecting interstate wheat prices, or contemplated forcing everyone to buy wheat in order to do so.

The crux of the matter is that by arrogating to itself plenary police powers, the government crossed a line that Justice Anthony Kennedy drew in his Lopez concurrence. The ''federal balance,'' he wrote, ''is too essential a part of our constitutional structure and plays too vital a role in securing freedom for us to admit inability to intervene when one or the other level of government has tipped the scale too far.''

The constitutional questions the Affordable Care Act poses are great, novel and grave, as much today as they were when they were first posed in an op-ed on these pages by the Washington lawyers David Rivkin and Lee Casey on September 18, 2009. The appellate circuits are split, as are legal experts of all interpretative persuasions.

The Obama Administration and its allies are already planning to attack the Court's credibility and legitimacy if it overturns the Affordable Care Act. They will claim it is a purely political decision, but this should not sway the Justices any more than should the law's unpopularity with the public.

The stakes are much larger than one law or one President. It is not an exaggeration to say that the Supreme Court's answers may constitute a hinge in the history of American liberty and limited and enumerated government. The Justices must decide if those principles still mean something.

Mr. KYL. Finally, continuing on the point about the argument on ObamaCare and referring to a different piece that appeared in the Wall Street Journal, I wanted to talk just a little bit in more detail about the justification of this mandate to purchase health insurance, the requirement that every individual in the United States be the recipient of a specifically defined policy by the U.S. Government.

The rationale the government has provided is that if we do not do this, then free riders or people who do not have insurance but might get sick will end up shifting all of the burden of their care onto the rest of us, and therefore the government needs to regulate that by forcing everybody to buy insurance. On March 20 the Journal published a piece by Douglas Holtz-Eakin and Vernon Smith, a former CBO Director and an economics professor, respectively, which I think really debunks this argument on the merits. It explains the real reason this mandate, as well as a dramatic expansion of Medicaid, is unconstitutional. I just wanted to highlight the points they make.

First, Holtz-Eakin and Smith address this individual mandate question. States, of course, have general police power to regulate the conduct of their citizens, but Federal power, by contrast, is very limited over individuals.

The authors make the important point that heath care policy has traditionally been a State function. Health

care needs relate to individuals and vary from person to person and region to region. As a policy matter, States have a better understanding of what kind of improvements to health care access are needed.

Here is what they wrote:

The administration's attempt to fashion a singular, universal solution is not necessary to deal with the variegated issues arising in these markets. States have taken the lead in past reform efforts. They should be an integral part of improving the functioning of health-care and health-insurance markets.

If the States have the legal power to address health issues and are better equipped to do so, then where does the justification for Federal jurisdiction come from? The authors note that the administration's argument is that the Federal Government mandate is needed to address the cost-shifting, the thing I talked about before. But they note that this is a red herring. ''In reality,'' the authors write, ''the mandate has almost nothing to do with cost-shifting.'' That is because, in actuality, the young and the healthy—the people who are not buying health insurance—aren't imposing much of a burden on the system because they do not get sick that often. They do not need as much insurance because they do not need as much health care. The authors say that ''the insurance mandate cannot reasonably be justified on the ground that it remedies costs imposed on the system by the voluntarily uninsured.'' In other words, as I said, there is not that much free-riding going on.

The authors conclude that the real purpose of the mandate is not to decrease the costs of uncompensated care, it is meant to force the young and the healthy to buy health insurance at rates far above the amount and scope of coverage they actually need because they are generally healthy individuals. But this extra money will help fund health insurance companies and therefore offset the huge increased costs imposed upon them by ObamaCare's many new regulations. This is the real reason for the individual mandate. In fact, as an amicus brief by over 100 economists points out, ''The [Affordable Care] Act is projected to impose total net costs of $360 billion on health insurance companies from 2012 to 2021.'' With the mandates, however, ''insurance companies can be expected to essentially break even.'' This is no coincidence.

If this is the real justification for the mandate to purchase health care, I submit it should have been done through an enumerated power—perhaps under the tax power of the Federal Government, which is at least one of the powers the Constitution explicitly provides.

In any event, this individual mandate cannot be justified to regulate interstate commerce. The supporters of the mandate have therefore introduced a second argument. They say health care is just different from all other commerce. It is bigger. Everybody has to have health care—as if they did not have to have food on the table or shelter over their head or clothes on their back and so on. In any event, they say health care is different and somehow this difference gives Congress the right to force people to buy government-mandated health insurance under its power to regulate interstate commerce. But the argument that ''this particular market is just different'' is beside the point even if it were true because it does not articulate a constitutional limitation that is judicially enforceable.

The question before the Court is whether there is any limit to Congress's power to regulate commerce. Obviously, the Framers would never have countenanced a Federal requirement to purchase a product so that the government could then regulate it. So what limit on constitutional power is suggested by the health care market? None. That is precisely the point. The government cannot draw a line, and, as a result, it would have to argue that there is no limit to its powers, and that, of course, would run counter to the reason the Framers put limitations into the Constitution.

The individual mandate is not the only provision in ObamaCare that is constitutionally impermissible. The Medicaid expansion is also violative. While Congress has well-established power to use its purse strings to encourage the States to adopt certain Federal policies, it cannot force them or compel them to do so. ObamaCare's Medicaid expansion essentially coerces the States into complying with new Medicaid policies.

This occurs in two different ways. First, if a State does not comply with the ObamaCare eligibility expansion, it would lose all of its Federal Medicaid funds—even for patient populations that the State had already covered long before ObamaCare was passed. Few if any States would be able to continue their existing Medicaid Programs if they lost all of this Federal funding.

An amicus brief signed by over 100 economists examined Medicaid data to determine the economic impact of States losing all of their Medicaid funds, and it found that if States were forced to absorb Federal Medicaid expenditures into their own State budgets, ''the State's total budgetary expenditures would jump by 22.5 percent.'' In other words, there is no real choice. The options for States are to do as the Federal Government says or leave Medicaid, which by now is so engrained in the care for the indigent that unwinding it, in effect, disentangling it from existing Federal-State relationships, would be virtually impossible and would obviously jeopardize care for the population without other health coverage. This is coercion, plain and simple. It is unconstitutional.

Second, ObamaCare expands Medicaid eligibility to everyone under 138 percent of the Federal poverty level. For individuals who make less than 138 percent of the poverty level, ObamaCare provides no means for complying with the individual mandate other than enrolling in Medicaid. In their brief to the Supreme Court, the States suing over the Medicaid expansion said it best:

When Congress mandates that Medicaid-eligible individuals maintain insurance, but provides no alternative means for them to obtain it, it is impossible to label the States' participation in Medicaid voluntary.

If it is the only way someone can get it, it is not voluntary.

Well, ObamaCare, as a whole, cannot survive without these unconstitutional provisions, and these are the reasons I believe it will and can be struck down as unconstitutional.

MISSILE DEFENSE

Mr. KYL. Mr. President, the last subject I would like to comment on is an unrelated subject. It has to do with comments the President was overheard making in a meeting he was holding with Russian President Dmitri Medvedev at the Nuclear Security Summit in South Korea. He had a hot mike which captured comments he was making privately to President Medvedev. He requested a little space, as he put it, in negotiations over missile defense issues until after the election when he said he would have more flexibility.

Well, obviously, this presents a problem that is going to have to be discussed with the Congress because if the President is, in effect, saying he would like to make a deal to limit U.S. missile defenses now, but he would be accountable to the American public if they became aware of it before his reelection bid, it would be very difficult for him to make the kind of concessions that President Medvedev wants. But if the Russian President would just wait until after the next election, then the President will have more flexibility to work with the Russians on what they want.

Well, President Medvedev very helpfully said: I will pass this on to Vladimir.

Here are a few things we know: We know President Obama canceled plans to station antiballistic defense systems in Poland and the Czech Republic. We know the President supported language in a new START treaty to link missile defense to nuclear reduction. We know the administration is sharing information with Russia, including plans to deploy missile defenses in Europe. We know the President has significantly reduced funding for and curtailed development of the U.S. national missile defense system, undermining our ability to effectively intercept long-range ballistic missiles, and we know the President has doubled down on efforts to reduce our nuclear arsenal while failing to honor his promises to modernize the aging nuclear weapon complex.

What we don't know is what President Obama has in mind for working

with the Russians after his reelection when he would—as he put it—have some flexibility in negotiating with them. Perhaps the Russians in whom the President confided could shed some light on missile defense plans. Then perhaps the President should shed that light on these negotiations with the American people before discussing them with the Russians.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

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

FACING THE ISSUES

Mr. MCCONNELL. Mr. President, as Americans filled up their cars with gas this weekend, I am sure a lot of them wondered how much higher gas prices could actually go. Well, today the Democratic-controlled Senate plans to send these folks a message: If they had their way, gas prices would be even higher.

Today Democrats will propose raising taxes on America's energy manufacturers, something common sense and basic economics tell us will lead to even higher prices at the pump. This is the Democratic response to high gas prices, and, frankly, I cannot think of a better way to illustrate how completely and totally out of touch they are on this issue. That is why Republicans plan to support moving forward on a debate over the legislation because it is a debate the country deserves.

We are going to use this opportunity to explain how out of touch Democrats are on high gas prices and put a spotlight on the commonsense ideas Republicans have been urging for years—ideas that reflect our genuine commitment to the kind of ''all of the above'' approach the President claims to support but actually doesn't.

Look, this isn't terribly complicated. Americans from Maine to California are frustrated at high gas prices. What do they see in Washington? They see Democrats pushing legislation that even they admit doesn't have a thing to do with lowering gas prices. At least seven Democrats are on record saying this bill doesn't do a thing to lower gas prices. Last year its own sponsor said nobody has made the claim this is about reducing gas prices—all of which raises an obvious question: What are we doing it for? How does this help the American people now?

Of course it doesn't. In response to record-high gas prices, Democrats in Congress want to raise taxes on the very people who produce it. Meanwhile the President is blocking a pipeline that would decrease our dependence on Middle East oil and create literally thousands of American jobs.

Americans see the Democratic response to high gas prices to make them even worse. That is the Democrats' response to high gas prices, to make them even worse. They are starting to wonder if this might as well be the Democrats' official slogan: Vote for us, and we will make things worse. Because whether it is jobs or debt or spending or gas prices, that is the Democratic record, which leads me to health care.

Today, as we all know, the Supreme Court began hearing arguments on the President's health care law. Among other things, the Court will consider whether the mandate at the core of this law is constitutional. As one of the many public officials who filed a brief before the Court opposing this law, I believe strongly the law is, in fact, unconstitutional, and I hope the Court agrees.

Even if the Court ends up disagreeing with me, the case for repeal becomes increasingly difficult to refute. The President was right to seek reform, but the bill he gave us and the Democrats forced through Congress on a party-line vote is not working. Instead of lowering costs, it is increasing them. Instead of strengthening Medicare, it raided Medicare. Instead of helping States, it has created financial burdens they cannot even bear. Instead of lowering insurance premiums, it has caused them actually to go up.

When it comes to jobs, some have called the law the single biggest detriment to job creation in America right now, and most Americans believe it is unconstitutional. This law is a mess, an absolute mess, and regardless of what the Court decides, it needs to be repealed and replaced with commonsense reforms that actually lower costs and that Americans really want.

So we will keep one eye on the Supreme Court this week, and we are basing our opinion on something simpler than the legal arguments we will hear this week. We are looking at whether this law helped or hurt. On that question the verdict is already in, just like so much else this President has done over the past few years.

Look, we need health care reform, but this law has made things worse. On that basis alone it should be repealed and replaced. That is what Americans want, and that is what we plan to do.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

OIL MARKET SPECULATION

Mr. LEVIN. Mr. President, once again, oil prices have spiked to high levels threatening our economic recovery. Prices are now nearing $110 a barrel, up nearly 30 percent since October 2011, only 5 months ago. For years now the commodity markets have taken the American people on an expensive and damaging roller coaster ride with rapidly changing prices for crude oil.

In 2007, a barrel of crude oil started out costing $50 a barrel. By the end of the year, the price had nearly doubled. In 2008, oil prices shot up in July to nearly $150 a barrel, and then by the end of the year crashed to $35. In the beginning of 2011, oil prices took off again, climbing to over $110 per barrel in May. Then they began falling. In October oil traded at $75 per barrel, a drop of more than 30 percent over 4 months.

Now 5 months later oil prices are back up to nearly $110 a barrel. This unpredictable and incessant price volatility is burdening American consumers and businesses with both uncertainty and expense.

Some in the media are blaming recent events in the Middle East for the latest oil price spikes, but Middle East instability cannot explain these large gyrations. We have seen uncertainty, unrest, and armed conflict in that region for more than 50 years without seeing this same pattern of extreme price volatility in oil prices. That volatility has become a feature of U.S. oil markets over the last 7 years.

There is something else at work behind the spikes and sudden drops in the price of oil and other commodities in recent years, and we have strong evidence showing what it is. It is the increasing role of market speculators betting on price swings.

For years now the Permanent Subcommittee on Investigations, which I chair, has been digging into the problem of excessive speculation in the commodity markets. Since 2002, the subcommittee has conducted a series of investigations into commodities pricing, in particular focusing on how speculators have changed the game. Our investigations have used specific case histories involving oil, natural gas, and wheat prices to show how excessive speculation in the futures and swaps markets have distorted prices, overwhelmed normal supply-and-demand factors, and pushed up prices at the expense of consumers and American businesses.

For example, in 2006 the subcommittee released a report that found that billions of dollars of commodity index trading by speculators in the crude oil market had helped push up futures prices in 2006, causing a corresponding increase in cash prices and was responsible for an estimated $20 out of the then $70 cost for a barrel of oil. Since then even more speculators have entered the commodities markets. Today we have commodity index traders, exchange-traded products, even mutual funds betting billions of dollars on crude oil prices on a daily basis.

Speculators have now come to dominate our futures and swaps markets, overwhelming the commercial users and producers who use and need these markets to set fair prices and hedge risks.

At a November hearing before my subcommittee, the Chairman of the Commodity Futures Trading Commission, Gary Gensler, testified that over 80 percent of the outstanding futures

contracts for crude oil are now held by speculators. That fact is new, it is significant, and we cannot ignore it.

It used to be that prices were determined primarily by fundamental market forces of supply and demand for physical commodities. When commodities were tight and demand high, prices generally went up. In contrast, when supplies were ample and demand low, prices generally went down. Nowadays that relationship is largely absent.

Here are some startling facts from recent press and government reports that show how U.S. crude oil prices today have become disconnected to supply and demand. First is the fact that the United States has ample oil supplies in the neighborhood of 350 million barrels in storage, which is toward the higher range since 2008. World supplies are also adequate with the Saudi Arabian oil minister recently stating that world supplies are stronger today than they were 4 years ago in 2008.

In addition, the United States is producing more domestic oil than it has in years. In 2010, U.S. domestic crude oil production increased to 5.5 million barrels per day, up from 5.1 million barrels in 2007, and is still climbing. In 2011, overall U.S. refining capacity also increased. Perhaps most surprising of all in 2011, for the first time since 1949, the United States exported more gasoline, diesel, and other petroleum products than it imported. The United States is projected to do the same in 2012 and 2013. At the same time U.S. oil supplies stayed steady and production increased, U.S. demand went down. In 2011, U.S. fuel consumption actually sank and oil demand in North America contracted by 0.5 percent. Some of that drop was due to lower economic activity, some to greater energy efficiencies, and some to higher energy costs.

For example, U.S. demand for gasoline sank nearly 3 percent last year. More broadly, in 2011, total U.S. demand for all types of oil products fell to 18.8 million barrels a day, from 20.8 million barrels a day in 2005. That is a drop of 10 percent. The end result is that over the last year oil demand was down and supply was up in the United States. Under normal economic conditions, both factors should have led to lower oil prices. Instead, despite steady or improving oil supplies and steady or dropping demand, U.S. crude oil prices became more like a roller coaster than ever.

What explains the price volatility and escalation? The answer is pretty clear to me after 10 years of investigations by our subcommittee: It is the large amount of speculation in oil markets which is a major contributing factor to high prices. Speculators who now comprise more than 80 percent of the U.S. futures oil market are bidding on contracts, speculating on price swings, and helping to drive up price volatility and crude oil prices. Higher crude oil prices translate directly into higher gasoline prices. According to a February 27, 2012 article in Forbes magazine citing a recent report by Goldman Sachs, oil speculation ''translates out into a premium for gasoline at the pump of 56 cents a gallon.'' In other words, speculation is adding 56 cents to the price of each gallon of gas bought at the pump.

Here is a Reuters chart that uses CFTC data. It focuses on the crude oil holdings of speculators, the group of traders that the CFTC refers to as ''managed money'' and which includes commodity index funds, hedge funds, commodity pool operators, and commodity trading advisers. The chart uses CFTC data to track the ratio of their long to short crude oil futures holdings over time. Last month, there was a spike, way over here to the right. Speculators held more longs than shorts by a 12-to-1 ratio, the largest recorded difference in 5 years. That same week, U.S. crude prices hit a 9-month high of $110. And it is no surprise that when more than 80 percent of the market suddenly bets 12 to 1 on prices going up, oil prices do just this.

As we can see from this chart, these spikes occurred in the last year or two. Before that, we did not have the spikes. Before this, there was this huge amount of speculation in the oil futures market and we did not have these large spikes which we have had in the last few years.

The reality is that oil prices again are not just affected by physical supply and demand but by speculative pressures on prices. That means if we are to get a handle on oil prices, excessive speculation must be curbed. There is a lot we can do to combat excessive speculation, and I will spell out some of these steps.

Congress has already taken the first steps. In July 2010, Congress enacted the Dodd-Frank Act which, in Section 737, directed the CFTC to establish speculative position limits on energy and other previously exempted commodities, and broadened CFTC authority to apply those limits to all types of commodity-related instruments, including futures, options, and swaps. The Dodd-Frank Act also required all large commodity traders to begin reporting their trades in real time to a central repository, increasing transparency, producing new detailed trading data, and strengthening regulatory oversight.

In November 2011, in compliance with the Dodd-Frank requirements, the CFTC issued a new position limits rule. The rule sets limits that are not as tough as they should be, but the real problem is that they are not yet fully in force. That means this important new tool to clamp down on excessive speculation lies dormant.

One big roadblock is that, within a month of the rule's issuance, the financial industry filed a lawsuit to stop it from taking effect. The lawsuit claims Dodd-Frank didn't require the CFTC to impose position limits, although those of us in the Senate who fought for the law know position limits were made mandatory by Dodd-Frank and were regarded as vital to curbing excessive speculation. The court is considering the case now and hopefully will not allow the lawsuit to delay or thwart the legal protections needed to stop American families and businesses from being whipsawed by excessive speculation in oil and other commodities.

In the meantime, what should Congress do? First, we should stop pretending that $110 per barrel of oil is caused solely by Mideast unrest or physical supply and demand factors, and acknowledge a major contributing role played by speculators in crude oil prices. Second, we ought to urge the CFTC to find that current U.S. oil prices, which do not reflect physical supply and demand factors, are evidence of a severe market disturbance. That finding would allow the CFTC to exercise its emergency authority, without waiting any longer, to clamp down on excessive speculation in the oil markets. Among other options, the CFTC could tighten position limits for oil traders, make those limits immediately effective in the futures, options, and swap markets, strengthen margin requirements, and take other actions needed to bring oil prices back into alignment with supply and demand.

Third, on a longer term basis, we should revamp the rules that enable commodity index traders, exchange traded products, and mutual funds to flood U.S. commodity markets with speculative bets on commodities to the detriment of American families and businesses. Legislation is needed to require the SEC and CFTC to impose joint registration and reporting obligations for traders that use securities to gain exposure in commodities, joint regulation of hybrid products that combine securities and commodities trading, and increased margin and capital requirements for risky speculative bets. The Internal Revenue Service needs to stop allowing mutual funds to use phony offshore corporations to circumvent a longstanding 10 percent limit on their commodity investments. Additional restrictions on commodity index trading should also be considered, since it is the largest root cause of modern day excessive speculation.

Finally, we should ask more of the President's task force on commodity speculation. In March 2011, a year ago, Senator JACK REED and I sent a letter asking President Obama to convene a task force to investigate and combat excessive speculation and manipulation of oil prices. While the Attorney General did convene a task force, it has concentrated principally on detecting a few cases of alleged criminal activity, instead of tackling the broader issue of excessive speculation cases in which no one is committing a crime, but aggregate commodity trading tactics are driving up prices and price volatility to the point where they damage the U.S.

economy. The task force needs to urgently refocus and bring its firepower to the battle to stop excessive speculation.

In closing, until we limit excessive speculation in commodity markets, the American economy will continue to be vulnerable to violent price swings and American consumers and businesses will continue to be whipsawed by oil prices unconnected to actual supply and demand. American families cannot afford the current price of oil and gas and neither can our economy, which, after 4 years, is beginning to turn a corner toward real growth. Today's prices—$110 for a barrel of oil and $4 for a gallon of gasoline—are a clarion call to action that Congress and the CFTC ignore at the Nation's peril.

Mr. President, I thank the Chair, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

HEALTH CARE

Mr. COATS. Mr. President, this past Friday marked the 2-year anniversary of when the president's health care law, the affordable care act, otherwise known as ObamaCare, was signed in to law. I wasn't in the Senate at the time; I was actually in the State of Indiana campaigning to be in the Senate as a representative of that State. As such, I had spent a considerable amount of time crisscrossing the State and talking to Hoosiers about the health care plan. From diners and restaurants all across Indiana to small businesses, large businesses, medium-size businesses, big industrial giants, small mom-and-pop operations, medical providers, and ordinary citizens, we in Indiana join the nearly two-thirds—or perhaps even more than two-thirds—of the country that oppose this law.

Hoosiers didn't then, and they don't now, want to have a one-size-fits-all nationalized health care system. They want a healthier health care system. They want reforms to the current problems and excessive rising costs of health care. This is the first of many attempts I will make to discuss why we need to address this law, which is moving toward ever and ever greater implementation and particularly kicks in over the next two years. Hoosiers, as I said, did not want the plan then and they don't want it now. They don't want to have Federal bureaucrats making their health care decisions for them. They want less government intervention and higher quality of care, and they don't want a health care system that increases costs and premiums while hurting job creators with fines and penalties. They want affordable care and good job opportunities.

Two years after passage of that act, I continue to hear these messages from the people of Indiana and from others as we discover more and more information about what is contained in this massive 2,700-page bill that was passed in early 2010. I wish to discuss a few of the impacts of the ObamaCare law today. The first is the individual mandate, and of course that is one of the issues the Supreme Court is hearing right now and will be making a determination on.

ObamaCare is the biggest example of government intrusion in the everyday lives of Americans, whether by forcing individuals to buy health insurance, enacting onerous regulations on small businesses, or by raising taxes and imposing penalties. The health care law forces every American to purchase a health insurance plan or, if they choose not to do so, to pay the government a fine. This is unprecedented in American history. It is the first time the Federal Government is forcing citizens to purchase a product or a service they may or may not want or pay a fine for their decision to say no.

This administration basically is saying to Americans: We know what is better for you than you know for yourself. We know what is better for you than what your doctor suggests is needed, and if you don't get a government-approved health care plan, we are going to assess you a fine.

That is a basic, fundamental principle of constitutional law and the Supreme Court will be making that determination. But I suggest that this Congress needs to continue to debate this and be prepared to act depending on what the Supreme Court decision is, which will come down several months from now.

The second thing I wish to talk about briefly is the higher costs that emanate from this particular piece of legislation. In addition to mandating that all Americans have health insurance, ObamaCare hits individuals and families with increased costs at higher premiums. The Nation's nonpartisan budget experts at the Congressional Budget Office estimate that when fully implemented, this law will increase insurance premiums on a family policy by an average of $2,100 a year. Therefore, the affordable care act is hardly affordable and increases the already high premiums people have to pay for insurance.

The President's own Chief Actuary at the Center for Medicare Services reported that the law will increase national health care costs by $311 billion in the first 10 years alone—increase is the key word here. The goal of reforming the Nation's health care system initially was to reduce the skyrocketing costs for Americans, not increase them. Yet, we are now being told by the experts and the President's own people that Obamacare will increase costs.

I also wish to speak about the impact of this law on businesses. I talked to dozens if not hundreds of businesses across the State of Indiana, both in the campaign year of 2010 and then last year traveling as a Senator throughout the State. The President's health care prescription results in bad side effects for American businesses by hitting job creators with new taxes and new regulations that they desperately don't need at this point in our struggle to regain economic growth. Take the employer mandate. The law penalizes businesses that do not provide employees with government-approved health care plans. Beginning in 2014, American businesses with more than 50 employees will be fined $2,000 per employee if they do not offer a health insurance plan approved by the Federal Government.

I have talked to a number of business people who have gone through painful negotiations with their workers and with their laborers and with staff. They have put together a health care plan that is accepted by both management and by employees who recognize that if they cannot maintain some semblance of control over costs, the jobs might not be available in the future because the company cannot afford to keep people at work. So in recognition of all of this negotiation that goes on and the contractual obligations that both sides work to achieve, understanding that if the business is hit with too much tax and too many regulations the business may not survive, those plans now come under the scrutiny of the Federal Government, and the Federal Government will determine whether those plans are sufficient and adequate. If it determines they are not, then a fine is levied against the business.

I cannot tell my colleagues how many business people told me: Look, I would rather pay the fine than have the government impose all of these new regulations on us when we are working carefully with each employee to make sure they have their basic insurance needs covered. Yet, if we are forced into a set plan of set procedures for every employee, then I have two choices, the business people say: I can either refuse to do so and pay the penalty of about $2,000 per employee, or I can let people go. The bottom line is, if I can't make my bottom line, I cannot keep these people employed.

The arbitrarily fixed basis that small businesses under 50 employees will not be subject to this leaves manufacturers and business people who are slightly below that level—say at 45 or 40 or 35—a dilemma as they are seeking to expand their business. ''As soon as I hire No. 50, then my business is no longer exempt. So what do I do? I freeze out hiring more people and look to double up people's salaries or put people on overtime.'' At a time when we have over 12 million people looking for a job and millions of people underworked or working two and three part-time jobs to make ends meet, we are imposing this law on them. It could not have come at a worse time.

Then there is a medical device tax and several other taxes that are included in this bill that we continue to find as we read the fine print.

Indiana is a State that is home to a lot of medical device manufacturers. In

fact, there are over 300 registered medical device manufacturers that employ 20,000 Hoosiers in the State of Indiana and another 28,000 people who benefit from that employment. There are more than 400,000 workers employed nationwide by this industry.

So what did the ObamaCare plan propose? Well, we need some pay-fors. To pay for the law, the administration decided to impose a 2.3 percent tax on these medical device manufacturers.

The PRESIDING OFFICER (Mr. TESTER). The Senator's time has expired.

Mr. COATS. Mr. President, I sense I am approaching a deadline in time. I am wondering if I could, with the consent of my colleague, ask unanimous consent for 5 more minutes.

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

Mr. COATS. Thank you, Mr. President.

These medical device manufacturers are employing people at an average rate of about 41 percent greater than the average worker rate of pay in my State, so these are desired jobs. But, again, employers and manufacturers of medical devices are telling me they are being forced to go overseas because of the burden of regulation and a tax that has nothing to do with the essential program of the health care plan.

That is not the only tax that is imposed in this law. There are many hidden taxes here that we are just learning about. Let me name five: the excise tax on charitable hospitals; the drug industry tax, separate from medical devices; the health insurance industry tax; the insurer excise tax; and a Blue Cross-Blue Shield tax hike.

The Joint Committee on Taxation found that the health care law imposes more than $550 billion in new taxes and penalties, most of which will fall on the middle class.

Third, the impact on the State of Indiana.

ObamaCare forces States to expand Medicaid rolls so significantly that it will be imposed—and this has been talked about earlier today—upon the States in a way that can cripple their ability to try to find some balance in their budgets. In Indiana, where our budget is in far better shape than many other States, we still cannot afford the current Medicaid Program, let alone the projected new costs that will be required under the ObamaCare law.

An outside group has estimated that $3.1 billion in new costs over the next decade will be imposed on Indiana taxpayers if the 1.5 eligible Hoosiers enroll in Medicaid as a result of this health care law. This added expense does not include any payment relief to providers and, therefore, shifts costs to patients by driving up premiums for all Hoosiers.

In conclusion, we have to ask the question: What is the remedy for this fatal disease called ObamaCare? Well, the remedy may lie with the Supreme Court. They are hearing arguments on this today, and will for the next 2 days, and we will have a decision on the constitutionality of this law by the summer. But the health care debate also, most likely, will end up back here in Congress one way or another, and that leaves us the responsibility of addressing this.

From forcing individuals to purchase insurance, to taxing successful job creators and burdening State budgets, I believe the health care law is so deeply flawed that it must be scratched and replaced with real reform, reform that lowers the cost of care, allows the doctor—your doctor, not the government—to decide the kind of medical care you need, and provides flexibility to States.

Real health care reform lowers costs, it improves access to quality care, empowers individuals, and preserves personal liberties; and that is not what we have in the law that currently is on the books. So whether through congressional legislation or court action, ObamaCare needs to be overturned and replaced with commonsense provisions that put patients—not government, not bureaucrats—in charge of health care decisions.

ObamaCare has proven to be the wrong prescription, and it is time for a new treatment. Americans want reform that remedies our ailing health care system, not one that weakens it and drives it deeper and drives us deeper as a Nation into debt.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, since this is the 2-year anniversary of the passage of the health care reform law, the affordable care act, and since the Supreme Court, of course, is meeting across the street hearing various arguments attacking the legislation—they heard arguments this morning; they are going to hear arguments again tomorrow morning; and they are going to hear arguments again Wednesday morning—I believe it is a crucial time to remind all Americans why this law was needed, why it still is needed, and how it will benefit families across this country.

In my view, there is considerable confusion about what the health care reform legislation will accomplish. And I am not surprised. The opponents of the legislation have worked hard in the last couple of years trying to confuse many Americans into thinking the bill contains all kinds of nefarious provisions.

The Kaiser Family Foundation did a poll, however, that demonstrated when Americans are asked about the actual provisions that are contained in the law, there is strong bipartisan support for those reforms. So I wish to take a little time to straighten out what the provisions in the law are and how I see them impacting on our health care system.

Health care reform was needed when it was enacted 2 years ago for two important reasons. First, before reform—and even today—one in six Americans was uninsured. That number was growing, is still growing. In my home State of New Mexico, the situation was even worse. We had more than one in five people in my State uninsured. That is the second highest rate of any State in the Nation. The large majority of the uninsured are working people. They have low incomes. They cannot afford to pay the very high cost of health insurance.

The second important reason we enacted health care reform was that the cost of health care was continuing to grow at an unreasonable rate.

As you can see on this chart I have in the Chamber—this is based on data from the Centers for Medicare and Medicaid Services, Office of the Actuary—they estimate that national health expenditures per capita increased from 5 percent of gross domestic product in 1960 to 18 percent in 2010. So absent any intervention, this figure was projected to exceed 40 percent by 2080.

The affordable care act significantly improves the situation. It does not solve all the problems in our health care system, but it substantially improves the situation. Due to the affordable care act, over the next 10 years, the rate of uninsured will be reduced by more than half. That is according to the Congressional Budget Office estimate. Low-income families will be able to afford health insurance, so they will not have to worry about going broke because they get sick. The rest of America will not see their insurance premiums rise to absorb the cost of expensive hospital care when the uninsured have nowhere else to turn.

With full implementation of this law, Americans will get higher quality health care while at the same time we begin to rein in the growing costs of health care. The law does so while protecting key parts of the health care system, such as Medicare. It extends the solvency of Medicare from 2017—prior to the enactment of this legislation—to 2024. Despite claims to the contrary, these reforms are fiscally responsible. They decrease Federal health care spending by well over $1 trillion over the next two decades.

Stated simply, the law protects the aspects of our health care system that are working well and fixes many of those aspects that are broken, and it does so in a fiscally responsible way. It achieves this through provisions that are intended to support three main goals. Let me go through those briefly.

The first of those goals is to expand coverage and ensure health insurance is affordable. The second of those goals is to improve the quality of health care. The third is to begin reining in the rapidly rising costs of health care and create efficiencies in our health care system.

Let me start with this coverage expansion under the affordable care act. Under the law people who need health care can get health insurance coverage.

There is financial assistance to those who cannot afford it. According to the Congressional Budget Office's most recent projections, 93 percent of Americans will have affordable health insurance coverage by 2016 with full implementation of this act. That is 30 million more Americans who will be covered who are currently uninsured.

Some of these provisions have already taken effect and have had a significant impact. For example, young adults up to the age of 26 can now receive health insurance coverage under their parents' insurance regardless of their marital or school or employment situation. Since the implementation of this provision, 2.5 million uninsured young people across the country have gained health insurance coverage. This includes over 21,000 young people in my home State of New Mexico.

In addition, 20,000 seniors in my State who are in the so-called coverage gap for prescription drugs under Medicare are now saving on their prescription drugs because that so-called doughnut hole is decreasing in size as a result of this legislation. This is already benefiting 3.6 million seniors nationwide.

Children with preexisting conditions are no longer able to be discriminated against, and adults with preexisting conditions who cannot get insurance have the option for coverage in a high-risk pool. With full implementation of the law, those adults will be in the same circumstance as children with preexisting conditions in that they will not be able to be discriminated against.

What is more, the major coverage provisions are still to come. They begin in 2014. Medicaid will be expanded to cover more low-income Americans, those whose incomes go up to 133 percent of the Federal poverty level. This is a critical provision since experts tell us the expansion of Medicaid coverage is the most cost-effective way to provide insurance to low-income uninsured individuals and families.

Seventeen percent of the nonelderly population nationwide benefit from the Medicaid expansion and the tax credits in this legislation. In New Mexico, as well as the States of Texas and Louisiana and California, which have high rates of uninsured, the estimate is that 36 percent to 40 percent of residents could benefit.

Lower and middle-class income families will be eligible for health insurance tax credits to help purchase health insurance. While most Americans will still get health insurance through their employers, those who do not can purchase health insurance through the health insurance exchanges. These will be virtual insurance shopping malls in each State that will offer an easy-to-understand menu of options with which to compare insurance plans. So we will have informed and empowered consumers who can choose the plan that is right for them and their family. The intent of the health insurance exchange is to level the playing field, increase competition among insurers, and thereby keep rates competitive.

Contrary to much of the rhetoric we have heard, States will not shoulder the fiscal burden of this coverage expansion. Limiting costs to States was a priority when we drafted this health care reform legislation. In fact, the Federal Government commits to assume 100 percent of the cost of the Medicaid expansion for newly eligible individuals during the first 3 years, beginning in 2014. Federal contributions are going to phase down after that slightly over the following years, so that by 2020 the Federal Government will be responsible for 90 percent of the cost of those newly covered individuals.

For example, my State of New Mexico is expected to receive $4.5 billion in 2014, 2015, and 2016, as we expand coverage to more enrollees. This will allow access to Medicaid for about 180,000 newly eligible New Mexicans.

Let me refer to this chart that is beside me. This shows the Congressional Budget Office's estimate of the expansion impact on State spending on Medicaid. As we can see, contrary to a lot of the statements that are made on the Senate floor and elsewhere, this increase is less than 3 percent. This is additional spending on expansion. It is a small fraction, 2.8 percent, of State Medicaid spending. This is for the period 2014 through 2022.

While reform expands Medicaid, it also makes it possible for some current Medicaid enrollees to become eligible to participate in the health insurance exchanges and brings them into the private market. According to the Urban Institute analysis, the net effect of enactment of the affordable care act on State budgets, in the worst case scenario, will see States realizing net budgetary savings of at least $40 billion during the period 2014 to 2019. It is possible those gains could be as high as $131 billion.

With respect to affordability—and I know my colleague who was just on the floor was talking about affordability—the impact on New Mexico families is a good example. On average, families in my State will see a decrease in insurance premiums, perhaps as much as 60 percent. In addition, two-thirds of New Mexicans could potentially qualify for subsidies or Medicaid, and nearly one-quarter could qualify for near full subsidies or Medicaid.

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

Mr. BINGAMAN. I see a colleague who wishes to speak. Therefore, I will ask unanimous consent that the balance of my statement be printed in the RECORD as if read.

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

Mr. INHOFE. Does the Senator wish to continue?

Mr. BINGAMAN. Mr. President, my colleague has said I could proceed for a few more minutes. Let me just——

Mr. INHOFE. Mr. President, I ask unanimous consent that at the conclusion of the remarks of the Senator from New Mexico, I be recognized for up to 25 minutes.

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

Mr. BINGAMAN. I thank my colleague from Oklahoma for his courtesy. Let me talk a little about the second and the third goals I outlined earlier.

The second goal of the affordable care act is to improve the quality of care. There is not a lot of discussion about that, but that is a main thrust of this legislation. A strong, well-trained health care workforce is essential if we are going to have quality health care in this country.

Many provisions of the bill will strengthen the health care workforce. One obvious question is, What is the need we are trying to address? Let me point out that 25 percent of the counties in the United States are designated as health care professional shortage areas. In my State, 32 of the 33 counties are designated as health care professional shortage areas. We are absolutely last. New Mexico is absolutely last in all States with regard to both access to health care and the utilization of preventive medicine.

The affordable care act contains key provisions to improve access and delivery of health care services to these areas. We train a great many additional physicians, nurses, pediatric specialists, and other health care providers. There is a major push to improve the quality of care by focusing on outcomes and effectiveness of medical treatments. All this is very positive and should have been done many years ago in this country. I am glad we are finally doing it as part of this health care reform legislation.

The third and final goal of the legislation, as I mentioned earlier, is to begin to rein in costs and eliminate waste and inefficiency. Experts agree there is a tremendous amount of waste and inefficiency in our health care system. Anyone who has gone to a hospital can see that. Estimates indicate that as much as one-third of medical care does not, in fact, improve anyone's health. I think this bears repeating. A full one-third of all dollars spent on health care in this country does not contribute to the overall health of the population.

We are trying to deal with that in a variety of ways in this legislation, to get more cost-effective treatment and to get more efficiency in our health care system.

The law provides for savings by stopping investments in so-called Cadillac insurance plans. Second, there is new transparency and accountability for insurers to justify premium increases. Third, the law requires that insurers spend at least 80 percent of the premiums they collect on actually providing medical care rather than on CEO salaries and shareholder profits and administrative costs. Fourth, the

affordable care act increases competition and price transparency through these health insurance exchanges we established. Fifth, the law establishes an independent body to recommend policies to Congress to help Medicare lower costs while providing better care. I can go into quite a discussion of the advisory board we established to try to control growth in the cost of Medicare. I think it is a very meritorious provision and one about which a great deal of bad information has been provided.

In conclusion, the facts demonstrate clearly to me that these reforms will move us forward toward more affordable health care, with greater choice for American families. We will see less waste. We will see less inefficiency in our health care system. We will see higher quality of care. We will start to bring rising health care costs under control.

These are worthy goals. They are the goals of this health care reform legislation. I look forward to seeing them achieved in the coming months and years.

Again, I thank my colleague for his courtesy in allowing me to continue longer than was planned.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

ENERGY

Mr. INHOFE. Mr. President, we are going to have a vote this afternoon. It is going to be a procedural vote. Some will be voting different ways. There is a substance behind the issue at large.

Last week, President Obama visited Cushing, OK. It may have been the first time he has ever been to Oklahoma. I do not know. He claimed that under his watch, he said, ''America is producing more oil today than at any time in the last 8 years.'' It seems that in the midst of $4- to $5-a-gallon gasoline, he is trying to convince the American people he is not one to blame. Clearly, he is the one to blame.

That is why I think it is important to set the record straight. After all, it was Obama's Energy Secretary Steven Chu—we cannot forget this—who said: ''Somehow we have to figure out how to boost the price of gasoline to the levels in Europe.'' That was his Energy Secretary who was speaking on behalf of President Obama.

So the motive is to raise the price of gas. Right now, we are almost over halfway there. We all remember the President's statement during the 2008 campaign when he said: ''Under my plan, electric rates will necessarily skyrocket.'' His policy agenda has been in lockstep with this goal.

President Obama has had a 4-year war on fossil fuels, and now we are paying for that at the pump. As to the oil and gas taxes, nowhere has the President been more resolute in stopping oil and gas development than in his tax proposals, every budget since he was sworn in. Now we are talking about four budgets this President has presided over. Keep in mind, when a budget is designed by a President, whether he is a Democrat or Republican, it is the President, not the Democrats, not the Republicans, not the House, not the Senate, it is the President who is responsible for that budget.

In every budget the President has called for the elimination of all tax provisions made available to the oil and gas industry. This year these tax increases totaled about $40 billion over 10 years. So while the President was going around the country last week trying to convince everyone he is actually pro oil and gas, he laid the groundwork for Senator MENENDEZ to push a bill through the Senate to raise taxes on the industry.

Senator MENENDEZ's bill, S. 2204, proposes to either modify or outright cancel the following tax provisions for major integrated oil and gas firms. First, the section 199 manufacturer's tax deduction; secondly, intangible drilling costs, sometimes referred to as IDC; third, the percentage depletion; and, four, the foreign tax credit for oil and gas firms.

Last time we actually had a vote in the Senate on these provisions was in June of 2010. I remember it very well because that was when the distinguished Senator from Vermont Mr. SANDERS offered an amendment that would have raised taxes on oil and gas producers by $35 billion over 10 years by repealing section 199—same thing he is trying to do—percentage depletion and IDC.

While the Menendez bill is a little different, it applies to the larger companies, those with substantial production levels. It is important to point out that the Sanders amendment—and I led the opposition to the Sanders amendment—was defeated almost 2 to 1, 35 to 61.

The President insists these tax and accounting provisions are actually subsidies, but nothing can be further from the truth. This has not been done yet, to my knowledge—been explained. It is so important people understand what these provisions are.

Section 199 is the manufacturer's tax deduction. Section 199 was added to the Tax Code as a part of President Bush's 2004 tax law. It was designed to support domestic manufacturing, and it did this by providing a 9-percent tax deduction for manufacturers, effectively lowering their tax rates from 35 to 32 percent.

The provision was phased in between 2005 and 2010. But, in 2008, something strange happened. The oil and gas industry was singled out so it could only claim a portion of that deduction. In other words, all other manufacturers of all other goods in America could claim that deduction, except oil and gas.

The Menendez proposal would repeal section 199 from major integrated oil companies. In the President's budget, a similar proposal was scored at $11.6 billion. I am going to add all these in a minute and let everyone know why we are paying so much at the pump. What is most interesting to me about the section 199 tax deduction is that it is available to any company in the United States that creates any kind of manufactured goods here at home.

Firms that build and sell refinery equipment, airplanes, washing machines can all claim the deduction. It may be surprising, however, that the deduction is also available for movie producers—not oil and gas producers but movie producers. That is right. The American film industry can claim a deduction for making movies. So President Obama and Senator MENENDEZ are putting their Hollywood friends and movie stars ahead of an industry that makes us less reliant upon oil imports from the Middle East. There is no surprise there.

The next thing is—that was section 199. That is a manufacturer's deduction, applies to all, and benefits all manufacturers to encourage domestic manufacturing.

The second thing is intangible drilling costs, IDC. This is a little bit more complicated. But the intangible drilling costs are expenses oil and gas firms incur when they drill and prepare new wells. These costs often total between 60 and 80 percent of a well's cost. They are generally not recoverable and include things such as site preparation, labor, design.

Intangible drilling costs are firmly grounded in sound accounting principles. Every basic accounting course discusses the principles of cost recovery. It is safe that businesses should be allowed to write off their expenses from the revenue they earn to account for the cost of doing business. That is logical. No one is going to disagree with that.

When purchasing substantial capital equipment, depreciation is often used to recover the costs of an investment over its useful life. But things such as wages are nearly always deducted immediately because once a company has paid an employee for work, it has no lasting value. To retain the value, they have to keep paying the employee. Hence, it is an immediate expense, and it is deducted from the revenue when determining the net profit.

The IDC deduction has been on the books since 1913. This is not anything new. We have lived with it for almost a century.

Most of the costs associated with the preparation of new wells should be classified as an immediate expense—things such as labor. The expenses of IDCs make sense. To claim it is a subsidy is totally dishonest. Every company, regardless of whether it is an oil or gas firm or any other company, is allowed to recover costs associated with their investments in business operations. If this is going to be labeled a subsidy for the entire economy, then we have big problems.

Current law allows most oil and gas firms to write off these expenses as an

alternative to capitalizing their costs into the total value of the asset being developed and then depreciated. But at some point along the way, the law was changed so that major integrated oil firms are required to capitalize 30 percent of their IDCs and amortize them over a 60-month period.

The Menendez bill would eliminate this option and require oil and gas firms to capitalize all of their IDCs. A similar proposal was in the President's budget scored as a $13.9 billion tax increase. We are going to add that up in a minute. Together with the repeal of section 199, an IDC should compromise 10 percent of America's oil and gas production capacity by 2017. This translates into a potential loss of 59,000 jobs, 600,000 barrels of oil a day in domestic production, and the loss of $15 billion in capital expenditures in 2012, and potentially $130 billion over the next 10 years.

Percentage depletion is very similar. It has been with us. Since 1926, small producers and millions of royalty owners have had the option to utilize percentage depletion to both simplify their tax filing and to account for the decline in the value of the minerals produced from their properties. Current law allows small producers to take a 15 percent deduction from the gross income from a given producing property in lieu of a complicated depreciation deduction. This tax provision is particularly important for the production of America's nearly 700,000 low-value, marginal wells, making it essential to Oklahoma.

Even though the small marginal wells only produce about two barrels a day, they account for 28 percent of the total production. We are one of the, if not the, largest marginal States out there. These are truly the little guys, and the President wants to go after them and destroy the incentives that keep the older wells producing by repealing percentage depletion. If he were able to do this, it would increase taxes on the industry by $11.5 billion.

What is most interesting about the Menendez proposal is that it only applies to major integrated oil companies, which are not even allowed to claim percentage depletion, proving that 2204 is nothing more than political theater.

As to the modification of the foreign tax credit for dual capacity taxpayers, the United States is one of the only developed—I think it is the only developed country in the world that has a global corporate tax system. This means the IRS and Uncle Sam reach all over the world to tax profits made by U.S. companies outside of our borders.

When we combine this with our 35-percent corporate tax rate, which is one of the largest and highest on Earth, our corporate tax policies are the worst in the world.

The global corporate tax system works like this: When a U.S. firm is operating overseas, they pay taxes on those profits in the country in which they are operating. For example, a U.S. company makes a product in South Korea, sells it to the South Koreans, and they make a $1 million profit. Because their corporate rate is 22 percent, as opposed to ours at 35 percent, the firm pays $220,000 in taxes. That makes sense.

If a U.S. firm has made the same product and profit in the United States, it would be subjected to a 35-percent tax, which would be $350,000 in corporate taxes. This also makes sense except it is too high. However, because of our global corporate tax system, if a firm does this same thing in Korea, they have to pay the differential between 22 percent and 35 percent when they bring the money back into the United States.

Wait, we want to bring the money back. We want to stimulate our economy. Why would they have a disincentive to bring that money to invest in America? In this example, a U.S. firm would have to pay an additional $130,000. They would be doing a great thing for foreign countries but certainly not for us. It doesn't make any sense at all.

Senator MENENDEZ's bill makes this awful policy even worse by limiting the ability of major integrated oil firms to account for the taxes they pay in other countries when they calculate what they owe the United States.

The President made a similar proposal in his budget this year, and if enacted it would raise taxes by about $10 billion over 10 years. You would pay for more of this at the pump. Instead of making the corporate tax system even less competitive than it is today, we should aim to completely reform it so we move to a territorial system that doesn't reach outside our borders to collect more taxes.

Those are the major provisions of the Menendez-Obama bill. If they were enacted to the extent proposed by President Obama's budget, they would be a tax hike of $47.1 billion.

Again, that relates to the cost of gas at the pump. The President claims he is doing this in the name of forcing the oil and gas industry to pay its fair share. He claims it would not harm domestic oil production. But this claim rejects the well-known process companies follow when making investment decisions. Successful oil and gas companies, like those in all industries, are faced with seemingly endless opportunities. To sort through the opportunities they have to have a way to rationally decide which projects are in the best interest of their investors and which are not. Most companies do this by determining which investments will give the highest rate of return given the risk.

Taxes play an incredibly important role in this matter. If taxes increase, then cash flow from the project decreases. Therefore, taxes in the United States increase; the competitiveness of domestic projects decreases significantly relative to the opportunities available abroad.

When the rubber meets the road, this means the U.S. oil and gas firms—especially the big ones—targeted by the Menendez-Obama bill will be more likely to select international projects than U.S.-based projects, and this is bad for our economy.

As to the other ways Obama is killing oil and gas, the taxes aren't the only thing the President is doing. They are significant. I mentioned four of them that are significant. But look at the Keystone Pipeline.

I just got back from Oklahoma, a visit there. It is another example of why he was in Cushing, OK, the central part of Oklahoma. For those who are not familiar with it, that is sort of the intersection of all of the pipelines. He said he was going to expedite the permitting of the southern leg of Keystone. That would be the leg going from Cushing, OK, down to the Houston area. What he didn't say is that this is the part he doesn't have any control over.

In other words, he has no control over the southern half. The reason he does over the northern half is because that crosses a country boundary from Canada to the United States. But he doesn't have a say in this. He could not stop it if he wanted to. Obviously, he would want to because he has demonstrated that. Moreover, his action to block the northern leg is preventing the immediate creation of over 20,000 jobs and up to 465,000 jobs by 2035. I don't think anybody argues with that analysis.

The President's effort to stop hydraulic fracturing is another example. Much of today's renaissance in oil and gas production is the result of the advancements in this technology. He has done everything he can to paint a nasty and suspicious picture of it. He has 10 Federal agencies, including the EPA, the Department of Energy, and the Bureau of Land Management looking at ways to regulate hydraulic fracturing at the Federal level. In addition, he has also kept millions of Federal lands off-limits to oil and gas.

As far as the hydraulic fracturing, I know a little about that; we had the first hydraulic fracturing that took place in Duncan, OK, in 1949. There has not been one documented case of ground water contamination using hydraulic fracturing. The only reason he is opposed to it is that this is part of his war on fossil fuels. If he can stop hydraulic fracturing, he will stop all of these types of production, and everybody knows that. We have already done that.

So we have the tax problems, the pipeline, and hydraulic fracturing. In addition to that, his attempt has been to stop production on Federal lands and make Federal lands off-limits to oil and gas exploration, and even through some lease-sales conducted during the Bush administration, citing the need for more environmental review.

Today—and this is significant—83 percent of Federal onshore lands are

inaccessible or restricted to drilling. No drilling is allowed on the entire east and west coasts. No drilling is allowed in ANWR, in Alaska, and very limited drilling is in the gulf.

Oil and gas production is skyrocketing in States such as North Dakota and Texas simply because the President has very little control over the drilling there. That is not Federal land. This is in Texas, Oklahoma, and North Dakota. The Congressional Research Service concurs, stating in a recent report that about 96 percent of the increase in oil and gas production since 2007 took place on nonfederal lands. In other words, it has happened in spite of the President's efforts. The President imposes all of these punitive taxes because he doesn't have control over private lands. He tries to say: In my administration we expanded production. That has happened in spite of his policies.

At end of the day, all of President Obama's oil and gas policies make it harder for U.S. firms to justify projects at home. This is to the detriment of our economy. Just look at the increase in taxes, the killing of the pipelines, the stopping of hydraulic fracturing, making drilling off-limits. To let you know what States are missing out on, a Friday New York Times front-page article ran about oil and gas development going on in west Texas describes how this helped the local economy, saying new-found wealth is spreading beyond the fields in nearby towns.

Petroleum companies are buying so many pickup trucks that dealers are leasing parking lots the size of city blocks to stock their inventory. Housing is in such short supply the drillers are importing contractors from Houston. The hotels are leased out before they are even built. Two new office buildings are going up in Midland, a city of just over 110,000 people—the first in 30 years—while the total value of downtown real estate has jumped 50 percent since 2008, with virtually no unemployment.

Restaurants cannot be found. They cannot find people to work because they are fully employed. One of the individuals from Oklahoma, a great producer, went up to North Dakota. He is up there right now. I talked to him yesterday and he said: The biggest problem we have is that we cannot hire anyone. It is full employment. Things are great.

That is what the rest of the country is missing out on. When we make the United States less competitive for U.S. oil and gas firms, as the President's tax policies propose, this sort of red-hot growth goes to places such as Azerbaijan and Nigeria instead of Midland, TX, and Oklahoma City. Rather than help our economy, the President's tax policies make us more reliant on foreign oil imports from unstable regions of the world.

I don't know about you, but I would rather see pickup truck dealerships running out of vehicles to sell in Cushing, OK, than in Caracas, Venezuela.

The President will not admit this, but we have seen what punitive tax hikes do to the oil and gas industry. They hurt our economy. President Carter, way back in the early eighties, confirmed this with the windfall profits tax. He was going to punish the bad oil companies. As a result of that, it decreased domestic production by 3 to 6 percent, which increased American dependence on foreign oil sources by 8 to 16 percent. Almost all of it was from the Middle East. It doubled our dependence by putting taxes on the oil industry here. A side effect was also declining, not increasing, tax collections.

Since we know what happens when we do this sort of thing, we don't need to try the experiment again. Regardless, the President and most on the left insist that taxpayers are subsidizing oil and gas firms. But, apparently, they have not been reading the facts.

The Tax Foundation recently estimated that between 1981 and 2008, oil and gas companies sent more money to Washington and State capitols than they earned in profits for shareholders.

The administration's own Energy Information Administration reported that the industry paid about $35.7 billion in corporate taxes in 2009.

The oil and gas industry sends $86 million per day to Federal and State governments, and their effective income tax rate is over 41 percent, which may be the highest of any industry in America. But the President and congressional Democrats want them to pay more.

In addition to these tax increases, Secretary Salazar recently told Congress his department is planning to raise the onshore royalty rate by 50 percent. These are the royalty rates to ensure taxpayers get a fair return on the development of oil and gas leases on public lands. If what we are trying to do is raise more revenue, we should get it by growing the economy.

We have used the figure over and over that with each 1 percent increase in economic activity that translates into about $50 billion in new revenue. We can do that by unlocking more domestic supply for development, and this will lower prices at the same time. We have plenty of it. The CRS report recently stated we have the largest combined oil, natural gas, and coal recoverable reserves on Earth—more than any other country, more than Saudi Arabia, more than any other country. This means we have a 50-year supply of oil in present consumption in the United States, for 50 years, just exporting our own development or 90 years' supply of natural gas.

At the end of the day, this bill, and the rest of the President's proposals, will only make U.S. oil firms less competitive compared to their international peers. It will raise the cost of energy by restricting global prices. It will force us to become more reliant on others, which will make us more vulnerable from a defense and economic security perspective. The only way to resolve this problem and to do something about reducing the price at the pump is to start developing our own resources.

A minute ago I talked about what is happening in Midland, TX, and North Dakota, and what is happening in some areas in Oklahoma. I can remember when I was a little kid I worked on cable-and-tool rigs. That was very difficult at the time.

A man by the name of A.W. Swift had 18 cable-and-tool rigs. At that time, instead of rotaries, they would pound down. Sometimes I would work two shifts. One night I was working the second shift, and the well blew up. The owner had one son named Burt. Burt was killed and I wasn't. When I stop to think about the prosperity in those days of the oil and gas industry in Oklahoma, I think about the nearby town of Pawhuska, where people had to wait in line to pay their lunch bill. It was full employment and not an empty storefront. But up until we started producing again in Oklahoma, it was very much almost a ghost town.

Now things are coming back, and we can take advantage of that. In spite of the tax policies of President Obama, we are coming back, and we can do this throughout the United States. The most important thing we can do is make sure the Menendez-Obama bill to increase taxes on the oil and gas companies in the United States is defeated. We hope we have the opportunity to do that.

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

Mr. TESTER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

REPEAL BIG OIL TAX SUBSIDIES ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 2204, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 337, S. 2204, a bill to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation.

The PRESIDING OFFICER. Under the previous order, the time until 5:30 p.m. will be equally divided between the two leaders or their designees.

Mr. INHOFE. Mr. President, I ask unanimous consent that the time on each side be equally divided during the quorum calls.

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

Mr. INHOFE. 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. CORNYN. 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. CORNYN. Mr. President, I come to the floor today to express concerns about the rising cost of gasoline and the Obama administration's efforts to further increase the American consumers' pain at the pump.

As we all know, the average price of gasoline has now more than doubled since the first week of the President's inauguration in January 2009, from $1.84 a gallon to $3.86. Furthermore, the Associated Press has reported the typical American household spends about $4,155 a year filling up at the pump—an all-time high—and 8.4 percent of the median household income, the highest percentage spent for gasoline since 1981 when oil prices soared due to the crisis in the Middle East.

The Energy Information Administration estimates that 72 percent of the price of a gallon of gasoline is made up from the cost of crude oil, which is a globally traded commodity. Although some would like to distract from the fundamentals, Congress cannot repeal the law of supply and demand.

Indeed, President Obama used to agree with us. Last March, for example, he said ''producing more oil in America will help lower oil prices.'' However, his administration has adopted policies that directly conflict with our goal of lowering gasoline prices. To add insult to injury, with the public outcry, the President is out to further confuse the facts and actually take credit for increasing production when those increases have been on private lands outside of his control, and while opposing greater exploration on Federal lands under his purview. At the same time he is even seeking now to push prices even higher by raising taxes in his fiscal year 2013 budget.

This week the Senate will be debating a bill by Senator MENENDEZ of New Jersey to increase taxes on oil producers. I don't know of anyone who could reach any other conclusion than that by raising taxes on the people who produce oil and gas, it will raise, not lower, the cost of oil, thus the refined petroleum product known as gasoline. So, actually, by punitively and in a discriminatory sort of way raising prices on an unpopular sector of the economy, we will actually make matters worse, not better.

The Tax Code supports the energy sector by providing a number of targeted tax incentives—or tax incentives only available to the energy industry. In addition to targeted tax incentives, there are a number of broader tax provisions that are available for energy- and nonenergy-related industries. For example, the section 199 domestic production deduction incentive is available to most domestic manufacturers with income derived from production property that was manufactured, produced, grown, or extracted within the United States.

So this section 199 provision applies to a whole host of American businesses, not just the oil and gas business. Yet the Menendez bill and the Obama administration continue to single out oil producers for tax increases, even though oil-related activities are already limited from claiming the deduction compared to other industries.

Analysis by the Congressional Research Service for the energy targeted tax incentives shows that while the majority of U.S. primary energy production comes from fossil fuels, the majority of energy tax-related revenue losses are associated with provisions designed to support renewables.

During 2009, 77.9 percent of U.S. primary energy production could be attributed to fossil fuels—77.9 percent in 2009. Of the Federal tax support targeted to energy in 2009, an estimated 12.6 percent went toward fossil fuels. In contrast, in that same year, more than 10 percent of U.S. primary energy sources came from renewable fuels.

In other words, just to repeat: 10.6 percent from renewable, 77.9 in that same year from oil and gas, but notwithstanding the fact only 10 percent of energy produced came from renewable fuels, 77.4 percent of energy targeted Federal tax support went toward supporting renewable fuels.

If we want to put all these tax provisions on the table, I think we should do that. As a matter of fact, the Simpson-Bowles study identified more than $1 trillion of tax expenditures. But let's not just pick out one sector of the economy and, in the process, raise taxes and increase the price of gasoline at the pump as an unintended but clearly likely outcome.

We know the Menendez bill is not about tax reform. This is about mixing the message and trying to drive a wedge between the American people and the people who actually create jobs. Unfortunately for the administration, raising taxes will, in fact, translate into higher prices.

It is a fair question to ask whether this administration can defend its policies, such as their budget proposal to raise taxes where they argued these tax provisions should be repealed because they ''encourage overproduction of oil'' and are thereby ''detrimental to long-term energy security.''

I am not sure most Americans understand that the official policy of this administration is that tax deductions should be removed because they encourage overproduction of oil in America. I thought the goal—one of our goals—was to produce more at home so we would depend less on imported energy from abroad.

Then there is the Keystone Pipeline, which is well-known. The President is the primary obstacle to the completion of that pipeline which will create more than 20,000 new jobs and produce 700,000 barrels of oil at refineries in the United States from a safe and friendly source—the nation of Canada. Because the President is blocking completion of the Keystone XL Pipeline, they are looking for alternative customers. Indeed, the Prime Minister of Canada has visited China to prospect that potential purchase.

What is worse, it is not just that the President hasn't acted, it is that the President has actually lobbied in the Senate to defeat efforts to bypass his obstruction to the completion of the Keystone XL Pipeline.

Well, the President must be feeling the heat because he showed up in Cushing, OK, to celebrate and to say he would expedite about one-third of the pipeline, which, ironically, doesn't require him to do anything. It certainly doesn't turn on the spigot in Canada to get the oil in that pipeline to come from Canada down to the United States.

So we can see our Nation has no coherent energy policy. We see that not only is this an area that has been neglected to the detriment of the American consumer, but actually the sorts of policies being pursued by the administration—particularly with regard to the Keystone XL Pipeline and raising taxes on domestic oil producers—are designed to make matters worse for American consumers at a time when they are struggling to recover from this recession, with historically high rates of unemployment and too few jobs.

Looking at all the evidence on energy prices, it is hard to come to any conclusion other than that high energy prices are part of President Obama's plan. The policies he has put in place have intentionally elevated the price of gasoline, much to the detriment of the American people.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from the State of New Jersey.

Mr. PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Mr. President, I rise in support of S. 2204, which is my legislation to repeal Big Oil subsidies.

This bill is pretty simple. We end wasteful subsidies to the big five oil companies, and we use those proceeds to invest in clean energy, in creating jobs, and reducing the deficit. I think the American people are sick and tired of paying ridiculously high gasoline prices at the pump and then paying Big Oil again with our collective taxpayer subsidies. I think that money is better spent keeping our economy going and developing alternatives to oil that will create competition in the marketplace and help to reduce gas prices.

We are poised to waste $24 billion over the next 10 years subsidizing only five companies that are poised to make

over $1 trillion in profits—not proceeds, in profits—over the same time frame. And as we all pay more at the pump, Big Oil rakes in more money.

Exxon boasts in its Securities and Exchange Commission filings that for every $1 increase in the price of oil, their profits rise by $375 million. For every $1 the price of oil goes up, they boast in their filings that their profits—not proceeds, profits—rise by $375 million. The American driver's pain is Big Oil's profit.

What is Big Oil doing with its profits? Well, the answer is not useful. As you can see in this chart, the profits from the big five oil companies were $137 billion in 2011. That is an impressive 75-percent increase from 2010. Did they use that extra money to produce more oil, as some of my colleagues here would suggest? No, they didn't. They took your money and actually in that time frame didn't produce a drop more of oil. As you can see, despite the fact that overall U.S. production is higher now than it has been in the last 8 years, last year these five companies actually produced 4 percent less oil.

So it is fair to ask: If they did not invest to produce more oil, then what are they doing with this $137 billion in profits, this 75-percent increase in profits in 1 year? Well, they spent about $38 billion repurchasing their own stock to enrich themselves, and they spent nearly $70 million on campaign contributions and lobbying to protect their billions of dollars in subsidies. As you can see here, it was a pretty smart investment. For every $1 they spent in lobbying, they got about $30 in subsidies. One might say that is not a bad return on their investment.

So instead of giving these subsidies to Big Oil so they can enrich themselves and seek to affect and control our political system, I think we could use some of those funds to reduce the deficit. I think we can all agree we need to reduce the deficit, but there seems to be some considerable disagreement on how to do it. Last week, those on the other side of the aisle came out with what I call the Romney-Ryan budget, their proposed budget, and it would drastically cut funding for wounded soldiers, for seniors, for students, but it leaves in place these wasteful subsidies even though we have this enormous profit.

Through some political sleight of hand they defy reality when they tell us with a straight face that we have to make tough choices, and then they cut funding for wounded soldiers, for seniors, and students but won't touch the subsidies for Big Oil.

Somehow, in this Republican parallel universe, logic is turned on its head and we are asked to believe that fairness doesn't mean treating everyone equally. It means more for the very rich and more for Big Oil. But we don't live in a parallel universe. We live in the real world. Fairness means that working families should not be the only people sacrificing. And we can't lower the deficit while we give taxpayer dollars away to Big Oil companies that are making record profits and not producing more energy. It is amazing to me that anybody can come and make that argument.

What makes these subsidies even more ridiculous is that when we pressed those who have supported the industry or those who have come from the industry, everyone seems to admit that oil companies do not need these subsidies. Former President Bush, who was very good with the oil industry, said that oil companies do not need incentives to drill when oil hits $55 per barrel. Those were his remarks. Now it is over $100 a barrel. So if they didn't need incentives to drill when it was at $55 a barrel, how does anybody come to the floor and suggest they need incentives now when it is over $100 a barrel?

Then the former CEO of Shell said that subsidies are not necessary for drilling and production. That is pretty much probably clear when they are making $137 billion in that 1 year, and where they will make $1 trillion over the next decade.

Of the $24 billion we save by cutting these subsidies to the big five, we can use over $11 billion to extend a series of critically important expiring energy tax incentives. These clean energy technologies will cut demand for oil, they will drive economic growth, will create jobs, and will allow America to lead the global clean energy market.

Despite Big Oil's rhetoric—let me tell you, it is amazing. I see they are spending a lot of that money, all this money here not making oil, but they are spending it on television to scare everybody and to say that, Oh, if you take any of those subsidies away, somehow prices will rise. Well, we know that, despite Big Oil's rhetoric, cutting subsidies will not raise gas prices. We know that. Why? Because experts from the U.S. States Treasury Department, from the nonpartisan Congressional Research Service, and from oil executive testimony that came before the Finance Committee that I sit on, made it very clear that is not the case.

But more than that, some of the most important tax policies that will be extended in this bill will help drive down gas prices by creating competition for oil as a transportation fuel. These incentives include the one for biofuels such as cellulosic ethanol, biodiesel, also incentives for natural gas and propane used as a transportation fuel. There are also incentives for alternative fuel refueling infrastructure and for electric vehicles. Taken together, these incentives are laying the groundwork for a truly competitive market where we are not beholden to one type of fuel to power our vehicles. But the good news doesn't even end there. There are also tax incentives that will help the United States compete for the renewable industries of the 21st century.

For example, the section 1603 Treasury grant program has helped finance renewable energy projects around the country. It has leveraged over $35 billion in investments to create tens of thousands of energy projects. In my home State of New Jersey alone, 750 grants were given for solar, geothermal, landfill gas, hydropower, wind projects. These projects are worth over $350 million, creating many jobs, and will help New Jersey on energy bills for decades to come.

Another important renewable energy incentive is the production tax credit for wind. Since the last reauthorization of PTC in 2005, wind power capacity has more than tripled. But if that production tax credit is not extended, it is estimated that annual installations of wind will drop by more than 75 percent and wind-supported jobs will decline from 78,000 in 2012 to 41,000 in 2013, and total wind energy investment will drop by nearly two-thirds. So it is time to get back to reality. It is time to tell middle-class families struggling to make ends meet that fairness means everyone—everyone—pays their fair share when it comes to reduce the deficit. It means ending ridiculous taxpayer giveaways to the five most profitable companies in the world.

I cannot understand how the oil industry is spending money on radio and other forms of media to say, Oh, my God, If you take any of our subsidies away—and these aren't even all of the subsidies they have. These are just a couple, the $24 billion over 10 years. They are going to make $1 trillion over 10 years. So you are telling the American people that when you are going to make $1 trillion over 10 years, we collectively as taxpayers must still give you $24 billion or else somehow $1 trillion minus $24 billion wouldn't be enough for you in profits that you would gouge the consumer at the pump? I don't think the American people are going to accept that.

It is time for us to stop wasting taxpayer money on oil subsidies and use this money to invest in clean energy, in jobs, in lowering the deficit. All of that can be done on this opportunity when we vote in favor of moving forward on S. 2204, the Repeal Big Oil Subsidies Act. It is time to put the interests of the American people ahead of the money interests in this Congress with this vote, and then moving forward.

I hear my colleagues may very well vote for us today to have a debate—which I more than welcome. I am looking forward to it. I have got a lot more to talk about in this regard—but then won't vote at the end to repeal the subsidies. So I guess what we will hear is a chorus of voices that will speak about defending Big Oil and defending its $24 billion in subsidies, and justifying that even with $1 trillion in profits they still need to get their hands into the pockets of taxpayers and take another $24 billion in addition to what they get at the pump so they can make even more profits. And, somehow, there will be a justification to that. I hope

the American people will be watching, because that type of justification is beyond comprehension. I know it as I hear it from families in New Jersey.

I hope we will have this debate. I hope we will be able to move forward. I want to be able to talk about how I hear my colleagues talk about drill, baby, drill. Well, I was incredulously amazed that actually we are now exporting from the United States millions of gallons of gasoline and refined petroleum products every day to other places in the world. It seems to me that if we drill it here, particularly on Federal lands and water, we should keep it here because obviously the bigger the supply we have, the more we are going to create downward pressure on prices. But I think most Americans would be pretty shocked to know that we are actually exporting. They think everything that is created here is kept here, which is why I found it interesting—I keep hearing my colleagues talk about the Keystone Pipeline. Well, there are those of us who said, You know what. If you will make it with materials made in America so that we can ensure American jobs are created with it, and if you keep the energy here and not export it someplace around the world, then there are a lot of people who would say: Yes, along with the right environmental safeguards, let's consider it. But overwhelmingly that was voted against. So so much for American jobs. So much for securing American energy. Because what is the use of a pipeline to bring an energy source and then have it sent to other places in the world? That doesn't help us.

I am a big believer if we are going to drill it on Federal lands and water, we are going to keep it here, we are going to help us lower prices. I am a big believer if we are going to do something such as Keystone, let's make sure it is made with American materials and made with American hands and, at the end of the day, the energy is kept in the United States. I am a big believer in saying at a time of shared sacrifice, it is wrong to ask working families to do more and yet give the oil companies $24 billion, when they will make $1 trillion in profits. It is wrong to say to a wounded soldier we are going to cut programs in his long-term health care that will ultimately help him get back on his feet, but we are going to give Big Oil $24 billion. It is wrong to tell students who are trying to determine their future and get access to that college education and who will encumber themselves with significant costs along the way, no, they pay more, but we are going to give Big Oil $24 billion. It is wrong to tell seniors we are going to end Medicare as we know it, but we are going to give Big Oil $24 billion. That is beyond my comprehension.

I look forward to the debate because it is going to be very interesting to see some of the remarkable ways in which people are going to have to explain that. I don't think it is explainable to the American people. Tonight's vote starts a process: Which side are we on? Are we on the side of the American taxpayer or are we on the side of Big Oil? I hope an overwhelming number of our colleagues will, starting tonight and moving toward final passage, say we are on the side of the American taxpayer and the American consumer. If we do that, we can create some justice in this process. We can help create competition in the energy market to drive down prices, we can reduce the deficit by another $12 billion, and we can be a lot more fair to working families in this country. That is the choice before us. That is a choice the Senate will make in a positive way.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BINGAMAN. I thank the Chair.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Reid motion to proceed to Calendar No. 337, S. 2204, a bill to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation.

Harry Reid, Robert Menendez, Richard J. Durbin, Patrick J. Leahy, Patty Murray, Carl Levin, Charles E. Schumer, Bernard Sanders, Amy Klobuchar, Al Franken, Benjamin L. Cardin, Sheldon Whitehouse, Sherrod Brown, Mark Udall, Daniel K. Akaka, Debbie Stabenow, John F. Kerry.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2204, a bill to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. HATCH), the Senator from Utah (Mr. LEE), and the Senator from Illinois (Mr. KIRK).

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

The yeas and nays resulted—yeas 92, nays 4, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—92

Akaka	Franken	Murkowski
Alexander	Gillibrand	Murray
Ayotte	Graham	Nelson (FL)
Barrasso	Grassley	Paul
Baucus	Hagan	Portman
Bennet	Harkin	Pryor
Bingaman	Heller	Reed
Blumenthal	Hoeven	Reid
Blunt	Hutchison	Risch
Boozman	Inouye	Roberts
Brown (MA)	Isakson	Rockefeller
Brown (OH)	Johanns	Rubio
Burr	Johnson (SD)	Sanders
Cantwell	Johnson (WI)	Schumer
Cardin	Kerry	Sessions
Carper	Klobuchar	Shaheen
Casey	Kohl	Shelby
Chambliss	Kyl	Snowe
Coats	Lautenberg	Stabenow
Coburn	Leahy	Tester
Cochran	Levin	Thune
Collins	Lieberman	Toomey
Conrad	Lugar	Udall (CO)
Coons	Manchin	Udall (NM)
Corker	McCain	Vitter
Cornyn	McCaskill	Warner
Crapo	McConnell	Webb
DeMint	Menendez	Whitehouse
Durbin	Merkley	Wicker
Enzi	Mikulski	Wyden
Feinstein	Moran	

NAYS—4

Begich	Landrieu
Inhofe	Nelson (NE)

NOT VOTING—4

Boxer	Kirk
Hatch	Lee

The PRESIDING OFFICER. On this vote, the yeas are 92 and the nays are 4. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

VOTE EXPLANATION

● Mrs. BOXER. Madam President, I was absent from the vote to invoke cloture on the motion to proceed to S. 2204, the ''Repeal Big Oil Subsidies Act.'' Had I been present, I would have enthusiastically vote ''aye.''●

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

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

MORNING BUSINESS

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

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

TRIBUTE TO SENATOR BARBARA MIKULSKI

Mr. HARKIN. Madam President, I join with the entire Senate family in congratulating my great friend, the distinguished senior Senator from Maryland, BARBARA MIKULSKI, on becoming the longest serving female

Member of Congress in our Nation's history. She reached that milestone recently, having served in Congress for 12,858 days—more than 35 years—surpassing the previous longest serving Member of Congress, the late Representative Edith Nourse Rogers.

Representative Rogers famously quipped, ''The first 30 years are the hardest.'' But I dare say that Senator MIKULSKI has had a somewhat different experience. As with other pathbreaking women, she has encountered sexism and discrimination. But from her first day in the House in 1977 right up to today, in her much respected role as dean of women Senators, BARBARA MIKULSKI has been a singularly formidable and forceful public servant. Pity the Representative or Senator who has made the mistake of in any way underestimating this remarkable person.

For three and a half decades in Congress, BARBARA MIKULSKI has been an outspoken and proud progressive—a tireless advocate for quality public education, access to health care, and a strong safety net for those she calls ''the least of these our sisters and brothers''—including the elderly, people with disabilities, and the poor. Her passion for social and economic justice was nurtured by the nuns who taught her at Catholic school in working-class east Baltimore.

Senator MIKULSKI's legislative accomplishments are too numerous to cite here. But I am particularly grateful for the lead role that she played in early 2009 in passing the Lilly Ledbetter Fair Pay Restoration Act—the very first bill signed into law by President Obama. This law reversed an outrageous Supreme Court decision that allowed discrimination against women to go unpunished. But, as Senator MIKULSKI knows all too well, even the Lilly Ledbetter Act leaves in place an outrageous status quo where women are paid only 78 cents for every $1 that their male counterparts are paid. That is why she and I have continued to work closely together to advance the cause of equal pay. We are the respective leads on the two Democratic equal pay bills in the Senate.

As chair of the Health, Education, Labor, and Pensions Committee, I want to pay special tribute to the extraordinary role she has long played on our committee.

Senator MIKULSKI's legislative skills and leadership were critically important in crafting and passing the Patient Protection and Affordable Care Act 2 years ago—an achievement that she calls one of the ''greatest social justice initiatives'' of our time. She led the team that wrote the quality title in the bill, insisting that higher quality care does not have to be higher cost care. Thanks to Senator MIKULSKI, the health care reform law includes a whole range of provisions that shift the emphasis—rewarding providers not for quantity of service but for quality of service. I would add that throughout the debate on health care reform and during the many months the bill was being written, Senator MIKULSKI was a fierce advocate for women's health and for ending the brazen discrimination against women by health insurance companies.

On the HELP Committee, and also in her role as chair of the Appropriations subcommittee that funds the Legal Services Corporation, Senator MIKULSKI has been a great leader on another issue near and dear to my heart: legal services for the poor. She has fought hard—and it has always been an uphill struggle—to provide adequate funding so that people without resources are not barred from the courthouse door.

Of course, Senator MIKULSKI has also been one of the Senate's leading proponents of national and community service. In 2009, she was the Senate manager for the Edward M. Kennedy Serve America Act, which retooled our national service programs for the 21st century and provided expanded opportunities for young people to gain valuable skills and experience by helping neighbors in need.

Let me share a brief anecdote that illustrates the remarkable role that Senator MIKULSKI plays in the body and the respect that she commands among her colleagues. We all remember the debate, in late February, on the Blunt amendment, which would have allowed employers to deny health insurance coverage for contraception. In my role as chair of the HELP Committee, I was invited to attend a press conference in the LBJ Room of the Capitol organized by Senator MIKULSKI to speak out against the amendment. Let me tell you, this was a remarkable event. Senator MIKULSKI spoke first, with tremendous power and passion. One by one, other Senators spoke—women who, over the decades, have been counseled and mentored by Senator MIKULSKI: Senator PATTY MURRAY of Washington, Senators BARBARA BOXER and DIANNE FEINSTEIN of California, and Senator JEANNE SHAHEEN of New Hampshire. Senator MIKULSKI's message, echoed by the other Senators, was characteristically loud and clear: Decisions about medical care should be made by a woman and her doctor, not a woman and her boss. Needless to say, Senator MIKULSKI carried the day; the amendment was defeated.

Other Senators have noted Senator MIKULSKI's many firsts, including the first woman elevated to a leadership position in the Senate. I would simply add that BARBARA MIKULSKI is also first when it comes to a Senator being true to her roots, a fierce and effective champion for her State and passionate fighter for social and economic justice. Again, I salute the Senator on reaching the historic milestone as the longest serving female Member of Congress, and I wish her many more years of distinguished service to our Nation.

RECOGNIZING GRACE EPISCOPAL CHURCH

Mr. BURR. Madam President, I am very proud to extend my recognition and congratulations to the congregation and administration of the Grace Episcopal Church in Plymouth, NC, as this wonderful institution celebrates 175 years of providing spiritual guidance and community service to Washington County and the State of North Carolina.

This year marking the 175th anniversary of the founding of Grace Church, we give the citizens of Washington County as well as the State of North Carolina the opportunity to pay tribute and homage to a place of worship that has impacted many and assisted those in need of spiritual guidance.

Plymouth, NC traces its historical roots back to the 18th century and the beginnings of our Nation. It has served as a port on the Roanoke River off the Albemarle Sound for over two centuries, acting as a place of trade for much of North Carolina and the United States. By 1837, Plymouth had grown into an important port in North Carolina and with that growth came the establishment of the Grace Episcopal Church.

Plymouth was one of the ports targeted for blockade by Union forces during the Civil War and in that time it is believed that only 11 buildings survived the war, 1 of them being the Grace Episcopal Church.

Grace Episcopal Church has provided the town of Plymouth and the surrounding areas in Washington County spiritual guidance and leadership for the last 175 years. This institution has been a beacon of light and hope to many people in the region and the world.

Grace Episcopal Church has provided many charitable services and events for citizens in need, for example one guild at the church is comprised of a group of knitters and other handcrafters that make goods for distribution to those in need locally and abroad. Grace Episcopal Church has also been an active partner in the Washington County Habitat for Humanity projects, providing financial donations in addition to donating office space for the organization.

I ask my colleagues to join me in paying tribute to the Grace Episcopal Church in Plymouth, NC for the countless acts of charity and good will this institution has provided and will continue to provide eastern North Carolina. May their work be recognized and forever appreciated by the citizens of North Carolina as well as this Congress.

ADDITIONAL STATEMENTS

TRIBUTE TO PATRICK DOYLE

● Mr. THUNE. Madam President, today I recognize Patrick Doyle, an intern in my Rapid City, SD, office for all of the

hard work he has done for me, my staff, and the State of South Dakota over the past few months.

Patrick is a graduate of Stevens High School in Rapid City, SD. Currently, he is attending the University of South Dakota, where he is majoring in political science and history. He is a hard worker who has been dedicated to getting the most out of his internship experience.

I would like to extend my sincere thanks and appreciation to Patrick for all of the fine work he has done and wish him continued success in the years to come.●

NOTIFICATION OF THE PRESIDENT'S INTENT TO ADD THE REPUBLIC OF SOUTH SUDAN (SOUTH SUDAN) TO THE LIST OF BENEFICIARY DEVELOPING COUNTRIES UNDER THE GENERALIZED SYSTEM OF PREFERENCES (GSP) PROGRAM—PM 44

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with section 502(f)(1)(A) of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2462(f)(1)(A)), I am notifying the Congress of my intent to add the Republic of South Sudan (South Sudan) to the list of beneficiary developing countries under the Generalized System of Preferences (GSP) program. South Sudan became an independent nation on July 9, 2011. After considering the criteria set forth in section 502(c) of the 1974 Act (19 U.S.C. 2462(c)), I have determined that South Sudan should be designated as a GSP beneficiary developing country.

In addition, in accordance with section 502(f)(1)(B) of the 1974 Act (19 U.S.C. 2462(f)(1)(B)), I am providing notification of my intent to add South Sudan to the list of least-developed beneficiary countries under the GSP program. After considering the criteria set forth in section 502(c) of the 1974 Act, I have determined that it is appropriate to extend least-developed beneficiary developing country benefits to South Sudan.

BARACK OBAMA.
THE WHITE HOUSE, *March 26, 2012*.

NOTIFICATION OF THE PRESIDENT'S INTENT TO SUSPEND DESIGNATION OF ARGENTINA AS A BENEFICIARY DEVELOPING COUNTRY UNDER THE GENERALIZED SYSTEM OF PREFERENCES (GSP) PROGRAM—PM 45

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States which was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with section 502(f)(2) of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2462(f)(2)), I am providing notification of my intent to suspend designation of Argentina as a beneficiary developing country under the Generalized System of Preferences (GSP) program. Section 502(b)(2)(E) of the 1974 Act (19 U.S.C. 2462(b)(2)(E)) provides that the President shall not designate any country a beneficiary developing country under the GSP if such country fails to act in good faith in enforcing arbitral awards in favor of U.S.-owned companies. Section 502(d)(2) of the 1974 Act (19 U.S.C. 2462(d)(2)) provides that, after complying with the requirements of section 502(f)(2) of the 1974 Act (19 U.S.C. 2462(f)(2)), the President shall withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under section 502(b)(2) of the 1974 Act.

Pursuant to section 502(d) of the 1974 Act, having considered the factors set forth in section 502(b)(2)(E), I have determined that it is appropriate to suspend Argentina's designation as a beneficiary country under the GSP program because it has not acted in good faith in enforcing arbitral awards in favor of U.S.-owned companies.

BARACK OBAMA.
THE WHITE HOUSE, *March 26, 2012*.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 2230. A bill to reduce the deficit by imposing a minimum effective tax rate for high-income taxpayers.

S. 2231. A bill to amend the Federal Credit Union Act, to advance the ability of credit unions to promote small business growth and economic development opportunities, and for other purposes.

H.R. 5. An act to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2237. A bill to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER (for himself, Mr. LEE, Ms. MIKULSKI, Mr. BLUNT, Ms. KLOBUCHAR, Mr. KIRK, Mr. RUBIO, and Mr. COONS):

S. 2233. A bill to amend the Immigration and Nationality Act to stimulate international tourism to the United States; to the Committee on the Judiciary.

By Mr. BLUMENTHAL (for himself, Mr. PORTMAN, Mr. FRANKEN, Mr. RUBIO, Ms. COLLINS, Mr. LIEBERMAN, and Mrs. MCCASKILL):

S. 2234. A bill to prevent human trafficking in government contracting; to the Committee on Homeland Security and Governmental Affairs.

By Mr. NELSON of Nebraska:

S. 2235. A bill to prohibit the establishment by air carriers and airport operators of expedited lines at airport screening checkpoints for specific categories of passengers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BENNET (for himself, Mr. HATCH, and Mr. BURR):

S. 2236. A bill to provide for the expedited development and evaluation of drugs designated as breakthrough drugs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID:

S. 2237. A bill to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WARNER (for himself, Mr. BINGAMAN, Ms. MURKOWSKI, Mr. LUGAR, Ms. COLLINS, Mr. PRYOR, and Mr. UDALL of Colorado):

S. Res. 406. A resolution commending the achievements and recognizing the importance of the Alliance to Save Energy on the 35th anniversary of the incorporation of the Alliance; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 418

At the request of Mr. HARKIN, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Wisconsin (Mr. JOHNSON) were added as cosponsors of S. 418, a bill to award a Congressional Gold Medal to the World War II members of the Civil Air Patrol.

S. 550

At the request of Mr. LIEBERMAN, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 550, a bill to improve the provision of assistance to fire departments, and for other purposes.

S. 641

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Mr. FRANKEN) was added as a cosponsor of S. 641, a bill to provide 100,000,000 people with first-time access to safe drinking water and sanitation on a sustainable basis within six years by improving the capacity of the United States Government to fully implement the Senator Paul Simon Water for the Poor Act of 2005.

S. 722

At the request of Mr. WYDEN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 722, a bill to strengthen and protect Medicare hospice programs.

S. 835

At the request of Mr. CRAPO, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 835, a bill to reform the Bureau of Alcohol, Tobacco, Firearms, and Explosives, modernize firearms laws and regulations, protect the community from criminals, and for other purposes.

S. 960

At the request of Mr. KERRY, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 960, a bill to provide for a study on issues relating to access to intravenous immune globulin (IVG) for Medicare beneficiaries in all care settings and a demonstration project to examine the benefits of providing coverage and payment for items and services necessary to administer IVG in the home.

S. 1309

At the request of Mr. SCHUMER, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1309, a bill to amend title XIX of the Social Security Act to cover physician services delivered by podiatric physicians to ensure access by Medicaid beneficiaries to appropriate quality foot and ankle care.

S. 1575

At the request of Mr. CARDIN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1575, a bill to amend the Internal Revenue Code of 1986 to modify the depreciation recovery period for energy-efficient cool roof systems.

S. 1696

At the request of Mr. LEAHY, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1696, a bill to improve the Public Safety Officers' Benefits Program.

S. 1718

At the request of Mr. WYDEN, the name of the Senator from Missouri (Mr. BLUNT) was added as a cosponsor of S. 1718, a bill to amend title XVIII of the Social Security Act with respect to the application of Medicare secondary payer rules for certain claims.

S. 1872

At the request of Mr. JOHANNS, his name was added as a cosponsor of S. 1872, a bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

S. 1884

At the request of Mr. DURBIN, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1884, a bill to provide States with incentives to require elementary schools and secondary schools to maintain, and permit school personnel to administer, epinephrine at schools.

S. 1947

At the request of Mr. BLUMENTHAL, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1947, a bill to prohibit attendance of an animal fighting venture, and for other purposes.

S. 2003

At the request of Mrs. FEINSTEIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2003, a bill to clarify that an authorization to use military force, a declaration of war, or any similar authority shall not authorize the detention without charge or trial of a citizen or lawful permanent resident of the United States and for other purposes.

S. 2060

At the request of Mr. KOHL, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 2060, a bill to provide for the payment of a benefit to members eligible for participation in the Post-Deployment/Mobilization Respite Absence program for days of nonparticipation due to Government error.

S. 2066

At the request of Ms. MURKOWSKI, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 2066, a bill to recognize the heritage of recreational fishing, hunting, and shooting on Federal public land and ensure continued opportunities for those activities.

S. 2085

At the request of Mr. PAUL, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 2085, a bill to strengthen employee cost savings suggestions programs within the Federal Government.

S. 2103

At the request of Mr. LEE, the names of the Senator from Oklahoma (Mr. COBURN) and the Senator from Arkansas (Mr. BOOZMAN) were added as cosponsors of S. 2103, a bill to amend title 18, United States Code, to protect paincapable unborn children in the District of Columbia, and for other purposes.

S. 2112

At the request of Mr. BEGICH, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2112, a bill to amend title 10, United States Code, to authorize space-available travel on military aircraft for members of the reserve components, a member or former member of a reserve component who is eligible for retired pay but for age, widows and widowers of retired members, and dependents.

S. 2121

At the request of Ms. KLOBUCHAR, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 2121, a bill to modify the Department of Defense Program Guidance relating to the award of Post-Deployment/Mobilization Respite Absence administrative absence days to members of the reserve components to exempt any member whose qualified mobilization commenced before October 1, 2011, and continued on or after that date, from the changes to the program guidance that took effect on that date.

S. 2155

At the request of Mrs. MCCASKILL, her name was added as a cosponsor of S. 2155, a bill to amend the Farm Security and Rural Investment Act of 2002 to promote biobased manufacturing.

S. 2160

At the request of Mr. MORAN, the name of the Senator from Nebraska (Mr. JOHANNS) was added as a cosponsor of S. 2160, a bill to improve the examination of depository institutions, and for other purposes.

S. 2165

At the request of Mrs. BOXER, the names of the Senator from Nevada (Mr. HELLER) and the Senator from Missouri (Mrs. MCCASKILL) were added as cosponsors of S. 2165, a bill to enhance strategic cooperation between the United States and Israel, and for other purposes.

S. 2179

At the request of Mr. WEBB, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 2179, a bill to amend title 38, United States Code, to improve oversight of educational assistance provided under laws administered by the Secretary of Veterans Affairs and the Secretary of Defense, and for other purposes.

S. 2204

At the request of Mr. MENENDEZ, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Oregon (Mr. WYDEN), the Senator from Pennsylvania (Mr. CASEY), the Senator from Maryland (Mr. CARDIN), the Senator from California (Mrs. FEINSTEIN), the Senator from Connecticut (Mr. BLUMENTHAL) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 2204, a bill to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation.

S. 2219

At the request of Mr. WHITEHOUSE, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2219, a bill to amend the Federal Election Campaign Act of 1971 to provide for additional disclosure requirements for corporations, labor organizations, Super PACs and other entities, and for other purposes.

S. 2221

At the request of Mr. THUNE, the names of the Senator from Montana (Mr. BAUCUS) and the Senator from Missouri (Mrs. MCCASKILL) were added as cosponsors of S. 2221, a bill to prohibit the Secretary of Labor from finalizing a proposed rule under the Fair Labor Standards Act of 1938 relating to child labor.

S.J. RES. 39

At the request of Mr. CARDIN, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S.J. Res. 39, a joint resolution removing the deadline for the ratification of the equal rights amendment.

S. RES. 356

At the request of Mrs. FEINSTEIN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. Res. 356, a resolution expressing support for the people of Tibet.

S. RES. 370

At the request of Mr. CASEY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 370, a resolution calling for democratic change in Syria.

S. RES. 380

At the request of Mr. GRAHAM, the names of the Senator from Montana (Mr. TESTER), the Senator from Kansas (Mr. ROBERTS) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S. Res. 380, a resolution to express the sense of the Senate regarding the importance of preventing the Government of Iran from acquiring nuclear weapons capability.

S. RES. 402

At the request of Mr. JOHANNS, his name was added as a cosponsor of S. Res. 402, a resolution condemning Joseph Kony and the Lord's Resistance Army for committing crimes against humanity and mass atrocities, and supporting ongoing efforts by the United States Government and governments in central Africa to remove Joseph Kony and Lord's Resistance Army commanders from the battlefield.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID:

S. 2237. A bill to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, 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. 2237

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 ''Small Business Jobs and Tax Relief Act''.

SEC. 2. TEMPORARY TAX CREDIT FOR INCREASED PAYROLL.

(a) IN GENERAL.—In the case of a qualified employer who elects the application of this section, there shall be allowed as a credit against the tax imposed by chapter 1 of the Internal Revenue Code of 1986 for the taxable year which includes December 31, 2012, an amount equal to 10 percent of the excess (if any) of—

(1) the sum of the wages and compensation paid by such qualified employer for qualified services during calendar year 2012, over

(2) the sum of such wages and compensation paid during calendar year 2011.

(b) LIMITATION.—The amount of the excess taken into account under subsection (a) with respect to any qualified employer shall not exceed $5,000,000.

(c) WAGES AND COMPENSATION.—For purposes of this section—

(1) WAGES.—The term ''wages'' has the meaning given such term under section 3121 of the Internal Revenue Code of 1986 for purposes of the tax imposed by section 3111(a) of such Code.

(2) COMPENSATION.—The term ''compensation'' has the meaning given such term under section 3231 of such Code for purposes of the portion of the tax imposed by section 3221(a) of such Code that corresponds to the tax imposed by section 3111(a) of such Code.

(3) APPLICATION OF CONTRIBUTION AND BENEFIT BASE TO CALENDAR YEAR 2011.—For purposes of determining wages and compensation under subsection (a)(2), the contribution and benefit base as determined under section 230 of the Social Security Act shall be such amount as in effect for calendar year 2012.

(4) SPECIAL RULE WHEN NO WAGES OR COMPENSATION IN 2011.—In any case in which the sum of the wages and compensation paid by a qualified employer for qualified services during calendar year 2011 is zero, then the amount taken into account under subsection (a)(2) shall be 80 percent of the amount taken into account under subsection (a)(1).

(5) COORDINATION WITH OTHER EMPLOYMENT CREDITS.—The amount of the excess taken into account under subsection (a) shall be reduced by the sum of all other Federal tax credits determined with respect to wages or compensation paid in calendar year 2012.

(d) OTHER DEFINITIONS.—

(1) QUALIFIED EMPLOYER.—For purposes of this section—

(A) IN GENERAL.—The term ''qualified employer'' has the meaning given such term under section 3111(d)(2) of the Internal Revenue Code of 1986, determined by substituting ''section 101 of the Higher Education Act of 1965'' for ''section 101(b) of the Higher Education Act of 1965'' in subparagraph (B) thereof.

(B) AGGREGATION RULES.—Rules similar to the rules of sections 414(b), 414(c), 414(m), and 414(o) of such Code shall apply to determine when multiple entities shall be treated as a single employer, and rules with respect to predecessor and successor employers may be applied, in such manner as may be prescribed by the Secretary of the Treasury or the Secretary's designee (in this section referred to as the ''Secretary'').

(2) QUALIFIED SERVICES.—The term ''qualified services'' means services performed by an individual who is not described in section 51(i)(1) of such Code (applied by substituting ''qualified employer'' for ''taxpayer'' each place it appears)—

(A) in a trade or business of the qualified employer, or

(B) in the case of a qualified employer exempt from tax under section 501(a) of such Code, in furtherance of the activities related to the purpose or function constituting the basis of the employer's exemption under section 501 of such Code.

(e) APPLICATION OF CERTAIN RULES.—Rules similar to the rules of sections 280C(a) and 6501(m) of the Internal Revenue Code of 1986 shall apply with respect to the credit determined under this section.

(f) TREATMENT OF CREDIT.—For purposes of the Internal Revenue Code of 1986—

(1) TAXABLE EMPLOYERS.—

(A) IN GENERAL.—The credit allowed under subsection (a) with respect to qualified services described in subsection (d)(2)(A) for any taxable year shall be added to the current year business credit under section 38(b) of such Code for such taxable year and shall be treated as a credit allowed under subpart D of part IV of subchapter A of chapter 1 of such Code.

(B) LIMITATION ON CARRYBACKS.—No portion of the unused business credit under section 38 of such Code for any taxable year which is attributable to an increase in the current year business credit by reason of subparagraph (A) may be carried to a taxable year beginning before the date of the enactment of this section.

(2) TAX-EXEMPT EMPLOYERS.—

(A) IN GENERAL.—The credit allowed under subsection (a) with respect to qualified services described in subsection (d)(2)(B) for any taxable year—

(i) shall be treated as a credit allowed under subpart C of part IV of subchapter A of chapter 1 of such Code, and

(ii) shall be added to the credits described in subparagraph (A) of section 6211(b)(4) of such Code.

(B) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting ''or due under section 2 of the Small Business Jobs and Tax Relief Act'' after ''the Housing Assistance Tax Act of 2008''.

(g) TREATMENT OF POSSESSIONS.—

(1) PAYMENTS TO POSSESSIONS.—

(A) MIRROR CODE POSSESSIONS.—The Secretary shall pay to each possession of the United States with a mirror code tax system amounts equal to the loss to that possession by reason of the application of subsections (a) through (f). Such amounts shall be determined by the Secretary based on information provided by the government of the respective possession of the United States.

(B) OTHER POSSESSIONS.—The Secretary shall pay to each possession of the United States which does not have a mirror code tax system the amount estimated by the Secretary as being equal to the loss to that possession that would have occurred by reason of the application of subsections (a) through (f) if a mirror code tax system had been in effect in such possession. The preceding sentence shall not apply with respect to any possession of the United States unless such possession establishes to the satisfaction of the Secretary that the possession has implemented (or, at the discretion of the Secretary, will implement) an income tax benefit which is substantially equivalent to the income tax credit allowed under such subsections.

(2) COORDINATION WITH CREDIT ALLOWED AGAINST UNITED STATES INCOME TAXES.—No increase in the credit determined under section 38(b) of the Internal Revenue Code of 1986 against United States income taxes for any taxable year determined by reason of subsection (f)(1)(A) shall be taken into account with respect to any person—

(A) to whom a credit is allowed against taxes imposed by the possession by reason of this section for such taxable year, or

(B) who is eligible for a payment under a plan described in paragraph (1)(B) with respect to such taxable year.

(3) DEFINITIONS AND SPECIAL RULES.—

(A) POSSESSION OF THE UNITED STATES.—For purposes of this subsection, the term ''possession of the United States'' includes American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

(B) MIRROR CODE TAX SYSTEM.—For purposes of this subsection, the term ''mirror code tax system'' means, with respect to any possession of the United States, the income tax system of such possession if the income tax liability of the residents of such possession under such system is determined by reference to the income tax laws of the United States as if such possession were the United States.

(C) TREATMENT OF PAYMENTS.—For purposes of section 1324(b)(2) of title 31, United States Code, the payments under this subsection shall be treated in the same manner as a refund due from credit provisions described in such section.

(h) REGULATIONS.—The Secretary shall prescribe such regulations or guidance as are necessary to carry out the provisions of this section.

SEC. 3. EXTENSION OF ALLOWANCE FOR BONUS DEPRECIATION FOR CERTAIN BUSINESS ASSETS.

(a) EXTENSION OF 100 PERCENT BONUS DEPRECIATION.—

(1) IN GENERAL.—Paragraph (5) of section 168(k) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''January 1, 2012'' each place it appears and inserting ''January 1, 2013'', and

(B) by striking ''January 1, 2013'' and inserting ''January 1, 2014''.

(2) CONFORMING AMENDMENTS.—

(A) The heading for paragraph (5) of section 168(k) of such Code is amended by striking ''PRE-2012 PERIODS'' and inserting ''PRE-2013 PERIODS''.

(B) Clause (ii) of section 460(c)(6)(B) of such Code is amended by striking ''January 1, 2011 (January 1, 2012'' and inserting ''January 1, 2013 (January 1, 2014''.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this section shall apply to property placed in service after December 31, 2011.

(B) CONFORMING AMENDMENT.—The amendment made by paragraph (2)(B) shall apply to property placed in service after December 31, 2010.

(b) EXPANSION OF ELECTION TO ACCELERATE AMT CREDITS IN LIEU OF BONUS DEPRECIATION.—

(1) IN GENERAL.—Paragraph (4) of section 168(k) of the Internal Revenue Code of 1986 is amended to read as follows:

''(4) ELECTION TO ACCELERATE AMT CREDITS IN LIEU OF BONUS DEPRECIATION.—

''(A) IN GENERAL.—If a corporation elects to have this paragraph apply for any taxable year—

''(i) paragraph (1) shall not apply to any eligible qualified property placed in service by the taxpayer in such taxable year,

''(ii) the applicable depreciation method used under this section with respect to such property shall be the straight line method, and

''(iii) the limitation imposed by section 53(c) for such taxable year shall be increased by the bonus depreciation amount which is determined for such taxable year under subparagraph (B).

''(B) BONUS DEPRECIATION AMOUNT.—For purposes of this paragraph—

''(i) IN GENERAL.—The bonus depreciation amount for any taxable year is an amount equal to 20 percent of the excess (if any) of—

''(I) the aggregate amount of depreciation which would be allowed under this section for eligible qualified property placed in service by the taxpayer during such taxable year if paragraph (1) applied to all such property, over

''(II) the aggregate amount of depreciation which would be allowed under this section for eligible qualified property placed in service by the taxpayer during such taxable year if paragraph (1) did not apply to any such property.

The aggregate amounts determined under subclauses (I) and (II) shall be determined without regard to any election made under subsection (b)(2)(D), (b)(3)(D), or (g)(7) and without regard to subparagraph (A)(ii).

''(ii) LIMITATION.—The bonus depreciation amount for any taxable year shall not exceed the lesser of—

''(I) 50 percent of the minimum tax credit under section 53(b) for the first taxable year ending after December 31, 2011, reduced (but not below zero) by the sum of the bonus depreciation amounts for all taxable years ending after such date for which an election under this paragraph was made which precede the taxable year for which the determination is made (other than amounts determined with respect to property placed in service by the taxpayer on or before such date), or

''(II) the minimum tax credit under section 53(b) for such taxable year determined by taking into account only the adjusted minimum tax for taxable years ending before January 1, 2012 (determined by treating credits as allowed on a first-in, first-out basis).

''(iii) AGGREGATION RULE.—All corporations which are treated as a single employer under section 52(a) shall be treated—

''(I) as 1 taxpayer for purposes of this paragraph, and

''(II) as having elected the application of this paragraph if any such corporation so elects.

''(C) ELIGIBLE QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'eligible qualified property' means qualified property under paragraph (2), except that in applying paragraph (2) for purposes of this paragraph—

''(i) 'March 31, 2008' shall be substituted for 'December 31, 2007' each place it appears in subparagraph (A) and clauses (i) and (ii) of subparagraph (E) thereof,

''(ii) 'April 1, 2008' shall be substituted for 'January 1, 2008' in subparagraph (A)(iii)(I) thereof, and

''(iii) only adjusted basis attributable to manufacture, construction, or production—

''(I) after March 31, 2008, and before January 1, 2010, and

''(II) after December 31, 2010, and before January 1, 2013, shall be taken into account under subparagraph (B)(ii) thereof.

''(D) CREDIT REFUNDABLE.—For purposes of section 6401(b), the aggregate increase in the credits allowable under part IV of subchapter A for any taxable year resulting from the application of this paragraph shall be treated as allowed under subpart C of such part (and not any other subpart).

''(E) OTHER RULES.—

''(i) ELECTION.—Any election under this paragraph may be revoked only with the consent of the Secretary.

''(ii) PARTNERSHIPS WITH ELECTING PARTNERS.—In the case of a corporation making an election under subparagraph (A) and which is a partner in a partnership, for purposes of determining such corporation's distributive share of partnership items under section 702—

''(I) paragraph (1) shall not apply to any eligible qualified property, and

''(II) the applicable depreciation method used under this section with respect to such property shall be the straight line method.

''(iii) CERTAIN PARTNERSHIPS.—In the case of a partnership in which more than 50 percent of the capital and profits interests are owned (directly or indirectly) at all times during the taxable year by one corporation (or by corporations treated as 1 taxpayer under subparagraph (B)(iii)), for purposes of subparagraph (B), each partner shall take into account its distributive share of the amounts determined by the partnership under subclauses (I) and (II) of clause (i) of such subparagraph for the taxable year of the partnership ending with or within the taxable year of the partner. The preceding sentence shall apply only to amounts determined with respect to property placed in service after December 31, 2011.

''(iv) SPECIAL RULE FOR PASSENGER AIRCRAFT.—In the case of any passenger aircraft, the written binding contract limitation under paragraph (2)(A)(iii)(I) shall not apply for purposes of subparagraphs (B)(i)(I) and (C).''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years ending after December 31, 2011.

(3) TRANSITIONAL RULE.—In the case of a taxable year beginning before January 1, 2012, and ending after December 31, 2011, the bonus depreciation amount determined under paragraph (4) of section 168(k) of the Internal Revenue Code of 1986 for such year shall be the sum of—

(A) such amount determined under such paragraph as in effect on the date before the date of enactment of this Act—

(i) taking into account only property placed in service before January 1, 2012, and

(ii) multiplying the limitation under subparagraph (C)(ii) of such paragraph (as so in effect) by a fraction the numerator of which is the number of days in the taxable year before January 1, 2012, and the denominator of which is the number of days in the taxable year, and

(B) such amount determined under such paragraph as amended by this Act—

(i) taking into account only property placed in service after December 31, 2011, and

(ii) multiplying the limitation under subparagraph (B)(ii) of such paragraph (as so in effect) by a fraction the numerator of which is the number of days in the taxable year after December 31, 2011, and the denominator of which is the number of days in the taxable year.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 406—COMMENDING THE ACHIEVEMENTS AND RECOGNIZING THE IMPORTANCE OF THE ALLIANCE TO SAVE ENERGY ON THE 35TH ANNIVERSARY OF THE INCORPORATION OF THE ALLIANCE

Mr. WARNER (for himself, Mr. BINGAMAN, Ms. MURKOWSKI, Mr. LUGAR, Ms. COLLINS, Mr. PRYOR, and Mr. UDALL of Colorado) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 406

Whereas March 18, 2012, marks the first day of a year-long celebration of the 35th anniversary of the Alliance to Save Energy, which was incorporated as a nonprofit organization in accordance with section 501(c)(3) of the Internal Revenue Code of 1986 on March 18, 1977;

Whereas the Alliance to Save Energy was founded by Senators Charles H. Percy and Hubert H. Humphrey;

Whereas the Alliance to Save Energy is a unique national, nonprofit, bipartisan public-policy organization that works with prominent leaders in the fields of business, government, education, the environment, and consumer affairs to promote the efficient and clean use of energy throughout the world to benefit the economy, environment, and security of the United States;

Whereas the Alliance to Save Energy operates programs and collaborative projects throughout the United States, and has worked in the international community for more than a decade in more than 30 developing and transitional countries;

Whereas the Alliance to Save Energy leverages international relationships with government and industry leaders to promote energy efficiency throughout the world and has worked to launch affiliate organizations such as the European Alliance to Save Energy and the Australian Alliance to Save Energy;

Whereas the Alliance to Save Energy has shown that energy efficiency and conservation measures taken by the United States during the past 35 years have caused annual energy consumption in the United States to decrease by more than 52 quads;

Whereas the Alliance to Save Energy is recognized across the United States as an authority on energy efficiency, and regularly provides testimony and resources to the Federal Government, State governments, and members of the business and media communities;

Whereas the Alliance to Save Energy contributes to a variety of educational and outreach initiatives, including—

(1) the award-winning Green Schools and Green Campus programs;

(2) award-winning public service announcements; and

(3) a variety of targeted energy-efficiency campaigns; and

Whereas the Alliance to Save Energy collaborates with other prominent organizations to form partnerships and create groups that advance the cause of energy efficiency, including—

(1) the Building Codes Assistance Project (commonly known as ''BCAP'');

(2) the Southeast Energy Efficiency Alliance (commonly known as ''SEEA'');

(3) the Clean and Efficient Energy Program (commonly known as ''CEEP'');

(4) the Efficient Windows Collaborative; and

(5) the Appliance Standards Awareness Project (commonly known as ''ASAP''): Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Alliance to Save Energy on the 35th anniversary of the incorporation of the Alliance; and

(2) recognizes the important contributions that the Alliance to Save Energy has made to further the cause of energy efficiency.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1946. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table.

SA 1947. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1948. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1949. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1950. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1951. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

SA 1952. Mr. SANDERS (for himself, Mr. BLUMENTHAL, Mrs. FEINSTEIN, Mr. TESTER, Mrs. MCCASKILL, Ms. KLOBUCHAR, Mr. LEVIN, Mr. FRANKEN, Mr. BROWN of Ohio, Mr. CARDIN, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2204, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1946. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—FOREIGN EARNINGS REINVESTMENT

SEC. __01. SHORT TITLE.

This title may be cited as the ''Foreign Earnings Reinvestment Act''.

SEC. __02. ALLOWANCE OF TEMPORARY DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS RECEIVED FROM A CONTROLLED FOREIGN CORPORATION.

(a) APPLICABILITY OF PROVISION.—

(1) IN GENERAL.—Subsection (f) of section 965 of the Internal Revenue Code of 1986 is amended to read as follows:

''(f) ELECTION; ELECTION YEAR.—

''(1) IN GENERAL.—The taxpayer may elect to apply this section to—

''(A) the taxpayer's last taxable year which begins before the date of the enactment of the Foreign Earnings Reinvestment Act, or

''(B) the taxpayer's first taxable year which begins during the 1-year period beginning on such date.

Such election may be made for a taxable year only if made on or before the due date (including extensions) for filing the return of tax for such taxable year.

''(C) ELECTION YEAR.—For purposes of this section, the term 'election year' means the taxable year—

''(i) which begins after the date that is one year before the date of the enactment of the Foreign Earnings Reinvestment Act, and

''(ii) to which the taxpayer elects under paragraph (1) to apply this section.''.

(2) CONFORMING AMENDMENTS.—

(A) EXTRAORDINARY DIVIDENDS.—Section 965(b)(2) of such Code is amended—

(i) by striking ''June 30, 2003'' and inserting ''September 30, 2011'', and

(ii) by adding at the end the following new sentence: ''The amounts described in clauses (i), (ii), and (iii) shall not include any amounts which were taken into account in determining the deduction under subsection (a) for any prior taxable year.''.

(B) DETERMINATIONS RELATING TO RELATED PARTY INDEBTEDNESS.—Section 965(b)(3)(B) of such Code is amended by striking ''October 3, 2004'' and inserting ''September 30, 2011''.

(C) APPLICABLE FINANCIAL STATEMENT.—Section 965(c)(1) of such Code is amended by striking ''June 30, 2003'' each place it appears and inserting ''September 30, 2011''.

(D) DETERMINATIONS RELATING TO BASE PERIOD.—Section 965(c)(2) of such Code is amended by striking ''June 30, 2003'' and inserting ''September 30, 2011''.

(b) DEDUCTION INCLUDES CURRENT AND ACCUMULATED FOREIGN EARNINGS.—

(1) IN GENERAL.—Paragraph (1) of section 965(b) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) IN GENERAL.—The amount of dividends taken into account under subsection (a) shall not exceed the sum of the current and accumulated earnings and profits described in section 959(c)(3) for the year a deduction is claimed under subsection (a), without diminution by reason of any distributions made during the election year, for all controlled foreign corporations of the United States shareholder.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 965(c) of such Code, as amended by subsection (a), is amended by striking paragraph (1) and by redesignating paragraphs (2), (3), (4), and (5), as paragraphs (1), (2), (3), and (4), respectively.

(B) Paragraph (4) of section 965(c) of such Code, as redesignated by subparagraph (A), is amended to read as follows:

''(4) CONTROLLED GROUPS.—All United States shareholders which are members of an affiliated group filing a consolidated return under section 1501 shall be treated as one United States shareholder.''.

(c) AMOUNT OF DEDUCTION.—

(1) IN GENERAL.—Paragraph (1) of section 965(a) of the Internal Revenue Code of 1986 is amended by striking ''85 percent'' and inserting ''75 percent''.

(2) BONUS DEDUCTION IN SUBSEQUENT TAXABLE YEAR FOR INCREASING JOBS.—Section 965 of such Code is amended by adding at the end the following new subsection:

''(g) BONUS DEDUCTION.—

''(1) IN GENERAL.—In the case of any taxpayer who makes an election to apply this section, there shall be allowed as a deduction for the first taxable year following the election year an amount equal to the applicable percentage of the cash dividends which are taken into account under subsection (a) with respect to such taxpayer for the election year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is the amount which bears the same ratio (not greater than 1) to 10 percent as—

''(A) the excess (if any) of—

''(i) the qualified payroll of the taxpayer for the calendar year which begins with or within the first taxable year following the election year, over

''(ii) the qualified payroll of the taxpayer for calendar year 2010, bears to

''(B) 10 percent of the qualified payroll of the taxpayer for calendar year 2010.''

''(3) QUALIFIED PAYROLL.—For purposes of this paragraph:

''(A) IN GENERAL.—The term 'qualified payroll' means, with respect to a taxpayer for any calendar year, the aggregate wages (as defined in section 3121(a)) paid by the corporation during such calendar year.

''(B) EXCEPTION FOR CHANGES IN OWNERSHIP OF TRADES OR BUSINESSES.—

''(i) ACQUISITIONS.—If, after December 31, 2009, and before the close of the first taxable year following the election year, a taxpayer acquires the trade or business of a predecessor, then the qualified payroll of such taxpayer for any calendar year shall be increased by so much of the qualified payroll of the predecessor for such calendar year as was attributable to the trade or business acquired by the taxpayer.

''(ii) DISPOSITIONS.—If, after December 31, 2009, and before the close of the first taxable year following the election year, a taxpayer disposes of a trade or business, then—

''(I) the qualified payroll of such taxpayer for calendar year 2010 shall be decreased by the amount of wages for such calendar year as were attributable to the trade or business which was disposed of by the taxpayer, and

''(II) if the disposition occurs after the beginning of the first taxable year following the election year, the qualified payroll of such taxpayer for the calendar year which begins with or within such taxable year shall be decreased by the amount of wages for such calendar year as were attributable to the trade or business which was disposed of by the taxpayer.

''(C) SPECIAL RULE.—For purposes of determining qualified payroll for any calendar year after calendar year 2011, such term shall not include wages paid to any individual if such individual received compensation from the taxpayer for services performed—

''(i) after the date of the enactment of this paragraph, and

''(ii) at a time when such individual was not an employee of the taxpayer.''.

(3) REDUCTION FOR FAILURE TO MAINTAIN EMPLOYMENT LEVELS.—Paragraph (4) of section 965(b) of such Code (relating to limitations) is amended to read as follows:

''(4) REDUCTION IN BENEFITS FOR FAILURE TO MAINTAIN EMPLOYMENT LEVELS.—

''(A) IN GENERAL.—If, during the period consisting of the calendar month in which the taxpayer first receives a distribution described in subsection (a)(1) and the succeeding 23 calendar months, the taxpayer does not maintain an average employment level at least equal to the taxpayer's prior average employment, an additional amount equal to $75,000 multiplied by the number of employees by which the taxpayer's average employment level during such period falls below the prior average employment (but not exceeding the aggregate amount allowed as a deduction pursuant to subsection (a)(1)) shall be taken into income by the taxpayer during the taxable year that includes the final day of such period.

''(B) AVERAGE EMPLOYMENT LEVEL.—For purposes of this paragraph, the taxpayer's average employment level for a period shall be the average number of full-time United States employees of the taxpayer, measured at the end of each month during the period.

''(C) PRIOR AVERAGE EMPLOYMENT.—For purposes of this paragraph, the taxpayer's 'prior average employment' shall be the average number of full-time United States employees of the taxpayer during the period consisting of the 24 calendar months immediately preceding the calendar month in which the taxpayer first receives a distribution described in subsection (a)(1).

''(D) FULL-TIME UNITED STATES EMPLOYEE.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'full-time United States employee' means an individual who provides services in the United States as a full-time employee, based on the employer's standards and practices; except that regardless of the employer's classification of the employee, an employee whose normal schedule is 40 hours or more per week is considered a full-time employee.

''(ii) EXCEPTION FOR CHANGES IN OWNERSHIP OF TRADES OR BUSINESSES.—Such term does not include—

''(I) any individual who was an employee, on the date of acquisition, of any trade or business acquired by the taxpayer during the 24-month period referred to in subparagraph (A), and

''(II) any individual who was an employee of any trade or business disposed of by the taxpayer during the 24-month period referred to in subparagraph (A) or the 24-month period referred to in subparagraph (C).

''(E) AGGREGATION RULES.—In determining the taxpayer's average employment level and prior average employment, all domestic members of a controlled group shall be treated as a single taxpayer.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SA 1947. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IV—WAIVER OF JONES ACT REQUIREMENTS FOR OIL AND GASOLINE TANKERS

SEC. 401. WAIVER OF JONES ACT REQUIREMENTS FOR OIL AND GASOLINE TANKERS.

(a) IN GENERAL.—Section 12112 of title 46, United States Code, is amended—

(1) in subsection (a), by striking ''A coastwise'' and inserting ''Except as provided in subsection (b), a coastwise'';

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

''(b) WAIVER FOR OIL AND GASOLINE TANKERS.—The requirements of subsection (a) shall not apply to an oil or gasoline tanker vessel and a coastwise endorsement may be issued for any such tanker vessel that otherwise qualifies under the laws of the United States to engage in the coastwise trade.''.

(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Commandant of the United States Coast Guard shall issue regulations to implement the amendments made by subsection (a). Such regulations shall require that an oil or gasoline tanker vessel permitted to engaged in the coastwise trade pursuant to subsection (b) of section 12112 of title 46, United States Code, as amended by subsection (a), meets all appropriate safety and security requirements.

SA 1948. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IV—WAIVER OF JONES ACT REQUIREMENTS FOR OIL AND GASOLINE TANKERS

SEC. 401. WAIVER OF JONES ACT REQUIREMENTS FOR OIL AND GASOLINE TANKERS.

(a) IN GENERAL.—The Commandant of the United States Coast Guard may issue a coastwise endorsement to a oil or gasoline taker vessel that does not meet the requirements of section 12112(a) of title 46, United States Code.

(b) PERIOD.—A coastwise endorsement issued under subsection (a) shall expire no later than the date that is 6 months after the date of the enactment of this Act.

(c) REGULATIONS.—The Commandant shall ensure that a tanker vessel issued a coastwise endorsement under subsection (a) meets all appropriate safety and security requirements.

SA 1949. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IV—COASTWISE TRADE

SEC. 401. REPEAL OF JONES ACT LIMITATIONS ON COASTWISE TRADE.

(a) IN GENERAL.—Section 12112(a) of title 46, United States Code, is amended to read as follows:

''(a) IN GENERAL.—A coastwise endorsement may be issued for a vessel that qualifies under the laws of the United States to engage in the coastwise trade.''.

(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Commandant of the United States Coast Guard shall issue regulations to implement the amendment made by subsection (a). Such regulations shall require that a vessel permitted to engaged in the coastwise trade meets all appropriate safety and security requirements.

(c) CONFORMING AMENDMENTS.—

(1) TANK VESSEL CONSTRUCTION STANDARDS.—Section 3703a(c)(1)(C) of title 46, United States Code, is amended by striking ''Coast Guard and is qualified for documentation as a wrecked vessel under section 12112 of this title.'' and inserting ''Coast Guard.''.

(2) LIQUIFIED GAS TANKERS.—Section 12120 of title 46, United States Code, is amended by striking ''United States,'' and all that follows and inserting ''United States.''.

(3) SMALL PASSENGER VESSELS.—Section 12121(b) of title 46, United States Code, is amended by striking ''12112,''.

(4) LOSS OF COASTWISE TRADE PRIVILEGES.—Section 12132 of title 46, United States Code, is repealed.

(5) TABLE OF SECTIONS.—The table of sections for chapter 121 of title 46, United States Code, is amended by striking the item relating to section 12132.

SA 1950. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IV—WAIVER OF JONES ACT REQUIREMENTS

SEC. 401. WAIVER OF JONES ACT REQUIREMENTS.

(a) IN GENERAL.—The Commandant of the United States Coast Guard may issue a coastwise endorsement to a vessel that does not meet the requirements of section 12112(a) of title 46, United States Code.

(b) PERIOD.—A coastwise endorsement issued under subsection (a) shall expire no later than the date that is 6 months after the date of the enactment of this Act.

(c) REGULATIONS.—The Commandant shall ensure that a vessel issued a coastwise endorsement under subsection (a) meets all appropriate safety and security requirements.

SA 1951. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 22, strike lines 4 and 5 and insert the following:

TITLE III—MISCELLANEOUS

SEC. 301. PROHIBITION ON USE OF FEDERAL FUNDS RELATING TO ETHANOL BLENDER PUMPS AND ETHANOL STORAGE FACILITIES.

Effective beginning on the date of enactment of this Act, no funds made available by Federal law shall be expended to construct, fund, install, or operate an ethanol blender pump or an ethanol storage facility (unless the funds are expended to construct, fund, install, or operate an ethanol blender pump or an ethanol storage facility for use by motor vehicle fleets operated by a Federal agency), including—

(1) funds in any trust fund to which funds are made available by Federal law; and

(2) any funds made available under the Rural Energy for America Program established under section 9007 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107).

TITLE IV—BUDGETARY EFFECTS

SEC. 401. DEFICIT REDUCTION.

SA 1952. Mr. SANDERS (for himself, Mr. BLUMENTHAL, Mrs. FEINSTEIN, Mr. TESTER, Mrs. MCCASKILL, Ms. KLOBUCHAR, Mr. LEVIN, Mr. FRANKEN, Mr. BROWN of Ohio, Mr. CARDIN, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2204, to eliminate unnecessary tax subsidies and promote renewable energy and energy conservation; which was ordered to lie on the table; as follows:

On page 22, strike lines 4 and 5 and insert the following:

TITLE III—MISCELLANEOUS

SEC. 301. ENERGY MARKETS.

(a) FINDINGS.—Congress finds that—

(1) the Commodity Futures Trading Commission was created as an independent agency, in 1974, with a mandate—

(A) to enforce and administer the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(B) to ensure market integrity;

(C) to protect market users from fraud and abusive trading practices; and

(D) to prevent and prosecute manipulation of the price of any commodity in interstate commerce;

(2) Congress has given the Commodity Futures Trading Commission authority under the Commodity Exchange Act (7 U.S.C. 1 et seq.) to take necessary actions to address market emergencies;

(3) the Commodity Futures Trading Commission may use the emergency authority of the Commission with respect to any major market disturbance that prevents the market from accurately reflecting the forces of supply and demand for a commodity;

(4) Congress declared in section 4a of the Commodity Exchange Act (7 U.S.C. 6a) that excessive speculation imposes an undue and unnecessary burden on interstate commerce;

(5) according to an article published in Forbes on February 27, 2012, excessive oil speculation ''translates out into a premium for gasoline at the pump of $.56 a gallon'' based on a recent report from Goldman Sachs;

(6) on March 9, 2012—

(A) the supply of crude oil and gasoline was higher than the supply was on March 6, 2009, when the national average price for a gallon of regular unleaded gasoline was just $1.94; and

(B) demand for gasoline in the United States was lower than demand was on June 20, 1997;

(7) on March 12, 2012, the national average price of regular unleaded gasoline was over $3.82 a gallon, the highest price ever recorded in the United States during the month of March;

(8) during the last quarter of 2011, according to the International Energy Agency—

(A) the world oil supply rose by 1,300,000 barrels per day while demand only increased by 700,000 barrels per day; but

(B) the price of Texas light sweet crude rose by over 12 percent;

(9) on November 3, 2011, Gary Gensler, the Chairman of the Commodity Futures Trading Commission testified before the Senate Permanent Subcommittee on Investigations that ''80 to 87 percent of the [oil futures] market'' is dominated by ''financial participants, swap dealers, hedge funds, and other financials,'' a figure that has more than doubled over the past decade;

(10) excessive oil and gasoline speculation is creating major market disturbances that prevent the market from accurately reflecting the forces of supply and demand; and

(11) the Commodity Futures Trading Commission has a responsibility —

(A) to ensure that the price discovery for oil and gasoline accurately reflects the fundamentals of supply and demand; and

(B) to take immediate action to implement strong and meaningful position limits to regulated exchange markets to eliminate excessive oil speculation.

(b) ACTIONS.—Not later than 14 days after the date of enactment of this Act, the Commodity Futures Trading Commission shall use the authority of the Commission (including emergency powers)—

(1) to curb immediately the role of excessive speculation in any contract market within the jurisdiction and control of the Commission, on or through which energy futures or swaps are traded; and

(2) to eliminate excessive speculation, price distortion, sudden or unreasonable fluctuations, or unwarranted changes in prices, or other unlawful activity that is causing major market disturbances that prevent the market from accurately reflecting the forces of supply and demand for energy commodities.

TITLE IV—BUDGETARY EFFECTS

SEC. 401. DEFICIT REDUCTION.

NOTICE OF HEARING

JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. SCHUMER. Mr. President, I wish to announce that the Joint Congressional Committee on Inaugural Ceremonies will meet on Wednesday, March 28, 2012, at 10:30 a.m., to conduct its organization meeting.

For further information regarding this meeting, please contact Lynden Armstrong at the Rules and Administration Committee on (202) 224–6352.

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following staff of the Finance Committee be allowed on the Senate floor for the duration of today's session and the debate on S. 2204: Juan Machado, David Sklar, Harun Dogo, and Avital Barnea.

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

MEASURE READ THE FIRST TIME—S. 2237

Mr. DURBIN. Madam President, I understand that S. 2237, introduced earlier today by Senator REID of Nevada, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2237) to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes.

Mr. DURBIN. Madam President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. DURBIN. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 615, 616, 617, 618, 619, 620, 621, 622, 623, 625, 626, 627, and 628, and all nominations placed on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy; that the nominations be confirmed en bloc; that the motions to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order to any of the nominations; that any related statements be printed in the Record; that the President be immediately notified of the Senate's action and the Senate resume legislative session.

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

The nominations considered and confirmed are as follows:

IN THE AIR FORCE

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., sections 12203 and 12212:

To be brigadier general

Col. Peter R. Masciola

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Mark A. Ediger

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Janet C. Wolfenbarger

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., sections 12203 and 12212:

To be brigadier general

Colonel Ondra L. Berry
Colonel Allen D. Bolton
Colonel William D. Cobetto
Colonel Wade A. Lillegard
Colonel Thad L. Myers

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., sections 12203 and 12212:

To be major general

Brigadier General Steven A. Cray
Brigadier General William J. Crisler, Jr.
Brigadier General Jon F. Fago
Brigadier General Michael A. Loh
Brigadier General Eric W. Vollmecke

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General David W. Allvin
Brigadier General Howard B. Baker
Brigadier General Thomas W. Bergeson
Brigadier General Charles Q. Brown, Jr.

Brigadier General Darryl W. Burke
Brigadier General Richard M. Clark
Brigadier General Dwyer L. Dennis
Brigadier General Mark C. Dillon
Brigadier General Carlton D. Everhart, II
Brigadier General Samuel A. R. Greaves
Brigadier General Morris E. Haase
Brigadier General Garrett Harencak
Brigadier General Paul T. Johnson
Brigadier General Randy A. Kee
Brigadier General Jim H. Keffer
Brigadier General Michael J. Kingsley
Brigadier General Jeffrey G. Lofgren
Brigadier General James K. McLaughlin
Brigadier General Kurt F. Neubauer
Brigadier General John F. Newell, III
Brigadier General Craig S. Olson
Brigadier General John N. T. Shanahan
Brigadier General Michael S. Stough
Brigadier General Scott D. West
Brigadier General Kenneth S. Wilsbach

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., sections 12203 and 12212:

To be brigadier general

Colonel Steven M. Balser
Colonel Mark H. Berry
Colonel Walter A. Bryan, Jr.
Colonel Gregory S. Champagne
Colonel Sean T. Collins
Colonel John L. D'Errico
Colonel Dawne L. Deskins
Colonel Scott A. Dold
Colonel Gary L. Ebben
Colonel Kenneth L. Gammon
Colonel Bruce R. Guerdan
Colonel Leonard W. Isabelle, Jr.
Colonel Clifford W. Latta, Jr.
Colonel Paul C. Maas, Jr.
Colonel Edward P. Maxwell
Colonel David M. McMinn
Colonel Thomas C. Patton
Colonel Braden K. Sakai
Colonel Janet I. Sessums
Colonel Peter J. Siana
Colonel Jeffrey M. Silver
Colonel James K. Vogel
Colonel Sallie K. Worcester

The following named officer for appointment to the grade of lieutenant general in the United States Air Force while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Clyde D. Moore, II

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., sections 12203 and 12212:

To be brigadier general

Col. Douglas D. Delozier

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Michael X. Garrett

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Robert P. Ashley, Jr.
Brigadier General Jeffrey L. Bailey
Brigadier General Jeffrey N. Colt
Brigadier General Kenneth R. Dahl
Brigadier General Gordon B. Davis, Jr.
Brigadier General Joseph P. DiSalvo
Brigadier General Robert M. Dyess, Jr.
Brigadier General Karen E. Dyson
Brigadier General Paul E. Funk, II
Brigadier General Harold J. Greene
Brigadier General William C. Hix
Brigadier General Stephen R. Lyons
Brigadier General Herbert R. McMaster, Jr.
Brigadier General John M. Murray
Brigadier General Richard P. Mustion
Brigadier General Michael K. Nagata
Brigadier General Bryan R. Owens
Brigadier General James F. Pasquarette
Brigadier General Lawarren V. Patterson
Brigadier General Aundre F. Piggee
Brigadier General Ross E. Ridge
Brigadier General John G. Rossi
Brigadier General Thomas C. Seamands
Brigadier General Michael H. Shields
Brigadier General Leslie C. Smith
Brigadier General John Uberti
Brigadier General Bryan G. Watson
Brigadier General Darrell K. Williams

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. Craig A. Bugno

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. David D. Halverson

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN1415 AIR FORCE nominations (2) beginning MATTHEW R. GEE, and ending VICTOR G. SOTO, which nominations were received by the Senate and appeared in the Congressional Record of February 29, 2012.

PN1444 AIR FORCE nominations (3) beginning KERRY L. LEWIS, and ending LYNN M. MILLER, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2012.

IN THE ARMY

PN1166 ARMY nomination of Richard M. Scott, which was received by the Senate and appeared in the Congressional Record of December 1, 2011.

PN1364 ARMY nominations (53) beginning KEITH J. ANDREWS, and ending DOUGLAS W. WEAVER, which nominations were received by the Senate and appeared in the Congressional Record of February 6, 2012.

PN1396 ARMY nominations (2) beginning DWIGHT Y. SHEN, and ending CAROL J. PIERCE, which nominations were received by the Senate and appeared in the Congressional Record of February 16, 2012.

PN1417 ARMY nomination of Shane T. Taylor, which was received by the Senate and appeared in the Congressional Record of February 29, 2012.

PN1418 ARMY nominations (3) beginning PATRICIA A. LOVELESS, and ending JEROME M. BENAVIDES, which nominations were received by the Senate and appeared in the Congressional Record of February 29, 2012.

PN1419 ARMY nomination of Robert S. Taylor, which was received by the Senate and appeared in the Congressional Record of February 29, 2012.

PN1420 ARMY nomination of Casey D. Shuff, which was received by the Senate and appeared in the Congressional Record of February 29, 2012.

PN1445 ARMY nominations (3) beginning JOHN B. HILL, and ending STEPHEN M. RADULSKI, which nominations were received by the Senate and appeared in the Congressional Record of March 12, 2012.

IN THE MARINE CORPS

PN1282 MARINE CORPS nomination of William J. Wrightington, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1288 MARINE CORPS nomination of Mark A. Mitchell, which was received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1295 MARINE CORPS nominations (2) beginning ROBERT F. EMMINGER, and ending MICHAEL G. MARCHAND, which nominations were received by the Senate and appeared in the Congressional Record of January 31, 2012.

PN1333 MARINE CORPS nominations (73) beginning PAUL H. ATTERBURY, and ending DONALD A. ZIOLKOWSKI, which nominations were received by the Senate and appeared in the Congressional Record of February 1, 2012.

IN THE NAVY

PN1422 NAVY nominations (3) beginning JAY R. FRIEDMAN, and ending DONNA RAJA, which nominations were received by the Senate and appeared in the Congressional Record of February 29, 2012.

PN1423 NAVY nomination of Steven J. Porter, which was received by the Senate and appeared in the Congressional Record of February 29, 2012.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, upon the recommendation of the majority leader, pursuant to Public Law 105–292, as amended by Public Law 106–55, and as further amended by Public Law 107–228, and 112–75, appoints the following individual to the United States Commission on International Religious Freedom:

Katrina Lantos Swett of New Hampshire, vice Dr. Don H. Argue.

ORDERS FOR TUESDAY, MARCH 27, 2012

Mr. DURBIN. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until Tuesday, March 27, at 10 a.m.; 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; that following any leader remarks, the Senate be in a period of morning business for 1 hour, 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 Republicans controlling the first half and the majority controlling the final half; that following morning business, the Senate resume consideration of the motion to proceed to Calendar No. 337, S. 2204, the Repeal Big Oil Tax Subsidies Act postcloture; and that all time during adjournment, recess, and morning business count postcloture on the motion to proceed to S. 2204; and finally that at 12:30 p.m. the Senate recess subject to the call of the Chair to

accommodate the weekly caucus meetings and the official photograph of the 112th Congress.

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

PROGRAM

Mr. DURBIN. Madam President, we hope to begin consideration of the Repeal Big Oil Tax Subsidies Act during Tuesday's session.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. DURBIN. If there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:44 p.m., adjourned until Tuesday, March 27, 2012, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 26, 2012:

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be brigadier general

COL. PETER R. MASCIOLA

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. MARK A. EDIGER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. JANET C. WOLFENBARGER

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be brigadier general

COLONEL ONDRA L. BERRY
COLONEL ALLEN D. BOLTON
COLONEL WILLIAM D. COBETTO
COLONEL WADE A. LILLEGARD
COLONEL THAD L. MYERS

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be major general

BRIGADIER GENERAL STEVEN A. CRAY
BRIGADIER GENERAL WILLIAM J. CRISLER, JR.
BRIGADIER GENERAL JON F. FAGO
BRIGADIER GENERAL MICHAEL A. LOH
BRIGADIER GENERAL ERIC W. VOLLMECKE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL DAVID W. ALLVIN
BRIGADIER GENERAL HOWARD B. BAKER
BRIGADIER GENERAL THOMAS W. BERGESON
BRIGADIER GENERAL CHARLES Q. BROWN, JR.
BRIGADIER GENERAL DARRYL W. BURKE
BRIGADIER GENERAL RICHARD M. CLARK
BRIGADIER GENERAL DWYER L. DENNIS
BRIGADIER GENERAL MARK C. DILLON
BRIGADIER GENERAL CARLTON D. EVERHART II
BRIGADIER GENERAL SAMUEL A. R. GREAVES
BRIGADIER GENERAL MORRIS E. HAASE
BRIGADIER GENERAL GARRETT HARENCAK
BRIGADIER GENERAL PAUL T. JOHNSON
BRIGADIER GENERAL RANDY A. KEE
BRIGADIER GENERAL JIM H. KEFFER
BRIGADIER GENERAL MICHAEL J. KINGSLEY
BRIGADIER GENERAL JEFFREY G. LOFGREN
BRIGADIER GENERAL JAMES K. MCLAUGHLIN
BRIGADIER GENERAL KURT F. NEUBAUER
BRIGADIER GENERAL JOHN F. NEWELL III
BRIGADIER GENERAL CRAIG S. OLSON
BRIGADIER GENERAL JOHN N. T. SHANAHAN
BRIGADIER GENERAL MICHAEL S. STOUGH
BRIGADIER GENERAL SCOTT D. WEST
BRIGADIER GENERAL KENNETH S. WILSBACH

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be brigadier general

COLONEL STEVEN M. BALSER
COLONEL MARK H. BERRY
COLONEL WALTER A. BRYAN, JR.
COLONEL GREGORY S. CHAMPAGNE
COLONEL SEAN T. COLLINS
COLONEL JOHN L. D'ERRICO
COLONEL DAWNE L. DESKINS
COLONEL SCOTT A. DOLD
COLONEL GARY L. EBBEN
COLONEL KENNETH L. GAMMON
COLONEL BRUCE R. GUERDAN
COLONEL LEONARD W. ISABELLE, JR.
COLONEL CLIFFORD W. LATTA, JR.
COLONEL PAUL C. MAAS, JR.
COLONEL EDWARD P. MAXWELL
COLONEL DAVID M. MCMINN
COLONEL THOMAS C. PATTON
COLONEL BRADEN K. SAKAI
COLONEL JANET I. SESSUMS
COLONEL PETER J. SIANA
COLONEL JEFFREY M. SILVER
COLONEL JAMES K. VOGEL
COLONEL SALLIE K. WORCESTER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES AIR FORCE WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. CLYDE D. MOORE II

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be brigadier general

COL. DOUGLAS D. DELOZIER

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. MICHAEL X. GARRETT

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL ROBERT P. ASHLEY, JR.
BRIGADIER GENERAL JEFFREY L. BAILEY
BRIGADIER GENERAL JEFFREY N. COLT
BRIGADIER GENERAL KENNETH R. DAHL
BRIGADIER GENERAL GORDON B. DAVIS, JR.
BRIGADIER GENERAL JOSEPH P. DISALVO
BRIGADIER GENERAL ROBERT M. DYESS, JR.
BRIGADIER GENERAL KAREN E. DYSON
BRIGADIER GENERAL PAUL E. FUNK II
BRIGADIER GENERAL HAROLD J. GREENE
BRIGADIER GENERAL WILLIAM C. HIX
BRIGADIER GENERAL STEPHEN R. LYONS
BRIGADIER GENERAL HERBERT R. MCMASTER, JR.
BRIGADIER GENERAL JOHN M. MURRAY
BRIGADIER GENERAL RICHARD P. MUSTION
BRIGADIER GENERAL MICHAEL K. NAGATA
BRIGADIER GENERAL BRYAN R. OWENS
BRIGADIER GENERAL JAMES F. PASQUARETTE
BRIGADIER GENERAL LAWARREN V. PATTERSON
BRIGADIER GENERAL AUNDRE F. PIGGEE
BRIGADIER GENERAL ROSS E. RIDGE
BRIGADIER GENERAL JOHN G. ROSSI
BRIGADIER GENERAL THOMAS C. SEAMANDS
BRIGADIER GENERAL MICHAEL H. SHIELDS
BRIGADIER GENERAL LESLIE C. SMITH
BRIGADIER GENERAL JOHN UBERTI
BRIGADIER GENERAL BRYAN G. WATSON
BRIGADIER GENERAL DARRELL K. WILLIAMS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. CRAIG A. BUGNO

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID D. HALVERSON

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH MATTHEW R. GEE AND ENDING WITH VICTOR G. SOTO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 29, 2012.

AIR FORCE NOMINATIONS BEGINNING WITH KERRY L. LEWIS AND ENDING WITH LYNN M. MILLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 2012.

IN THE ARMY

ARMY NOMINATION OF RICHARD M. SCOTT, TO BE LIEUTENANT COLONEL.

ARMY NOMINATIONS BEGINNING WITH KEITH J. ANDREWS AND ENDING WITH DOUGLAS W. WEAVER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 6, 2012.

ARMY NOMINATIONS BEGINNING WITH DWIGHT Y. SHEN AND ENDING WITH CAROL J. PIERCE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 16, 2012.

ARMY NOMINATION OF SHANE T. TAYLOR, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH PATRICIA A. LOVELESS AND ENDING WITH JEROME M. BENAVIDES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 29, 2012.

ARMY NOMINATION OF ROBERT S. TAYLOR, TO BE MAJOR.

ARMY NOMINATION OF CASEY D. SHUFF, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH JOHN B. HILL AND ENDING WITH STEPHEN M. RADULSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 12, 2012.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF WILLIAM J. WRIGHTINGTON, TO BE MAJOR.

MARINE CORPS NOMINATION OF MARK A. MITCHELL, TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATIONS BEGINNING WITH ROBERT F. EMMINGER AND ENDING WITH MICHAEL G. MARCHAND, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 31, 2012.

MARINE CORPS NOMINATIONS BEGINNING WITH PAUL H. ATTERBURY AND ENDING WITH DONALD A. ZIOLKOWSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 1, 2012.

IN THE NAVY

NAVY NOMINATIONS BEGINNING WITH JAY R. FRIEDMAN AND ENDING WITH DONNA RAJA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 29, 2012.

NAVY NOMINATION OF STEVEN J. PORTER, TO BE LIEUTENANT COMMANDER.